

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

RECORD OF PROCEEDINGS

CIVIL APPEAL No.3098/2000 @@
EE

Binda Prasad Dwivedi

Appellant (s)

VERSUS

Centre for Public Int.Litigation & Ors.

Respondent(s)

WITH C.A. No.3107,3091,3093,3109,3088,3087,3108,3096,3095/2000
WP(C)142,143,305,306,309/2000,SLP(C)7781,7782/2000,
SLP(C)....CC144/2000,SLP(C)...CC2951/2000,SLP(C)4675,
2172/2001 and SLP(C) 12782/2000

Date : 28.11.2001 This appeal was called on for hearing today.@@
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CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE R.C. LAHOTI

For Appellant (s) Ms.C.K.Sucharita,Ms.Dr.Laxmi Shastri,Advs.
Mr. Gopal Singh,Adv. (N.P.)
M/s. Rana Ranjit Singh,Rohit K.Sinha,Advs.
Mr. Irshad Ahmad,Adv.
Mr. Pranab Kumar Mullick,Adv.
Mr. B. Partha Sarthy,Adv.
Mr. Sushil Kumar Jain,Adv.
Mr.P.K. Chakravarty,Adv.
Mr. B.K.Satiya,Adv.
M/s.Dhruv Mehta,Ms.Shobha,Ms.Anu Mehta and
Mr. S.K.Mehta,Advs.for M/s. K.L. Mehta & Co.
M/s K. Ram Kumar & B.Sridhar,Advs.

For Respondent (s) Mr.H.K.Puri,Adv.
M/s.K.C.Kaushik,Indira Sawhney,Advs.for
Mr. B.V.Balram Das,Adv.

Mr. Prashant Bhushan,Adv.
Mr.K.K.Gupta,Adv.
M/s.J.P.N.Gupta,P.K.Singh,Advs.for
Mr. Y.Raja Gopala Rao,Advs.

M/s.A.K.Raina,B.R.Vig,Advs.for
Mr. Anil Kumar Jha,Adv.

Binda Pd.Dwivedi

...Appellant

Vs.

Centre for Public Int.
Litigation & Ors.

...Respondents

WITH C.A. No.3107,3091,3093,3109,3088,3087,3108,@@
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3096,3095/2000,W.P.(C) 142,143,305,306,309/2000,@@
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SLP(C)7781,7782/2000,SLP(C)...CC144/2000,@@
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SLP(C)...CC2951/2000,SLP(C)4675,2172/2001 and@@
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SLP(C) 12782/2000.@@
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C.A. No.3098 & 3087/2000: These appeals are covered@@
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by our earlier judgment in a batch of appeals since reported
in JT 2001 (9) SC 187. These appeals are accordingly
dismissed.

C.A. No.3107/2000: This appeal relates to allotment@@
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of dealership under discretionary quota. There is none to
press this appeal. Having perused the impugned judgment, we
are of the opinion that it is covered by our earlier judgment
reported in JT 2001 (9) SC 187. The appeal is accordingly
dismissed.

C.A. 3091/2000: This also relates to an allotment@@
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of discretionary quota by the concerned Minister. Having
perused the impugned order as well as our judgment in JT 2001
(9) SC 187, we see no infirmity with the impugned order of
the High Court requiring our interference. This appeal

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stands dismissed.

C.A.No.3093/2000: None appears when the matter was@@
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called. We have perused the impugned order of the High
Court. In our considered opinion, the case is covered by our
earlier judgment in JT 2001 (9) SC 187. This appeal stands
dismissed.

C.A. No.3109/2000: Having perused the impugned@@
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order of the High Court, we are of the opinion that it is
covered by our judgment reported in JT 2001 (9) SC 187. The
appeal stands dismissed.

C.A. No.3088/2000: This appeal is covered by our@@
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judgment reported in JT 2001 (9) SC 187. This appeal stands
dismissed.

C.A.No.3108,3096 & 3095/2000: These appeals are@@
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dismissed as withdrawn. Interim order,if any, stands
vacated.

W.P.(C) Nos.142-143/2000: These petitions are@@

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covered by our judgment reported in JT 2001 (9) SC 187. The
Writ Petitions are dismissed.
W.P.(C) No.305,306 & 309/2000: These petitions are@@
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dismissed as withdrawn. Interim order, if any,stands vacated.
SLP(C) No.7781 & 7782/2000: The Special Leave@@
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Petitions are dismissed as withdrawn. Interim stay, if any,
stands vacated.
SLP(C).....CC 144/2000: There has been an inordinate@@
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delay of 605 days for which there is no sufficient
explanation. Even otherwise, we do not see any merit in the
SLP. The SLP is dismissed on the ground of delay as well as
on merit.
SLP(C) No.4675/2001: This petition is covered by our@@
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judgment reported in JT 2001 (9) SC 187. The SLP is
dismissed.
SLP(C).....CC 2951/2000: There has been an@@
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inordinate delay of 851 days for which there is no sufficient
explanation. Even otherwise, we do not see any merit in the
SLP. The SLP is dismissed on the ground of delay as well as
on merit.
SLP(C) No.12782/2000: Heard. We see no infirmity@@
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with the impugned order. The Special Leave Petition is
dismissed.

While, we are dismissing the appeals, we are also
aware of the fact that these appellants are operating the
allotments made in their favour since 1993-94 and even after
the judgment of the High Court, they are continuing by virtue
of an interim order of this Court. In these circumstances,
we direct that they shall be allowed to wind-up their
respective business by 31st of December, 2001.

