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REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. 3196-98/2014
(@ out of SPECIAL LEAVE PETITION (C) NO.26241-26243/2012)

State of Kerala & Ors. ... Appellants

Versus

B. Surendra Das Etc. ... Respondents

WITH

C.A. Nos. 3199-3218/2014 @ S.L.P. (C) NO.27163-27182 OF 2012
C.A. No. 3219/2014 @ S.L.P. (C) NO.25725 OF 2012
C.A. No. 3220/2014 @ S.L.P. (C) NO.24414 OF 2012
C.A. No. 3221/2014 @ S.L.P. (C) NO.38251 OF 2012
CONTEMPT PETITION (C) NO.449 OF 2012
CONTEMPT PETITION (C) NO.450 OF 2012
CONTEMPT PETITION (C) NO.20 OF 2013
CONTEMPT PETITION (C) NO.18 OF 2013
CONTEMPT PETITION (C) NO.19 OF 2013
CONTEMPT PETITION (C) NO.431 OF 2012
CONTEMPT PETITION (C) NO.432-444 OF 2012
CONTEMPT PETITION (C) NO.5 OF 2013
C.A. No. 3222/2014 @ S.L.P. (C) NO.11004 OF 2013
C.A. No.3223/2014 @ S.L.P. (C) NO.14956 OF 2013
C.A. No. 3224/2014 @ S.L.P. (C) NO.14958 OF 2013
C.A. No. 3225/2014 @ S.L.P. (C) NO.14959 OF 2013
C.A. No. 3226/2014 @ S.L.P. (C) NO.14960 OF 2013
C.A. No. 3227/2014 @ S.L.P. (C) NO.14961 OF 2013

J U D G E M E N T

H.L. Gokhale J.

Leave granted

2. This group of Civil Appeals raises the questions with respect to the legality and validity of two amendments introduced by the first appellant-State of Kerala, in pursuance of its Abkari Policy framed in 2011-2012, in the Foreign Liquor Rules framed under the Kerala Abkari Act, since those amendments have been struck down as unconstitutional by the impugned judgment and order rendered by the High Court of Kerala.

3. Rule 13 of the Foreign Liquor Rules governs the grant of licences for the sale of the Indian Manufactured Foreign Liquor ('IMFL' for short). The two amendments which are disputed are as follows:-

(i) Firstly, the words 'three star' were omitted from Rule 13(3) of these rules by Government of Kerala by issuing notification dated 9.12.2011. Consequently, after this amendment of the rule which has come into force immediately, three star hotels not already having a licence, will not be eligible to get a bar licence for retail sale of liquor in the hotels. Thus, no new hotels having the three star classification will be issued the licence known as FL-3 licence for selling the IMFL. The hotels having the two star or lesser classification are already ineligible to get this licence by virtue of the pre-existing proviso to Rule 13(3), introduced by notification dated 20.12.2002.

(ii) Secondly, Rule (3E) has been added in this Rule 13 w.e.f. 27.3.2012 by issuing a notification of even date, whereby no new bar hotels of any classification will be permitted to be opened (a) if they are situated within a distance of 3 kms. from existing bar hotels in a panchayat area, and (b) within a distance of 1 km. from existing bar hotels in a municipal area.

4. The avowed object of this Abkari Policy is to curb the rampant alcoholism in the State of Kerala, which claims to have the highest consumption of alcohol as against the other states in India, and whereby the younger generation is getting addicted. Thus, the objective is in

pursuance of Article 47 of the Constitution of India which declares it to be a Directive Policy for the State to endeavour to bring about prohibition of consumption of intoxicating drinks. These two amendments were challenged by the respondents in the Kerela High Court on the touchstone of Article 14 of the Constitution of India, as being arbitrary, discriminatory, irrational, excessive, and even malafide. It is contended by them that the amendments will not succeed in achieving the objectives for which they have been introduced. On the contrary, the two amendments will affect the other objective of the policy of the State of Kerala viz. to encourage and increase tourism in the State.

5. The respondent No.1, B. Surendra Das, was one such person who filed a Writ Petition, bearing Writ Petition (C) No.5650/2012, to challenge the denial of the FL-3 licence to his three star hotel on the basis of the first amendment effected by notification dated 9.12.2011. The writ petition was dismissed by a Single Judge by his judgment and order dated 7.3.2012. Being aggrieved by the said judgment and order, he preferred Writ Appeal No.470/2012. Some other persons whose writ petitions were rejected, filed similar Writ Appeals. The distance rule introduced with the addition of Rule (3E) in Rule 13 w.e.f. 27.3.2012 was also challenged by some other persons by filing Writ Petitions directly to the Division Bench. All these Writ Appeals and Writ Petitions were allowed by a Division Bench of the High Court by its common judgment and order dated 27.7.2012, which struck down the two amendments as unconstitutional. Being aggrieved by the said judgment and order, these appeals have been filed by the appellant-State of Kerala and its concerned officers of the Excise Department.

Abkari Policy of the Government of Kerala for the year 2011-2012:-

6. Before we deal with the impugned judgment and the amendments, we must first refer to the Abkari Policy of the Government of Kerala which led to the two disputed amendments to Rule 13. The Government of Kerala announced the Abkari Policy on 17.8.2011. In the second sub-para of the very first paragraph of this policy, the Government noted as follows:-

> "This Government views with serious concern the rising trend of alcoholism and the consequential social issues arising in the Kerala society. Strong feelings against this have been emanating from the civil society. Fully realising, Government intends to formulate a stringent Abkari Policy."

7. The notable features of this policy were as follows:-

> "a. The Government noted the rising trend of alcoholism in the state and its consequences.
>
> b. Clarified that it did not wish to view the liquor business as a source of revenue.
>
> c. Noted that as a prelude to forming its Abkari Policy, detailed discussions were held with stakeholders, such as trade-unions in the Toddy/IMFL sector, bar-owners, distilleries and brewers, anti-liquor organizations, NGOs/individuals running de-addiction centers, religious heads. Etc.
>
> d. For IMFL the following yard-sticks were imposed
> (i) A condition insisting on a distance of 3 km and 1 km from existing bar hotels in panchayats and municipalities respectively.
> (ii) From 1.4.2012 bar licences would be granted only to hotels having four- star and above classification.
>
> (iii) From the 2013-2014 financial year onwards Bar-licences would be granted only to five star hotels etc.
>
> e. Further, impositions were as follows:
> (i) The age limit for buying and selling alcohol was

increased.

(ii) The maximum limit of alcohol possession was reduced.

(iii) The working hours of bars were altered and restricted to 8 am to 11 pm in panchayats and 9 am to 12 pm in corporation areas."

