

(1994) 11 SC CK 0051

In the Supreme Court Of India

Case No : C.A. No. 7565 of 1994 (Arising out of S.L.P. (C) No. 12861 of 1994) and C.A. No. 7566 of 1994 (Arising out of S.L.P. (C) No. 15107 of 1994)

Ashok Kumar

APPELLANT

Vs

Union Territory, Chandigarh and another
Ram Kishan
Nanda Vs Chandigarh Administration and another

RESPONDENT

Date of Decision : 16-11-1994

Acts Referred:

Telegraph Act, 1885 — Section 4

Citation : AIR 1995 SC 461 : (1994) 7 JT 531 : (1995) 109 PLR 685 : (1994) 4 SCALE 991 : (1995) 1 SCC 631 : (1995) 1 UJ 26

Hon'ble Judges : S. B. Majmudar, J;B.P. Jeevan Reddy, J

Bench : Division Bench

Final Decision : dismissed

Judgement

S.B. Majmudar, J.—Leave granted.

2. We have heard learned Counsel for the parties in support of their respective cases. The appellants are the original writ-petitioners who filed two writ petitions in the High Court of Punjab and Haryana at Chandigarh. The appellants are handicapped persons. Appellant in civil appeal No. 7565/94 arising out SLP (C) No. 12861 of 1994 is also a 1984-riot victim. Both of them were granted licences u/s 4 of the Indian Telegraph Act, 1885 to operate Ageless type pay phone (PCO) by the Commercial Officer, Telephones, Chandigarh. These licences were granted to them for five years. On the basis of those licences, the appellants applied to the Administrator, Union Territory, Chandigarh for being allotted suitable sites on the bus-stand at Chandigarh, where the PCO booths were to be located. Both of them were allotted suitable sites for one year each. So far as the appellant in civil appeal No. 7565/94 arising out of SLP (C) No. 12861 of 1994 is concerned, he was allotted a site measuring 8' x 8' ft. on 19.1.1993 at the rent of Rs. 200/- p.m. for a period of one year. So far as the appellant in the second appeal is concerned, he was initially allotted a site to locate his public booth call at

Chandigarh bus stand by the respondent for one year from 3.5.1991. Subsequently, the licence was renewed for a further period. However, by a communication dated 31.12.1993, the respondent informed the appellant that the permission to run the STD Pay Phone at the bus-stand was cancelled. Appellant in civil appeal No. 7565/94 arising out of SLP (C) No. 12861 of 1994 was granted licence for one year which was expiring on 25.1.1994. He applied for renewal. His request was not granted. Under these circumstances, the appellants filed writ petitions in the Punjab and Haryana High Court, as aforesaid, praying for suitable direction to the respondent-Administration to permit the appellants to run their STD booths till the entire period of licences granted to them by the Commercial Officer, Telephones, Chandigarh, expired. The High Court after hearing the parties came to the conclusion that there was no legal right with the appellants to get such relief and hence the petitions were dismissed. That is how, the special leave petitions have been filed.

3. In our view, there is no substance in these appeals. Both these appellants even though armed with licences from Telephone Department to run PCO (Pay Phone) booths at Chandigarh bus-stand, for a number of years, had to obtain suitable plots from the Chandigarh Administration at the bus-stand to locate their booths. The licences given to them were for a fixed period. In the licences granted to them by the respondent Administration, there is no provision for any right of renewal of the licences so as to run during the entire period of their respective licences granted to them under the Indian Telegraph Act by the authorities. The licences were for a fixed period. learned Counsel for the appellants took us through the relevant clauses of the licences. They could not pin-point any clause under which any such right of renewal was guaranteed or granted to the appellants by the respondent-Administration. learned Counsel for the appellants vehemently relied upon Clauses 3 and 14 of allotment orders which provided that allotment of space will be initially for one year. However, the Divisional Manager, Chandigarh, reserves the right to cancel the allotment any time by serving a notice of 30 days. The allottee also could get the allotment cancelled by serving the notice of 30 days; and it was further provided in Clause 14 that the rent is applicable for the current year and can be enhanced at any time. Interpreting these clauses, the High Court rightly held that these clauses gave a discretion to the Chandigarh Administration to extend the period of licences. But, there is no right to the licensees to claim for extension of licences for any further fixed period. Consequently, no exception can be taken to the view of the High Court that the appellants had no legal right to force the respondent-Administration to enter into and grant further licences for the plots on which their PCO booths are located.

4. It was next vehemently submitted by learned Counsel for the appellants that the respondents have acted arbitrarily in picking and choosing persons for extension of such licences.

