

ITEM NO.13

COURT NO.6

SECTION XIV

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(s).8398-8399 and 12415 of 2005

(From the judgement and order dated 19/12/2003 in CW No. 85/2003 & RA No. 130/2004 & CWP No. 1138/2003 of The HIGH COURT OF DELHI AT N. DELHI)

SUPER BAZAR KARAMCHARI DALIT SANGH & ORS

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP, directions, intervention, impleadment and directions and impleadment of 70 employees of Super Bazar Co-Operative Store and and office report )

With

SLP(C) No.22640 of 2005

(With appln.(s) for C/delay in refiling SLP and with prayer for interim relief and office report)

Date: 12/12/2006 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE TARUN CHATTERJEE

For Petitioner(s)

Mr. Anoop G. Chaudhary, Sr.Adv.

Ms. June Chaudhary, Adv.

Mr. Sarwa Mitter, Adv.

Ms. Santosh Gupta, Adv.

Mr. Amit gupta, Adv.

For M/S Mitter & Mitter Co.,Adv.

Mr. T.K.Ganju, Sr.Adv.

Mr. Ajay Thakur, Adv.

Mr. Shree Prakash Sinha, Adv.

Mr. C.D. Singh ,Adv

I.A. No.5,6 & 31:

Mr. Mohit Choudhary,Adv.

For intervenor

Mr. Manish Jain,Adv.

Ms. Pooja Sharma,Adv.

Ms. Jyoti Mendiratta,Adv.

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For Respondent(s)

Ms. Monika Garg, Adv.

Ms. Kavita Wadia,Adv.

Mr. R.K.Kapoor, Adv.

Mr. S.S.Yadav, Adv.

Mr. M.K.Verma, Adv.

Mr. Govind Kaushik, Adv.

Mr. Anis Ahmed Khan ,Adv.

For (DSIDC)

Ms. Pinky Anand, Adv.

Govt.of NCT

Mr. D.N. Goburdhan ,Adv

For Urban

Mr. D.N.Goburdhun, Adv.

Development

Ms. Pinky Anand, Adv.

Mr. Vishnu B.Saharya, Adv.  
For M/S Saharya & Co. ,Adv

Mr. K.K.Tyagi, Adv.  
Mr. Iftekhar Ahmad, Adv.  
Mr. P. Narasimhan ,Adv

Mr. Rakesh K. Khanna, Sr.Adv.  
Mr. Neeraj Kumar Sharma,Adv.  
Mr. Surya Kant, Adv.  
Ms. Jahanvi Wohra, Adv.  
Ms. Shailja Sinha, Adv.

For RIL

Mr. Arun Jaitley, Sr.Adv.  
Dr. Milind Sathe, Sr.Adv.  
Mr. K.R. Sasiprabhu ,Adv  
Mr. M.K.Sreegesh, Adv.  
Mr. Sukesh, Adv.  
Mr. Ashish Verma, Adv.

Mr. Ravindra Kumar ,Adv

Mr. Amarendra Saran, ASG  
Mr. T.S.Doabia, Sr.Adv.  
Mr. S.Wasim A.Qadri, Adv.  
Mr. V.K.Verma, Adv.  
Mr. G.Prakash, Adv.

For IPL & ILC

Mr. Ranjit Kumar, Sr.Adv.  
Mr. Tanveer Ahmed Min, Adv.  
Mr. Vivek Singh, Av.  
Mr. Arvind Kumar Gupta ,Adv  
Mr. Rajesh Ranjan, Adv.

Mr. Rastogi, Adv.

Dr. Kailash Chand ,Adv.

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Mr. Satbir Pillania, Adv.

Dr. Sushil Balwada, Adv.

Mr. Anil Karanwal, Adv.

UPON hearing counsel the Court made the following

O R D E R

Mr. Arun Jaitely, learned Senior Counsel appearing on behalf

of the Reliance Industries submitted that there are legal hurdles

for M/s Reliance Industries in investing and managing the affairs of

the Super Bazar on account of the fact that the provisions of

Multi-State Co-operative Societies Act, Rules and Bylaws put a

limitation on the share holding of shareholders. He submitted that

M/s Reliance Industries and their group can at best hold 20% of the

shares as per Section 33 of the Act which does not give effective

control over the management. It may, therefore, be impracticable to

invest a huge amount in reviving the Super Bazar, while at the same

time not being in a position to effectively control manage the affairs

of Super Bazar. He, therefore, submitted that unless appropriate

amendments are made in the Act, Rules and Bylaws, it would not be

possible for Reliance Industries, which is not a Multi-State Co-operative Society, to invest in the Super Bazar.

Learned counsel for the Union of India pointed out that it is possible to find a solution to the problem. But after some discussion he was also of the view that some amendments in the Act may be necessary. Mr. Anoop G. Chaudhary, learned Senior Counsel, appearing for the petitioners submitted that the difficulty in convening the General Body Meeting, in view of the fact that Super Bazar is in liquidation, can be overcome by convening the Small Representative General Body Meeting which can be done if the order of liquidation is put in abeyance. On behalf of the Official Liquidator, it is submitted that it may not be necessary to keep

order of liquidation in abeyance since the Official Liquidator has power to convene a meeting of the Small Representative General Body. However, this does not solve the problem. Even if such a meeting of the SRGP is called, it may not be possible to amend some of the bylaws, but the bylaws cannot supersede the statutory provisions. Mr. Ranjit Kumar, learned Senior Counsel appearing on behalf of the Indian Potash Limited Co-operative Society, submitted that aforesaid company and the Society have made a bid and they are

in a position to match the bid of Reliance. He however, submitted that the Act and the Rules place a limitation on the investment in the share capital by any person other than Government or Governmental Agency. However, his clients are in a position to bring in funds by way of working capital etc. but that is also subject to a limitation under Section 6 of the Act. If the subscribed capital is increased, the amount which can be inducted by way of borrowings, may also be proportionately increased.

In view of the submissions urged before us, we direct the counsel for the Union of India to seek instructions as to whether having regard to the aforesaid legal problems the Government will consider suitably amending the Act and the Rules to deal with such exceptional situations.

In the meantime the M/s Indian Potash Limited and M/s Indian Labour Co-operative Society are directed to submit a matching bid so that in the light of such bid, we may be able to assess the total investment which the aforesaid Company and Society is willing to make.

Let the matters come up on 20th February, 2007. We expect a response from the Union of India on or before 13th February, 2007

and similarly from M/s Indian Labour Co-operative Society by the

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same date.

In the meantime, the Government may consider if some ex-gratia monetary assistance can be given to the workmen.

(Ganga Thakur)

PS to Registrar

(Vijay Dhawan)

Court Master