The relevant Foreign Liquor Rule 13(3):-

8. As a consequence of this policy the two amendments were brought in, firstly the denial of fresh licences to three star hotels by the amending notification dated 9.12.2011, and secondly the distance rule by the notification dated 27.3.2012. Relevant portion of Rule 13(3) reads as follows:-

"13. Licences for possession, use or sale:- Licences for the possession and sale of foreign liquor or for possession or use of foreign liquor shall be of the following descriptions and in the forms appended hereto.

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3) Foreign Liquor 3 Hotels (Restaurant) Licence:- Licence in this form may be issued by the Excise Commissioner under orders of Government, in the interest of promotion of tourism in the State, to hotels which have obtained (three star)1, four star, five star, five star deluxe, heritage, heritage grand or heritage classic classification from Ministry of Tourism, Government of India, where the privilege of sale of foreign liquor in such hotels have been purchased on payment of an annual rental of Rs. 22,00,000 (Rupees twenty two lakhs only). But no such licence shall be issued to hotels which are located within 200 (two hundred) metres from an educational institution, temple, church, mosque or burial ground. Hotels other than those in the private sector having four star, five star, five star deluxe classification will be exempted from the distance restrictions in the interest of promotion of tourism in the State. In the case of hotels in the private sector of the above categories and hotels having heritage, heritage grand and heritage classic classification issued by the Ministry of Tourism, Government of India, no such licence shall be issued if located within 50 (fifty) metres from any educational institution, temple, church, mosque, burial ground or scheduled caste/scheduled tribe colony. The applicant shall produce from the Abkari Workers Welfare Fund Inspector a certificate to the effect that he has remitted before the date of application for the licence/renewal of licence, the arrears of contributions, if any, payable upto the 31st of December of the preceding year.

The existing licencees who do not maintain two star standards will be allowed time upto 31st March, 2007 to upgrade their standards to two star. Their licence will be renewed till that date. Failure to upgrade the standard of those hotels would lead to cancellation of licence and forfeiture of rental paid by them. Licencees shall have no claim for compensation. The applicant shall produce from the Abkari Worker’s Welfare Fund Inspector a certificate to the effect that he has remitted before the date of application for the licence/renewal of licence, the arrears of contribution, if any, payable upto 31st day of December preceding year.

The question whether a hotel or restaurant confirms to the standard of two star hotel shall be determined in accordance with the specific issues for classification of star hotels issued by the Department of Tourism and in case of doubt or dispute, the decision of the Excise Commission shall be final.

The cost of liquor shall be billed along with the cost of meals. The

cost of liquor shall be shown separately in the bill and the duplicate copies thereof shall be retained for inspection by the Officers of the Excise Commission.

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Provided also that such bar licences, having dispute on distance rules and shifting outside Municipal Corporation area, including those of Approved Restaurants, existing as on 1st April, 2004 shall be regularized.

(Fourth Proviso)

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Provided further that all existing licences not having the above classification and are functional as on 31st March, 2007 shall be regularized.

(Sixth Proviso)

Provided also that all FL-3 licences not having the requisite star classification and are functional during 2009-2010 shall be regularized.

(Seventh Proviso)

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(3B) No liquor shall be sold under FL-3 licences for removal outside the hotel to anyone including the residents of the hotel:

Provided that the liquor may be sold and served to the residents of the hotel in the rooms where they reside or in the restaurant where they partake food, if such hotels have restaurants exclusively for the use of families and others where no liquor shall be served:

Provided further that the holder of an FL-3 licence may serve liquor along with meals by the side of swimming pools and in the lawns and roof gardens of the hotel if he obtains a special permit for the purpose from the Commissioner of Excise, on payment of additional annual rental of [Rs. 50,000(Rupees Fifty Thousand only)].

Provided also that for serving liquor at restaurants to persons other than residents, the licencee shall pay an additional annual fee of [Rs. 25,000 (Rupees Twenty Five Thousand)].

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(3E) 2 Notwithstanding anything contained in these rules, no new FL-3 licence shall be granted to hotels which are located within a radius of three kilometers in Grama Panchayat and one kilometer in Municipal Corporation/City Corporation, from another hotel having an FL-3 licence granted under this rule].

1. Deleted by impugned Amendment of 2011.
2. Introduced by impugned Amendment of 2012."

Judgment of the Single Judge:-

9. The learned single Judge who heard the matter concerning the denial of licences to new three star hotels held that there was no vested right to get a licence, leave aside any Fundamental Right. It was held that there was no element of discrimination, nor that of legitimate expectation. He also held that the unamended rule cannot be applied once the amendment comes into force, and therefore rejected the petition.

Judgment of the Division Bench:-

10. The Division Bench, on the other hand, noted in paragraph 5 of its judgment the submission of the respondents that although there was no Fundamental Right to carry on business in liquor, as held in Khoday Distilleries Ltd. & Ors. vs. State of Karnataka reported in 1995 (1) SCC 574, once the State permits such a trade, it has to make rules and permit the business without any arbitrariness or discrimination, and in conformity with Article 14 of the Constitution of India. It also noted the submissions of the respondents that they have made huge investments, and

many of them had earned the classification of heritage hotels from the Ministry of Tourism, Government of Kerala. They also challenged the 4th, and particularly 6th and 7th proviso of this rule. The 6th proviso regularized the licences as functioning on 31.3.2007. The 7th proviso regularized those licences functioning during 2009-2010. It was submitted that if such hotels, although not conforming to the statutory requirements, were to be tolerated, how can the distance rule be applied to deny licences to hotels having three star, four star or higher classification, which meet the prescribed criteria, by measuring distances from such hotels which do not meet minimum standards of health and hygiene?

11. The Division Bench noted that when it comes to the wholesale business in liquor in the State, there was a complete monopoly of the State Government in as much as the business was in the hands of 3 entities, (1) Kerala State Beverages (Manufacturing and Marketing) Corporation Limited, (2) Kerala State Civil Supplies Corporation Limited and (3) Kerala State Co-operative Consumer Marketing Federation Limited. The Court noted that all these 3 Government companies were together running around 400 shops, in the State having FL1 licenses. The shops with these licenses sell liquor, in the form of unopened bottles, which is not to be consumed on the premises. These are the shops which have the highest sale of liquor, and the consequence of it in any case is the high consumption of liquor. The Court also noted that the Government earned huge revenue from this sale, and the State Government's annual collection was over 7000 crores. If these sales by the shops run by the State are to be permitted, why should the privately owned restaurants and bars not be permitted to vend liquor?