5. In that connection, they invited our attention to paragraph 15 of the petition

where it was pointed out that in similar circumstances, a site was allotted to M/s. Modern Telephone Communication at bus-stand in January, 1991 for a period of one year which expired in January, 1992. Thereafter, Respondent No. 2 extended the time for allotment of site for a period of four years i.e. upto January, 1996 keeping in view the fact that the licence was granted by the Telecommunications Department for a period of five years. Similarly, Mr. Anil Kumar Gupta was also allotted site in August, 1992 for a period of one year which was later on extended for another two years on the same terms and conditions. Likewise, Respondent No. 2 has allowed the extension of time to other allottees keeping in view the fact that the licences had been granted for a period of five years and there is no reason with the respondent for not extending the time in case of the appellants. In reply, the respondent-Administration has pointed out in paragraph 3 of the counter affidavit that the Chandigarh Administration had taken a policy decision to allot by auction the present and other similar sites. The Chandigarh Administration had decided that such sites would be auctioned to handicapped persons and riot victims by inviting bidders through Public Notice which will place the appellants with other similarly placed persons and cause no discrimination. The appellants would be equally placed and would be afforded proper opportunity to participate in the auction.

6. learned Counsel for the respondent submitted that so far as the appellants are concerned, they were allotted plots prior to 1994. Earlier the respondent-Administration used to allot plots to licensees who were having licences to run PCO booths at Chandigarh bus-stand. But from 1.1.1994, the respondent has taken a policy decision to auction these plots by public auction so that all similarly situated handicapped and riot-affected persons can get a fair and equal chance to bid. It was submitted that apart from the appellants, there were a number of handicapped and riot-affected persons clamouring for sites to run PCO booths being armed with licences granted to them under the Indian Telegraph Act, and in order to have a fair competition amongst them, the procedure decided to be adopted from January, 1994 is to put such sites, which are limited in supply as compared to the demand, to public auction.

7. It was also contended that so far as the appellant in civil appeal No. 7566/94 arising out of SLP (C) No. 15107 of 1994 is concerned, he also took part in auction held in 1994 and he emerged the second best and this is how he could not get re-grant of the site for the year 1994-95.

8. Be that as it may, the aforesaid stand of the respondent clearly shows that the earlier policy of allotment of sites to claimants for putting up PCO booths has been given a go-bye. and now from January 1994 the respondent-Administration is following a uniform policy of putting such sites to public auction. We asked the learned Counsel for the appellants to point out as to whether there was any instance in which after 1.1.1994 any of the sites at Chandigarh bus-stand was allowed to anyone without following the procedure of public auction. He fairly states that there was no such instance. Consequently, it cannot be held that the

respondent has acted arbitrarily in requiring the appellants to go through the procedure of public auction for being re-allotted these disputed sites for continuing their PCO booths or that they had treated them in any hostile or discriminatory manner as compared to the earlier allottees of such sites, namely, M/s. Modern Telephone Communications or Anil Kumar Gupta. It has to be kept in view that both the aforesaid persons were old allottees who were granted allotment for a larger period of time prior to 1.1.1994 when the policy was different and under which even the appellants were allotted plots without undergoing the procedure of public auction. But, after 1.1.1994 as seen earlier there is not even a single instance in which the respondents have departed from the policy of making available the sites at Chandigarh bus-stand only by way of public auction. Consequently, it cannot be said that the respondent is guilty of any discriminatory or hostile treatment qua the appellants.

9. The second contention also has no substance and, therefore, fails. It was lastly contended that the appellants have put up costly booths relying upon the promise held out by the respondent that in all probability they will get renewal of the licence to run parallel to the period or original licence of five years as granted to them under the Indian Telegraph Act and, therefore, the respondent on the doctrine of promissory estoppel cannot be permitted to take up a contrary stand nor can it legally refuse the appellants' request for continuing the licences for further period. It is not possible to agree for the simple reason that there is no evidence on record to show that any promise at any time was held out by the respondent to the effect or even a whisper was made that their licences will be renewed so as to run parallel to the period of licences granted to them under the Telegraph Act by a separate authority, namely, Commercial Officer, Telephones, Chandigarh. Even in the licence deeds as discussed earlier, no such clause or provision is found. This contention, therefore, also is devoid of any substance and is rejected. At the fag end, it was submitted by the learned Counsel for the appellants that their costly booths are standing on spots and if they have to remove them the booths would be useless to them and that they have no objection if the booths are purchased by the successful auction purchasers. It is for the appellants to negotiate in this connection with the successful bidders at the auction. No direction can be given to the respondent-Administration in this behalf. Successful bidders are also not before us.

10. However, before parting with these proceedings we may observe that once the handicapped persons or riot-victims are granted licencees to run telephone PCO booths at Chandigarh bus-stand for a couple of years and if for that purpose they required such sites to be allotted to them by the respondent-Administration, such licences if granted in auction for one year would be for too short a period. The respondent-Administration in its discretion may consider whether it would be just and proper to auction such sites at least for a period of two years instead of one years as the concerned licensees especially those who are handicapped and riot-affected persons have to spend large amounts in putting up infrastructures by way of booths and telephone connections etc. It is for the respondent-

Administration to consider these aspects objectively and to take its own policy decision in the interest of all concerned.

11. In the result, these appeals fail and are, therefore, dismissed. No orders as to costs in each of them.