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C.A.No.8236/2001 @ SLP(C) 2172/2001.@@
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Leave granted.

This appeal is directed against the impugned
direction of the Division Bench of the Andhra Pradesh High
Court in relation to a dealership in LPG at Manthani in
Karimnagar. The dealership in question had been granted by
the concerned Minister under a discretionary quota which
stood annulled by the High Court. Pursuant to the direction
of the High Court to have an auction for the dealership in
question, an auction was held on 3.3.1999 after the same was
advertised in newspaper 'Deccan Chronical' on 02.02.1999.
The reserve price fixed was Rs.4.61 lakhs. The present
appellant was the highest bidder who had offered Rs.5.11
lakhs and the bid had been knocked down in favour of the
appellant whereafter the appellant started his business.
Respondent no.1 filed a writ petition in the Andhra Pradesh
High Court praying for cancellation of the dealership in
favour of the appellant alleging inter alia that the
so-called auction that was held on 03.03.1999 had not been
duly conducted and the said respondent was prevented from
participating as a result of which the largesse in question

did not fetch the proper price and even though he is prepared to offer Rs. 40 lakhs the same has been settled with the appellant for a paltry sum of Rs.5.11 lakhs.

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The learned Single Judge having been persuaded to accept the contention raised by the respondent in the writ petition and being of the opinion that in fact it would fetch Rs. 40 lakhs, directed re-auction of the dealership keeping the reserve price at Rs. 40 lakhs. The learned Single Judge also directed the respondent (the writ petitioner) to deposit a sum of Rs. 40 lakhs to prove his bonafides. The appellant assailed the order by filing an appeal to the Division Bench.

While the appeal was pending before the Division Bench it passed an order dated 30.11.2000 calling upon the respondent no.2 to deposit Rs. 40 lakhs before the Registrar of the Court within a week from the date of the order. While passing the aforesaid order the Division Bench was aware of the fact that a sum of Rs.40 lakhs is said to have been deposited in Andhra Bank, Karimnagar Branch. It was stated in the order dated 30.11.2000 that on deposit of Rs.40 lakhs, it would be open for the respondent to move the Court for appropriate order in respect of conducting of auction with regard to the leasehold right to carry on the business in LPG dealership at Manthani. This order of the Division Bench dated 30.11.2000 appears to have not been complied with even by the date the appeal was finally disposed of. The Division Bench however thought it appropriate that in the larger interest of justice, the appeal could be disposed of with certain directions and directed that the Indian Oil

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Corporation (IOC) shall hold a fresh auction in relation to the dealership in question.

Apart from the aforesaid direction, there were certain other directions also in the impugned order of the Division Bench. It is true that respondent no.1 deposited a sum of Rs. one lakh pursuant to one of the directions of the aforesaid Court. But Mr. Ram Kumar, learned counsel appearing for the appellant, contended that the Division Bench is not justified in directing re-auction of the largesse when the respondent did not comply with the interim direction dated 30.11.1998 in not depositing the entire sum of Rs. 40 lakhs within a week with the Registrar of that Court. The learned Single Judge as well as the learned Division Bench were having this exercise to have a greater amount for the largesse in question without even coming to a conclusion that the auction has not been bonafide held.

From the narration of facts as already stated, the minimum reserve price fixed under the advertisement being Rs.4.61 lakhs and the appellant having given the highest bid of Rs. 5.11 lakhs it cannot be said, on the face of it, not to be a bonafide transaction. There has been no finding of the learned Division Bench that the respondent was prevented from auction. In exercise of its jurisdiction under Article 226 of the Constitution, the High Court was not required to go into this question of fact and once the High Court set aside

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an auction in favour of the highest bidder on the ground that it could fetch a higher amount, ordinarily, one would expect that the terms and conditions of the High Court must be complied with by the person at whose behest an auction, which has received the finality, would be annulled. Since the respondent did not deposit the sum of Rs. 40 lakhs even though directed by the High Court in its order dated 30.11.2000, the Division Bench was not entitled to direct a

fresh auction of the largesse in question and it would have been more appropriate for the Division Bench to affirm the auction in favour of the appellant who, admittedly, was the highest bidder and had been operating the LPG connections on payment of the amount for which he had bid at the auction. The direction of the Division Bench to re-auction with the terms and conditions contained in the order, in our opinion, was wholly unjustified and, at any rate, such direction could not have been issued at the behest of the respondent who had filed the writ petition when the said respondent did not deposit the sum of Rs. 40 lakhs with the Registrar of the Court pursuant to the order dt. 30.11.2000. The respondent was not entitled to the discretion of the Court to be exercised in his favour, he having failed to comply with the direction of the Court notwithstanding the fact that he had deposited a sum of Rs. 40 lakhs with the Andhra Bank, Karimnagar Branch.

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In our considered opinion, the impugned direction of the Division Bench of the Andhra Pradesh High Court requiring re-auction cannot be sustained. So also, the direction of the learned Single Judge in annulling the auction in favour of the appellant. We, therefore, set aside the direction of the learned Single Judge in the writ petition as well as the direction of the Division Bench in appeal and allow this appeal. The auction that had been already settled in favour of the appellant is affirmed.

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(G.B. PATTANAİK)@@
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New Delhi;
November 28, 2001

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(R.C. LAHOTI)@@
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