12. The Division Bench was of the view that whereas on the one hand, the policy of the State perpetuated the monopoly of the existing hotels having three star or higher classification, on the other hand by preventing new star hotels from coming up, it would encourage consumption of spurious liquor. The Court was of the view that there was no distinction between the existing three star hotels and the new three star hotels, to be opened. Besides most of these hotels were set up in areas where there was a thriving tourism business like the Kovalam Beach near Thiruvanantapuram. The decision to set up hotels ought to be left to the hoteliers. The State Government will defeat the tourism policy by introducing, by amendment, the distance rule. For all these reasons the Court held that the two amendments were discriminatory, and will not achieve the policy which they intended to achieve. The Court, therefore, held the two amendments to be bad in law and unconstitutional.

13. Learned senior counsel, Mr. V. Giri assisted by Mr. Ramesh Babu, learned counsel, has appeared for the appellants. He has been supported by Mr. P.K. Bali, learned senior counsel appearing for the Kerala Pradesh Madhya Virudh Samithy (i.e. committee opposing consumption of liquor in the area of Kerala). Senior counsel Mr. Mukul Rohtagi, Chander Udai Singh, Krishnan Venugopal and others have appeared for the respondents and the interveners.

Submissions on behalf of the appellants:-

14. The principal submission of Mr. Giri, as well as Mr. Bali, has been that the consumption of liquor is the highest in the State of Kerala, as compared to all other states in India. Chronic diseases are on the rise due to the excessive consumption of alcohol. The amendments in Rule 13(3) of the Foreign Liquor Rules are effected to bring in force the Abkari Policy of the Government, with a view to bring down the sale and distribution of liquor within the State. Mr. Giri highlighted the objectives of the Abkari Policy framed from the year 2011-2012 (These objectives have already been referred to in paragraph 7 above). It was submitted that trading in liquor is not a Fundamental Right as held in Khoday Distilleries (supra), and the effect of the policy decision taken by the State is to be considered having regard to the provisions contained in Article 47 of the Constitution of India, as also the power of the State to regulate and control the trade in liquor in terms of the provisions of the Abkari Act.

15. It was pointed out by Mr. Giri that the revised policy was introduced by the Government foreseeing the ill effects of increase in the consumption of liquor, and with the intention of reducing it in a phased manner. The amendments have been brought about for that purpose as a part of the social commitment to the public at large. The Abkari Policy has been framed from 1992 onwards as follows:-

"(i) In 1992, with the intention of reducing the number of bar

hotels, Government decided to restrict grant of FL-3 Licences to only hotels having two star and above.

ii) By 1996 Abkari policy the Government decided to ban sale of Arrack with effect from 01.04.1996.

iii) In 2002 as per the Abkari policy of 202, an amendment was brought in the Rule restricting grant of FL-3 Licence to only hotels having 3 star and above classification.

iv) In continuation of the policy of the Government to reduce sale and distribution of Liquor, Abkari policy of 2011 was announced interalia restricting issue of FL-3 Licence to only having 4 star and above classification."

Thereafter, the distance rule has been brought in 2012 by adding Rule (3E) in Rule 13. It was submitted that all these changes in the rules have been made with the object of gradually reducing the sale and distribution of liquor in the State.

16. Mr. Giri emphasized the observations in sub-para (c) and (d) of para 60 of Khoday Distilleries (supra) to the following effect:-

"(c) Potable liquor as a beverage is an intoxicating and depressant drink which is dangerous and injurious to health and is, therefore, an article which is res extra commercium being inherently harmful. A citizen has, therefore, no fundamental right to do trade or business in liquor. Hence the trade or business in liquor can be completely prohibited.

(d) Article 47 of the Constitution considers intoxicating drinks and drugs as injurious to health and impeding the raising of level of nutrition and the standard of living of the people and improvement of the public health. It, therefore, ordains the State to bring about prohibition of the consumption of intoxicating drinks which obviously include liquor, except for medicinal purposes. Article 47 is one of the Directive Principles which is fundamental in the governance of the country. The State has, therefore, the power to completely prohibit the manufacture, sale, possession, distribution and consumption of potable liquor as a beverage, both because it is inherently a dangerous article of consumption and also because of the Directive Principle contained in Article 47, except when it is used and consumed for medicinal purposes."

17. He then emphasized that this Hon'ble Court has also held in Kuldip Singh vs. Government of NCT of Delhi reported in 2006 (5) SCC 702 that the right to carry on business in liquor is not a Fundamental Right, and the policy decision of the Government in Abkari Matters, introduced through amendment should not be easily interfered with, unless the amendment is motivated by malafides, arbitrariness and discrimination.

18. Apart from these two leading judgments, he drew our attention to another judgment of this Court in State of Kerala vs. B. Six Holiday Resorts Private Limited reported in 2010 (5) SCC 186 when this very Rule 13(3) was amended w.e.f. 1.4.2002, and grant of FL-3 licences to two star hotels was stopped. The challenge to this restriction was repelled by this Court in the following words in paragraphs 30 and 31 of this judgment. These paragraphs read as follows:-

"30. Rule 13(3) provides for grant of licences to sell foreign liquor in hotels (restaurants). It contemplates the Excise Commissioner issuing licences under the orders of the State Government in the interest of promotion of tourism in the State, to hotels and restaurants conforming to standards specified therein. It also provides for the renewal of such licences. The substitution of the last proviso to Rule 13(3) by the notification dated 20.2.2002 provided that no new licences under the said Rule shall be issued. The proviso does not nullify the licences already granted. Nor does it interfere with renewal of the existing licences. It only prohibits grant of further

licences. The issue of such licences was to promote tourism in the State. The promotion of tourism should be balanced with the general public interest. If on account of the fact that sufficient licences had already been granted or in public interest, the State takes a policy decision not to grant further licences, it cannot be said to defeat the Rules. It merely gives effect to the policy of the State not to grant fresh licences until further orders. This is evident from the explanatory note to the amendment dated 20.2.2002. The introduction of the proviso enabled the State to assess the situation and reframe the excise policy.

31. It was submitted on behalf of the State Government that Rule 13(3) was again amended with effect from 1.4.2002 to implement a new policy. By the said amendment, the minimum eligibility for licence was increased from Two-star categorization to Three-Star categorization and the ban on issue of fresh licences was removed by deleting the proviso which was inserted by the amendment dated 20.2.2002. It was contended that the amendments merely implemented the policies of the government from time to time. There is considerable force in the contention of the State. If the State on a periodical re-assessment of policy changed the policy, it may amend the Rules by adding, modifying or omitting any rule, to give effect to the policy. If the policy is not open to challenge, the amendments to implement the policy are also not open to challenge. When the amendment was made on 20.2.2002, the object of the newly added proviso was to stop the grant of fresh licences until a policy was finalized."

