

DE

SLP(C)No. 16157 OF 2000
ITEM No.1

Court No. 3

SECTION XIA
A/N MATTER

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.16157/2000
(From the judgement and order dated 05/07/2000 in WA 1262/00
of The HIGH COURT OF KERALA AT ERNAKULAM)

KERALA SMALL FINANCIER'S ASSON. & ORS.

Petitioner (s)

VERSUS

UNION OF INDIA & ORS.

Respondent (s)

(With prayer for interim relief and office report)

With

SLP(C)No.17147/2000 (South India Hire Purchase Association vs. U.O.I. and Anr.) (with appln.(s) for c/delay in filing counter affidavit),
SLP(C)No.18400/2000 (Madras Hire Purchase Association vs. Union of India & Ors.) (with prayer for interim relief),
SLP(C)No.17283/2000 (P.H.F. Commercial Corp. & Ors. vs. Union of India & Anr.) (with appln.(s) for urging addl. grounds and with prayer for interim relief),
SLP(C) Nos.891-901/2001 (M/s. Akhila Karnataka Finan. Asson. & Ors. vs. Union of India & Anr.) (with prayer for interim relief) and
SLP(C)No.7424/2001 (Coimbatore District Financiers Asson. vs. Union of India & Anr.) (with office report).

Date : 02/08/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE N. SANTOSH HEGDE

For Petitioner (s)

in SLP 16157/00	Mr. F S Nariman, Sr. Adv. Mr. E.M.S. Anam and Mr. Fazlin Anam, Advs.
in SLP 17147/00	Mr. G.L. Sanghi, Sr. Adv. Mr. Manish Singhvi, Adv. Mr. Ashok K Mahajan, Adv.
in SLP 18400/2000	Mr. Manish Singhvi, Adv. Mr. Ashok K. Mahajan, Adv.
in SLP 17283/00	Mr. R K Virmani, Adv. Mrs. Rashmi Virmani, Adv.
in SLPs 891-901/01	Mr. F S Nariman, Sr. Adv. Mr. P Venugopal, Mr. P S Sudheer and Ms. Surekha Raman, Advs. for M/s. K J John & Co., Advs.

in SLP 7424/01 Mr. K V Viswanathan, Adv.
Mr. Atul Kumr Sinha, Adv.
Mr. K V Venkataraman, Adv.

For Respondent (s) Mr. Ramesh Babu M.R., Adv.
For R.B.I. Ms. Manisha Singh, Adv.

For U.O.I. Mr. K.N. Raval, ASG.
Mr. Amit Mahajan, Adv.
Ms. Sushma Suri, Adv.

State of Kerala Mr. K R Sasiprabhu, Adv.
Mr. K.M.K. Nair, Adv. (NP)

UPON hearing counsel the Court made the following
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Special leave granted.
The appeals are dismissed in terms of the signed
order, with no order as to costs.

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(D.P. WALIA) (S.L. GOYAL)@@
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COURT MASTER COURT MASTER @@
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(Signed Order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2001@@
CC
(arising out of S.L.P.(C) No. 16157 of 2000)

Kerala Small Financier's Association & Ors. ..Appellants

vs.

Union of India & Ors. ..Respondent(s)

[with Civil Appeal Nos. @@@@
CC
arising out of S.L.P.(C) Nos. 17147/2000, 18400/2000,@@@
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17283/2000, 891-901/2001 and 7424/2001 respectively]@@
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O R D E R@@
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Special leave granted.

The only contention raised in these cases is with regard to the legislative competence of the Parliament to enact Section 45-S of the Reserve Bank of India Act. The main ground in this regard which is urged by the learned counsel for the appellants is that in respect of persons who are registered under the Money Lenders Acts passed by the various States their business cannot be brought to an end by virtue of Section 45-S. It is contended that the State Acts have been passed in exercise of the powers conferred on the State Legislatures under Entry 30 of List II and inherent in the right of carrying on the business of money lending is the option to take money on deposit. The enactment of Section ...2/-

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45-S now prevents an unincorporated body or person from accepting a deposit even though the person may be a registered money lender.

In our opinion, this question is no longer res@@
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integra. In Kanta Mehta vs. Union of India and Others, 1987@@
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(62) Company Cases 769, the High Court of Delhi considered such a contention which had been raised with regard to the validity of Section 45-S which had been incorporated at that point of time on the ground of legislative competence. The High Court came to the conclusion that under Entry 45, List I of the Seventh Schedule the said provision had been validly enacted. This case came up for consideration before a Bench of three Judges of this Court in T. Velayudhan Achari and@@
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Another vs. Union of India and Others, 1993 (2) SCC 582.@@
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After setting out the conclusions of the High Court, this Court had upheld the legislative competence of the Parliament to enact the said provision. This Court in no uncertain terms observed that the decision of the Delhi High Court was correct. In paragraph 32, this Court stated that "We approve the reasoning of the Delhi High Court in Kanta Mehta case". Again in paragraph 43, this Court stated that "Therefore, we are in entire agreement with the Delhi High Court". The aforesaid decision of this Court in T. Velayudhan Achari's@@
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case (supra) is binding on us and following the ratio of the@@
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said decision the conclusion which we can arrive at is that even the new Section 45-S has been validly enacted. The ...3/-

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provisions of the State laws relating to money lending cannot have the effect of overriding the provisions of Section 45-S of the Reserve Bank of India Act. Section 45-S is a valid piece of legislation and it binds all persons referred to therein.

These appeals are, accordingly, dismissed with no order as to costs.

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.....J.
(B.N. KIRPAL)

.....J.
(N. SANTOSH HEGDE)

New Delhi;
August 2, 2001.