

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.1923/2003

(From the judgement and order dated 03/01/2003 in WA 3915/02
of The HIGH COURT OF MADRAS)

UNION OF INDIA & ANR.

Petitioner (s)

VERSUS

V.B.CHANDRAMOHAN

Respondent (s)

(With prayer for interim relief)
With office report
(For Final Disposal)

Date : 11/11/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE B.P. SINGH

For Petitioner (s)Mr. V.R. Reddy, Sr. Adv.
Mr. V.G. Pragasam,Adv.

For Respondent (s)Mr. C.S. Vaidyanathan, Sr. Adv.
Mr. P.N. Ramalingam,Adv.

Mrs. T.S. Shanthi, Adv.

UPON hearing counsel the Court made the following
O R D E R

The respondent herein was the holder of FL-2/58 licence but failed to renew his licence for the Excise year 1989-1990. After a lapse of 13 years he made an application which came to be rejected by the authorities on the ground of delay. The said respondent approached the High Court seeking a writ of mandamus directing the authorities to renew his licence. Learned Single Judge who heard the writ petition allowed the same solely on the ground that after the non-renewal of the respondent's licence the said licence has not been granted to any other party as on the date hence no third party right is affected. In the said view of the matter on that sole ground the High Court in equity issued a writ to consider the application for renewal on the condition that the
...2/-

: 2 :

respondent herein pays the entire arrears which has become liable to be paid from the year 1989 to 2003 with penalty at the rate of 25 % of the licence fee.

An appeal filed by the petitioners herein before the Division Bench of the High Court came to be dismissed on the ground that the impugned order of the learned Single Judge was an equitable order.

In this SLP, Shri V.R. Reddy, learned senior counsel appearing for the petitioners contended that the respondent did not have any fundamental right to get his licence renewed and the reasoning of the two courts below that since any other licence in place of the respondent's licence was not issued by the Government, third party right has not accrued, hence, none else is effected by the renewal of respondent's licence, is not a valid ground to direct the renewal of the licence which had expired nearly 13 years back. Learned counsel also contended that the non-renewal of the licence was primarily because of the policy introduced by the State, whereby it had decided not to grant any more licences in the district of Mahe except for the purpose of development of tourism. Therefore, a direction to consider the renewal of the respondent's application would run counter to the said policy of the Government.

Shri C.S. Vaidyanathan, learned senior counsel appearing for the respondent firstly contended that so far as the alleged policy of the Pondicherry Government is concerned, same was neither

pleaded nor produced in the courts below and is being raised for the first time before this Court. He also contended that as per the constitutional and statutory provisions applicable to the Union Territory of Pondicherry, the Cabinet cannot implement a policy decision without prior approval of the Administrator

....3/-

: 3 :

(Lt.Governor of the Union Territory). For this purpose, the learned counsel placed reliance on a decision of this Court in the case of Devji Vallabhbai v. Administrator, Goa, Damam & Diu (AIR 1982 SC 1029). He also contended that in the absence of any such valid policy, the impugned order of the courts below was a just order which did not effect any third party rights and at the same time it protected the financial interest of the State.

Having heard the learned counsel, we are not inclined to entertain the argument addressed on behalf of the respondent as to the violation of any policy of the Government, since the same was not the subject matter before either of the courts below. De hors the said policy, in our opinion, the orders impugned, as contended on behalf of the respondent is a just order calling for no interference under Article 136 of the Constitution of India. Hence, leaving open the question raised by the parties in regard to the existence and validity of the policy, we dismiss this SLP.

(PAWAN KUMAR)
COURT MASTER

(MADHU SAXENA)
COURT MASTER