19. It was, therefore, submitted by Mr. Giri that when a policy was introduced with a good intention, after considering the serious problems in the society, and after consulting all affected interests including the hoteliers, there was no reason for the High Court to interfere therein by calling it arbitrary or discriminatory. In this context he relied upon a Constitution Bench Judgment in Khandige Sham Bhat and Ors. vs. The Agricultural Income Tax Officer reported in AIR 1963 SC 591 wherein the issue was with respect to the classification of State of Kerala into two parts, i.e., the Madras area and the Travancore-Cochin area, for the purpose of imposition of agricultural Income Tax. The petitioners had contended that it had no rational nexus with the object of the Act, namely, imposition of agricultural income-tax, for, as the two parts belong to the same State, no post amalgamation law can treat assesses of the same State differently in the matter of taxation. This Court, while dismissing the Petitions, stated the following in para 11 of the judgment:

"The said discussion leads to the only conclusion that the Legislature in its sincere attempt to meet a difficult situation made a law adopting one of the diverse methods open to it and even the method adopted cannot be said to be either unreasonable or arbitrary, as the overall picture indicates that it works fairly well on all similarly situated, though some hardship may be caused to some in the implementation of the law which is almost inevitable in every taxation law. We cannot, therefore, say that in the present case the one method adopted instead of another is either arbitrary or capricious."

He, further, submitted that if three star hotels are not to be issued FL-3 licences any more, that was as a part of the continuing policy of the State, and the previous restriction of not issuing FL-3 licences to two star hotels has already been upheld by this Court. That being so, the amendment of Rule 13(3) omitting three star hotels by notification dated 9.12.2011 could not be faulted.

20. As far as the distance rule is concerned, Mr. Giri submitted that there were already very large number of restaurants and liquor bars having FL-3 licences spread over the State, in the Grama Panchayat and in the municipal areas. The objective behind introducing the distance rule is to prevent any more restaurants and bars selling liquor coming up in the near vicinity of the existing ones. The existing restaurants and hotels

have caused sufficient damage to the younger generation, and it is to prevent further damaging effects on the health of the society that the subsequent amendments had been brought in, by introducing Rule (3E) in the year 2012. The High Court should not have interfered, and held this added rule as unconstitutional on the ground of alleged discrimination against parties which had not set up their hotels as yet. The State was trying to do its best in furtherance to the Directive Principle contained in Article 47 of the Constitution, and as Article 37 of the Constitution states, the principles laid down in the Directive Principles are fundamental in the governance of the country, and the State has the duty to apply them in making the laws. He submitted that as held in Khoday Distilleries Ltd. (supra) the correct way to describe the Fundamental Rights under Article 19(1) is to call them 'Qualified Fundamental Rights'. The right to practice any profession, or to carry on any occupation, trade or business guaranteed under Article 19(1)(g) of the Constitution is subject to the reasonable restrictions under sub-article (6) thereof, and there was no reason to hold that the restrictions imposed under the present rules are in any way unreasonable. Mr. Giri, referred to Section 69 of Kerala Abkari Act, and submitted that the rules framed under the statute must be considered as a part of the statute. They are on a higher pedestal as against rules framed by notifications de hors any statute, and cannot be challenged on the grounds as sought by the respondents. He referred to a judgment of this Court in State of Kerala Vs. Maharashtra Distilleries Ltd & Ors. reported in 2005 (11) SCC 1 wherein the Constitution Bench held in para 79 of that judgment that permissive privilege to deal in liquor is not a right. He asked that if the step taken by the Government is in the right direction and is a bonafide one, should the State be restricted from taking such a step?

21. It was submitted by Mr. Giri that the decision of the Government to deny FL-3 licences to new three star hotels does not operate against the objective of tourism, and even under the Government of India policy on tourism, it was not necessary for the three star hotels to have the bar licence. He, however, stated that to begin with the Government be allowed to act in public interest, and if at a later point in time it finds that the decision requires reconsideration, it will review the decision. The villagers are objecting to the new liquor shops coming up and so are the organizations of women and social activists. The state cannot be oblivious to the requirements of the citizens. The distance rule will apply across the board, and no new licences will be given if any liquor vending shop is sought to be set up within the prohibited distance. Mr. Giri submitted that Article 14 is wrongly invoked in the present matter. It should not be permitted to be invoked in matters of public policy and where public interest was involved. He relied upon the judgment of this Court in Javed and Ors. vs. State of Haryana reported in 2003 (8) SCC 369 where this Court was concerned with the prohibition imposed by Haryana Panchayat Raj Act for people having more than two children from taking up office as a member of Panchayat. This Court held in that matter that Fundamental Rights are not to be read in isolation, and they have to be read alongwith the Chapter on Directive Principles. Under Article 47 the State has the duty to raise the level of nutrition and standard of living and to improve public health. These aspects cannot be ignored. He thereafter referred to paragraph 93 of the judgment of this Court in Balco Employees Union vs. Union of India reported in 2002 (2) SCC 333 to submit that it is not for the Court to decide the policy matters. The affected persons are women and children also, and the State has taken steps to protect their interest.

22. The submissions of Mr. Giri were supported by learned senior counsel Mr. Bali. He represented the earlier referred Kerala Pradesh Madhya Virudha Samithy. It has filed a separate SLP challenging the impugned judgment bearing No. 38251/2012. He drew our attention to various judgments. The salient from amongst them are mentioned hereafter. Firstly he referred to the judgment of this Court in State of Andhra Pradesh and Ors. vs. Mc Dowell and Co. reported in 1996 (3) SCC 709, wherein a bench of three Judges of this Court laid down:-

> "43.....A law made by the Parliament or the Legislature can be struck down by Courts on two grounds and two grounds alone, viz., (1) lack of legislative competence and (2) violation of any of the fundamental rights guaranteed in Part-III of the constitution or of any other constitutional provision. There is no third ground. We do not wish to enter into a discussion of the

concepts of procedural unreasonableness and substantive unreasonableness concepts inspired by the decisions of United States Supreme Court. Even in U.S.A., these concepts and in particular the concept of substantive due process have proved to be of unending controversy, the latest thinking tending towards a severe curtailment of this ground (substantive due process). The main criticism against the ground of substantive due process being that it seeks to set up the courts as arbiters of the wisdom of the Legislature in enacting the particular piece of legislation. It is enough for us to say that by whatever name it is characterised, the ground of invalidation must fall within the four corners of the two grounds mentioned above. In other words, say, if an enactment is challenged as violative of Article 14, it can be struck down only if it is found that it is violative of the equality clause/equal protection clause enshrined therein. Similarly, if an enactment is challenged as violative of any of the fundamental rights guaranteed by Clauses (a) to (g) of Article 19(1), it can be struck down only if it is found not saved by any of the Clauses (2) to (6) of Article 19 and so on. No enactment can be struck down by just saying that it is arbitrary or unreasonable. Some or other constitutional infirmity has to be found before invalidating an Act. An enactment cannot be struck down on the ground that Court thinks it unjustified. The Parliament and the Legislatures, composed as they are of the representatives of the people, are supposed to know and be aware of the needs of the people and what is good and bad for them. The Court cannot sit in judgment over their wisdom....." (emphasis supplied)

23. Thereafter, he referred to the judgment in M/s Ugar Sugar Works Ltd. vs. Delhi Administration & Ors. reported in 2001 (3) SCC 635. That was a case where a notification was issued laying down the terms and conditions for registration of different brands of IMFL for supply within the territory of Delhi on the basis of Minimum Sales Figures (MSF), as a criterion of eligibility for grant of licence. It was challenged as violating Article 14 and 19(1)(g) of the Constitution. This Court held that laying down the requirement for achieving minimum sale figure of a particular brand of liquor in other States, as a mode for determination of the acceptability of that brand of liquor, could not be held to be irrelevant, irrational or unreasonable.

24. Mr. K. Padmanabhan Nair, learned senior counsel appeared for respondent No. 3 in SLP No. 14956/2003. Respondent No. 3 is one Shashidharan, a resident of a village in Distt. Thrissur. He is objecting to a bar hotel being set up in his village, and his submission was that he should be heard in case a licence is to be given to set up a hotel in that village. He supported the policy of the State Government and the submission of Mr. Giri and Mr. Bali.

Reply on behalf of the respondents:-

25. The learned senior counsel appearing for the respondents submitted that as can be seen from paragraph 5 of the impugned judgment, the High Court has considered the relevant observations of this Court in Khoday Distilleries (supra), wherein this Court has held that although there is no right to carry on liquor business as a Fundamental right, wherever it is permitted by the state, there should not be any room for discrimination. It was submitted that this observation is supported by paragraph 60(g) of the very judgment which reads as follows:-

"(g) When the State permits trade or business in the potable liquor with or without limitation, the citizen has the right to carry on trade or business subject to the limitations, if any, and the State cannot make discrimination between the citizens who are qualified to carry on the trade or business."

26. The judgment of this Court in State of M.P. vs. Nandlal Jaiswal & Ors. reported in 1986 (4) SCC 566 and particularly last part of paragraph 33 was pressed into service which reads as follows:-

"33..... No one can claim as against the State the right to carry on trade or business in liquor and the State cannot be compelled to part with its exclusive right or privilege of manufacturing and selling liquor. But when the State decides to grant such right or privilege to others the

State cannot escape the rigour of Article 14. It cannot act arbitrarily or at its sweet will. It must comply with the equality clause while granting the exclusive right or privilege of manufacturing or selling liquor. It is, therefore, not possible to uphold the contention of the State Government and respondent Nos. 5-11 that Article 14 can have no application in a case where the licence to manufacture or sell liquor is being granted by the State Government. The State cannot ride roughshod over the requirement of that Article."

27. The respondents submitted that the distance rule was clearly going to affect the objectives of the tourism policy. This will not permit setting up of any four star or five star hotels within the prohibited distance even from hotels which do not meet the minimum standards of health, hygiene and safety, and which have, on occasions, supplied spurious liquor. They relied upon paragraph 31 of the judgment of this Court in State of Jammu and Kashmir vs. Triloki Nath Khosa & Ors. reported in 1974 (1) SCC 19, wherein this Court has held that such classification may lead to artificial inequalities. It must be truly founded on substantial differntia. There is no reason to make any distinction between the new three star hotels to be set up and the existing three star hotels. It will create a monopoly in favour of the existing three star hotels.

28. It was submitted by them that on the one hand the Government itself is selling liquor from large number of depots and shops, through the FL-1 licences, where the liquor bottles are purchased and taken home. The very fact that the Government is earning more than 7000 crores annually shows the consumption permitted by the Government. Although the government is contending that it is not looking at it from the point of revenue, it is not reducing the number of depots and shops which are set up by itself. Reliance was placed in this behalf on the judgment in the case of Rashbihari Panda vs. State of Orissa reported in 1969 (1) SCC 414. This case involved the creation of a monopoly, with respect to Kendu leaves, by the Government, in favour of those licensees who had worked satisfactorily in the previous year and had paid the amounts due from them regularly, to continue their licences with the added provision that the agents with whom they had been working in 1967 will also work during 1968. This was challenged on the ground that the Government, by offering to enter into agreements for advance purchases of Kendu leaves by private offers, in preference to open competition, was favoring existing licensees, and this was hit by Article 14 of the Constitution. This Court accepted the contention and directed that the tenders for purchase of Kendu Leaves be invited by the Government, in the next season, from all persons interested in the trade. The Respondents relied on certain observations made by this Court, with respect to the creation of a monopoly that favours private individuals, in the cloak of public interest. These are as follows:

"19. Validity of the law by which the State assumed the monopoly to trade in a given commodity has to be judged by the test whether the entire benefit arising therefrom is to enure to the State, and the monopoly is not used as a cloak for conferring private benefit upon a limited class of persons. The scheme adopted by the Government first of offering to enter into contracts with certain named licensees, and later inviting tenders from licensees who had in the previous year carried out their contracts satisfactorily is liable to be adjudged void on the ground that it unreasonably excludes traders in Kendu Leaves from carrying on their business."

29. Reliance was also placed on the judgment of this Court in the case State of Maharashtra vs. Indian Hotels and Restaurant Assn. reported in 2013 (8) SCC 519, in the case of the bar-dancers of Mumbai, wherein the amendment to the Bombay Police Act introducing S 33 A and 33 B was held to be bad in law. Section 33 A prohibited performances of dances in eating houses in permit rooms and beer bars. This was on the ground that whereas the dance in three star hotels and above was permitted under 33 B, those in these establishments were frowned upon under S 33 A. While striking this down the Court held that such a classification is wholly unconstitutional and contrary to Article 14. The judgment of this Court earlier referred in the matter of Triloki Nath Khosa (supra) was referred to, wherein, it has been laid down that the classification to be made is to be founded on a

substantial differentia. With respect to the judgment in the case of B. Six Holiday Resorts (supra) it was submitted by the respondents herein that there was no challenge in that matter on the basis of Article 14. Thereafter, reliance was placed on paragraph 36 and 39 from the judgment of this court in Reliance Energy Limited vs. Maharashtra State Road Development Corporation reported in 2007 (8) SCC 1 wherein it was held that Article 14 requires a level playing field, though it is subject to public interest.

The report of the Comptroller and Auditor General (CAG) of India on the working of the Kerala Excise Department for the year 2006-2007 to 2010-2011:-

30. The respondents have relied upon the report made by the CAG of India under Section 16 of the CAG's (Duties, Powers and Conditions of Service) Act, 1971. This report contained the results of the audit on the working of the State Excise Department for the year 2006-07 to 2010-11, and it was submitted to the Governor of Kerala under Article 151(2) of the Constitution of India. In paragraph 5.3.1.1, the report deals with the issue as to whether the FL3 licences were issued and renewed to non-standard hotels/restaurants. The report was relied upon to point out that many hotels which were not meeting the standards were permitted and regularized, initially upto 30.6.1992. Thereafter, the regularization was extended till 31.3.2007, and on the next day (that is on 1.4.2007) all existing licences were regularized. Subsequently, on 1.4.2010 all FL3 licences functional during 2009-2010 were regularized. The report points that the licences were issued to hotels, with poor hygiene standards, which did not abide by the working hours prescribed for hotels, and which sold liquor even on dry days. The report also pointed out that in January 2011 the Excise Commissioner of the State had sent a letter to the Government of Kerela, highlighting the poor standards maintained by 418 unclassified bars, and requested it not to grant fresh FL-3 licences for areas other than tourism notified areas. The Commissioner had also pointed out that during the last one year seven people had died due to excessive drinking in the unclassified hotels. The report records that even though the Excise Commissioner had requested that fresh FL-3 licences be not issued to such establishments, they were continued to be issued, and Government had made it a regular feature to regularize ineligible licensees. We may, however, note that the Kerala Bar Association has filed its Written Submission placing on record its objections with respect to the report of the Comptroller and Auditor General.

31. The submission of the respondents, therefore, is that as of now the FL-3 licences are not being permitted to 2 star restaurants. With the amendment of 2011, the hotels with classification of three star are also not being given FL-3 licences. This is going to discriminate against the three star hotels which are to be set up hereafter, or where some investment has also been made in anticipation of such a license. Besides, the distance rule introduced in 2012 will affect the new hotels with classification of four star and five star. It was submitted that this is counter productive to the policy of encouraging tourism, since four star and five star hotels attract large number of foreign tourists. It will result in the monopoly of the existing four star and five star hotels on the one hand, and will stagnate the growth of the new ones. The consumption of liquor in all the hotels with star classification is not even 30 percent of the total consumption in the State. The Government is not preventing the hotels, with poor hygiene standards, from selling liquor and on the other hand the effect of the policy will be to make prospect of setting up of new hotels with a classification of four star and five star unattractive. This will undoubtedly affect the objective of tourism which the State otherwise proclaims to support. The amendment of 2012 is therefore, clearly arbitrary and unjustified according to the respondents.

Consideration of the Submissions:-

32. We have considered the submissions on behalf of the State and of those supporting the State, as well as of those on behalf of the respondents. We do not dispute the intention of the State of Kerala, nor do we dispute the problem that it is facing, and the desire to curb the situation that exists in the State. There cannot be any dispute on the proposition that, there is no fundamental right to trade in liquor. At the same time we cannot ignore the dicta of the Supreme Court in Khoday Distilleries (supra) and particularly in para 60(g) where the Apex Court

has laid down that where such a trade is permitted, there can not be any room for discrimination.

33. There are two amendments which are under challenge. We will have to deal with these two amendments in the light of the factual scenario and the law governing the same. As far as the deletion of three star hotels is concerned, we do have a judgment of this Court in the case of B. Six Holiday Resorts (supra), wherein, the previous deletion of two star hotels from the eligibility of FL-3 licences was upheld by this Court. It has been submitted by the respondents that the plea under Article 14 was not specifically canvassed when the matter was considered and decided. In this behalf we have already referred to paragraphs 30 and 31 of this judgment. In paragraph 30 this Court has held that promotion of tourism should be balanced with general public interest. Paragraph 31 permits a periodical reassessment of policy, and holds that if policy is not open to challenge the amendment of the rules to effect the policy can also not be challenged This being the position the grievances made by the hoteliers with respect to the deletion of three star hotels, and to insist on a bar licence, cannot be sustained, on this ground. Deletion of three star hotels falls in the same genre as the deletion of two star hotels, which was done earlier. This Court has upheld the deletion of two star hotels in the said judgment. This being the position the state can not be faulted for deletion of three star hotels after a periodical revision of the policy.

34. We must as well note that the two star and three star hotels stand on a different footing as against the hotels with four star and higher classification under the tourism policy of the Government of India. It is relevant to note that the Ministry of Tourism (H&R Division) of the Government of India has issued the amended guidelines for classification/re-classification of hotels on 28.6.2012. The classification of the hotels into star categories and heritage categories is done thereunder, and it is a voluntary scheme. Annexure-2 contains the provisions concerning classification/re-classification of operational hotels. Para 8(f) thereof provides as follows:

> "8(f) Bar License (necessary for four star, five star, five star deluxe, heritage classic & heritage grand categories). Wherever bar license is prohibited for a hotel as per local law, the bar will not be mandatory and wherever bar is allowed as per local laws, then the hotel will have to obtain bar license first and then apply for classification to the Ministry of Tourism."

This being the position, it is not necessary for a three star hotel to have a bar licence. In fact as can be seen the para 8(f) above also states that if a local law prohibits the issuance of a bar licence to four star, five star, five star deluxe, heritage classic and heritage grand categories, which is otherwise necessary, such local law will prevail. In any case three star hotels will have to be placed in a different category as against the hotels with four star and higher classification, since it is not necessary for three star hotels to have an FL3 licence.

35. The position with respect to the distance rule introduced in 2012 is, however, different. As far as the amendment brought in 2012 introducing the distance rule is concerned, we cannot ignore the hard realities which are recorded in the report of the Comptroller and Auditor General who is a constitutional functionary, and who has made the report on receiving the necessary information from the State Government. This above referred para 5.3.1.1 of this report speaks for itself and reads as follows:-

> "5.3.1.1 Were FL3 licenses issued and renewed to non-standard hotels/restaurants?
>
> The minimum standard eligible for obtaining an FL3 licence was 2-star standards from April 1982 and 3-star and above from April 2002. We noticed that licenses were issued and renewed to 418 bar hotels, ie. 61 per cent of the total bar hotels in the state even though they were not eligible for the FL3 licenses as per the Rules.
>
> We noticed that the Government first allowed time up to 30 June 1992 for those licensees who had not attained the prescribed two star standards to attain the prescribed standard

and subsequently extended the period. During the review period, we noticed that the Excise Commissioner submitted his proposals for the Abkari policy for the year 2007-08 vide letter dated 11 January 2007 which did not include the proposal for regularisation of 418 non standard bar hotels, the list of which was sent to the Government in January 2006. However, based on a discussion with the Hon'ble Minister for Labour and Excise on 22 January 2007, the Excise Commissioner sent a revised proposal on 23 January 2007 including the proposal that "Bar Licenses (FL3 licences) which have not attained 2-star classification and functioning at present may be regularised".

After we pointed out the matter the Government stated (November 2011) that there are certain bar hotels functioning with standard below two star specifications. As these hotels were functioning for long periods, they were regularised based on Abkari Policy 2007-08.

The point is not acceptable for the reason that as per Rules the licences are issued each year and the standard for granting licence are still three star standard.

We noticed that the Government, 15 years after extending time limit for the first time, again extended (12 March 2007) the time limit up to 31 March 2007 and stated that failure to comply with the standards would lead to cancellation of licences. However, on the very next day, i.e. 13 March 2007 the Government added a proviso to Rule 13 that all existing licensees not having the above classification and which were functional as on 31 March 2007 shall be regularised. The Abkari policy for 2008-09 (February 2008) stated that the Government would insist on minimum facility and hygienic conditions in all the 418 bar hotels which did not have 2-star status, but which were regularised during 2007-08.

We noticed that the field officers of the Department had reported violation of licence conditions like unhygienic conditions, lack of facilities, non adherence of the time schedule, selling on dry days, opening more than one counter, etc. in these bar hotels. However, no action was taken by the Department on these reports.

The Excise Commissioner sent a letter (January 2011) to the Government highlighting the poor standards maintained by the 418 unclassified bars and requested not to grant fresh FL3 licenses for areas other than tourism notified areas. In the letter the Excise Commissioner, inter alia, stated that the restaurant segment of the unclassified hotels were functioning for name sake only and during the last one year seven people had died due to excessive drinking in the unclassified hotels. He also pointed out that he had personally seen that almost all the customers went there to drink liquor and not for taking food.

We noticed that even though the Excise Commissioner had requested not to issue fresh FL3 licenses, seven more FL3 licenses were issued between 12 January and 31 March 2011. Moreover in the Abkari Policy for 2010-11, the Government declared that the FL3 licensees not having the requisite star qualification and who were functional during 2009-10 should be regularised. Thus, the Government has made it a regular feature to regularise ineligible licensees. We are of the opinion that the Government has not taken a firm stand to ensure that only hotels of a minimum standard are issued FL3 licenses. Further, we opine that the Government has seriously compromised public safety by (a) regularising 418 unclassified bars, though they were not able to attain the minimum standards despite repeated extension of time and (b) by turning a blind eye towards the various complaints against these unclassified bars. On this

being pointed out in audit the Department stated (June 2011) that the Government is the competent authority to issue orders allowing relaxation, if any, for the functioning of FL3 licensees/bar hotels.

36. As rightly submitted by the counsel for the respondents the consequences of the amendment of 2012 will be that four star and five star hotels would not be permitted to have FL-3 licences only on the ground that they are within the prohibited distance from such hotels which have poor hygiene standards, and which are not following norms laid down by the State Government. We may mention that the FL3 licences are issued on an annual basis, and it is quite within the powers of the Government not to renew these licenses if such serious violations are reported. But the Government appears to be slow in taking any such action. It will surely be counter-productive to the objective of Rule 13 (3), which is to promote tourism, as well as to the State's avowed policy of improving the health and nutrition standards of its citizens. The criticism of the respondents, particularly of the hotels which have been permitted under the 6th and 7th proviso to Rule 13(3), is therefore quite justified.

37. In the circumstances, although we do not dispute the power of the State Government to bring about the necessary reform, by modifying the rules, it has got to be justified on the touchstone of the correlation between the provision and the objective to be achieved. If that correlation is not established, surely the rule will suffer from the vice of arbitrariness, and therefore will be hit by Article 14. The State Government has introduced awareness programmes in this behalf and, it ought to continue with that. It should also take steps to see to it that hotels with poor hygiene standards are not allowed to function. We are informed that the State Government has appointed a one-man commission for reviewing the Abkari Policy, by issuing a necessary notification on 23.1.2013. We hope that the commission will take into consideration the hard realities which are reflected in the report of the CAG and make necessary recommendations. As far as this Court is concerned, we cannot uphold the validity of the amendment of 2012, in the present circumstances.

38. We may as well refer, at this stage, to the judgment of this Court in P.N.Kausal and Ors. vs. Union of India & Ors. reported in 1978 (3) SCC 558. In that matter what the Punjab Government had done was to prohibit the sale of liquor on Tuesdays and Fridays, but that was applicable only to hotels, restaurants and other institutions, and was not applicable to the institutions run by the Government. The Court held this to be prima-facie discriminatory. In the words of Krishna Iyer,J who wrote the judgment for a bench of three Judges "It suggests a dubious dealing by State Power". The Learned Judge observed that "such hollow homage to Article 47 and the Father of the Nation gives diminishing credibility mileage in a democratic polity". Thankfully, the Additional Solicitor General made a statement to the Court which is recorded in paragraph 42 of that judgment that the Government readily agreed that the ban would be observed by the State Government also. Paragraph 42 of the said judgment reads as follows:-

> "42. We must here record an undertaking by the Punjab Government and eliminate a possible confusion. The amended rule partially prohibits liquor sales in the sense that on Tuesdays and Fridays no hotel, restaurant or other institution covered by it shall trade in liquor. But this prohibition is made non-applicable to like institutions run by the Government or its agencies. We, prima facie, felt that this was discriminatory on its face. Further, Article 47 charged the State with promotion of prohibition as a fundamental policy and it is indefensible for Government to enforce prohibitionist restraints on others and itself practise the opposite and betray the constitutional mandate. It suggests dubious dealing by State Power. Such hollow homage to Article 47 and the Father of the nation gives diminishing credibility mileage in a democratic polity The learned Additional Solicitor General, without going into the correctness of propriety of our initial view-probably he wanted to controvert or clarify-readily agreed that the Tuesday-Friday ban would be equally observed by the State organs also. The undertaking recorded, as part of the proceedings of the Court, runs thus :-

The Additional Solicitor General appearing for the State of Punjab states that the Punjab State undertakes to proceed on the footing that the 'Note' is not in force and that they do not propose to rely on the 'Note' and will, in regard to tourist bungalows and resorts run by the Tourism Department of the State Government, observe the same regulatory provision as is contained in the substantive part of Rule 37 Sub-rule 9. We accept this statement and treat it as an undertaking by the State. Formal steps for deleting the 'Note' will be taken in due course."

39. We are of the view that if the Government is really serious about reducing the consumption of liquor, it should also take steps to reduce its own shops and depots and in any case should not open new ones. In view of the very high consumption of liquor, which the State Government intends to reduce, what we expect is that the Government should consider not issuing further FL-1 licences. If it is not possible for the Government to reduce the existing FL-1 shops, with respect to which it enjoys a monopoly, it is of no use for it to direct the private sector alone to function in a particular manner. The Government must as well behave in conformity with the mandate of Article 47.

40. Before we conclude the proceedings, we may refer to one more development in this matter. In as much as this court had not granted any stay of the impugned judgment and order of the High Court, an order was passed by this Court on 19/9/2012 that the applications of the claimants for the licenses be considered in eight weeks. Since no decision was forthcoming, some of the respondents filed Contempt Petitions bearing Nos. 449 of 2012 and other contempt petitions. A notice was issued on the Contempt Petition no. 449 of 2012 filed by respondent B. Surendra Das. A reply was filed on behalf of the appellants on 25.01.2013 that they had considered the applications, some of them were rejected, and in the rest further information was sought. These steps were initiated within the time stipulated by this court, and due to the large number of applications, the decision was taking its own time. On 8.02.2013, this court directed that the Contempt Petitions be heard alongwith the special leave petitions. Since the Civil appeals arising out of these SLPs are being disposed of with this order, no separate orders are required on the contempt petitions. The Appellants will have to act now in terms of the order being passed herein.

41. For the reasons stated above we allow these appeals in part and hold as follows:

(i) The judgment rendered by the Division Bench is set-aside to the extent it interferes with the amendment brought in the year 2011. The deletion of three star hotels from the category of hotels eligible for FL3 licenses under Rule 13(3) is held valid.

(ii) As far as the amendment brought in 2012 introducing the distance rule by way of addition of Rule (3E) in Rule 13(3) is concerned, the same is held to be bad in law. The judgment of the High Court is confirmed to that extent.

(iii) The state government will not proceed to deny FL3 licenses to hotels with a classification of four star and above by resorting to their deletion under Rule 13 (3) until the report of the one-man commission is received, and until it takes action against the non-standard restaurants which have been permitted under the sixth and seventh proviso of Rule 13(3).

(iv) No order is necessary on the contempt petitions and they stand disposed of.

(v) All parties will bear their own costs.

.....
..J.
[H.L. Gokhale]

.....
..J.
[J. Chelameswar]

New Delhi
Dated : March 5, 2014

ITEM NO.1-A COURT No.10 SECTION IX
(For judgment)

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

CIVIL APPEAL NOS.3196-98/2014 @ SLP(C) Nos.26241-26243/12

STATE OF KERALA & ORS. Petitioner(s)
VERSUS
B.SURENDRA DAS ETC. Respondent(s)
WITH
CIVIL APPEAL NOs.3199-3218/2014@SLP(C) NO. 27163-27182/2012

CIVIL APPEAL NO.3219/2014 @ SLP(C) NO. 25725 of 2012
CIVIL APPEAL NO.3220/2014 @ SLP(C) NO. 24414 of 2012
CIVIL APPEAL NO.3221/2014 @ SLP(C) NO. 38251 of 2012
CIVIL APPEAL NO.3222/2014 @ SLP(C) NO. 11004 of 2013
CIVIL APPEAL NO.3223/2014 @ SLP(C) NO. 14956 of 2013
CIVIL APPEAL NO.3224/2014 @ SLP(C) NO. 14958 of 2013
CIVIL APPEAL NO.3225/2014 @ SLP(C) NO. 14959 of 2013
CIVIL APPEAL NO.3226/2014 @ SLP(C) NO. 14960 of 2013
CIVIL APPEAL NO.3227/2014 @ SLP(C) NO. 14961 of 2013

CONMT.PET.(C) NO. 449 of 2012 in SLP(C) No.26241-43/12
CONMT.PET.(C) NO. 450 of 2012 in SLP(C) No.26242/12
CONMT.PET.(C) NO. 20 of 2013 in SLP(C)Nos.26241-43/12
CONMT.PET.(C) NO. 18 of 2013 in SLP(C) No.27168/12
CONMT.PET.(C) NO. 19 of 2013 in SLP(C) No.27169/12
CONMT.PET.(C) NO. 431 of 2012 in SLP(C) No.27163-182/12
CONMT.PET.(C) NO. 432-444 of 2012 in SLP(C) No.27163/12
CONMT.PET.(C) NO. 5 of 2013 in SLP(C) No.27163-182/12

DATE :05/03/2014 These matters were called
on for pronouncement of judgment today.

For Petitioner(s) Mr. V. Giri,Sr.Adv.
Mr. Ramesh Babu M.R.,Adv.
Mr.Mohd. Sadique, Adv.
Ms. Muqti Chowdhary, Adv.

Ms. Anita Soni, Adv.
Mr. G. Prakash,Adv.

Mr. Himinder Lal,Adv.

Mr. Radha Shyam Jena,Adv.

Mr. Amarjit Singh Bedi, Adv.

Mr. Sanand Ramakrishnan, Adv.

Mr. M.P. Vinod, Adv.

Mr. Romy Chacko, Adv.

For Respondent(s) Mr. Sanand Ramakrishnan, Adv.

Mr. Roy Abraham,Adv.

mr. Himinder Lal,Adv.

Mr. Deepak Prakash, Adv.
Mr.Biju P.Raman, Adv.
Ms.Haritha V.A.,Adv.
Ms. Yogmaya, Adv.
Ms. Usha Nandini V.,Adv.

Ms. Sumita Hazarika,Adv.
Ms. Ipsita Behuria, Adv.
Mr. T. Mitra, Adv.

Mr.Venkita Subramoniam T.R., Adv.

Mr. Rohit Kumar Singh, Adv.

Mr. Sajith P., Adv.

Mr. Alex Joseph, Adv.

Mr. G. Prakash, Adv.

Mr. V.K. Sidharthan, Adv.

Mr. Ramesh Babu M.R., Adv.

Mr. Shiv Sagar Tiwari, Adv.

Hon'ble Mr. Justice H.L. Gokhale pronounced the judgment of the Bench comprising His Lordship and Hon'ble Mr. Justice J. Chelameswar.

Leave granted.

The appeals are allowed. The parties will bear their own costs

No orders are required on the contempt petitions and they stand disposed of.

All parties will bear their own costs.

(Usha Bhardwaj)
(A.R.-cum-P.S.)

(Sneh Lata Sharma)
(Court Master)

[Signed reportable judgment is placed on the file]
