

(1999) 04 DEL CK 0001
In the Delhi High Court
Case No : C.W. No. 4532/97

Golden Ahar Ltd. and Another

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 08-04-1999

Acts Referred:

Citation : (1999) 3 AD 619 : AIR 1999 Delhi 372 : (1999) 79 DLT 161

Hon'ble Judges : Manmohan Sarin, J;Arun Kumar, J

Bench : Division Bench

Advocate : Mr. Ravinder Bhatt and Ms. Hetu Arora, for the Appellant; Mr. Neeraj Kaul, for the Respondent

Judgement

Arun Kumar, J.—The grievance of the petitioner in the present writ petition is about refusal by the Government to renew the permit of the petitioner for purposes of fishing by using foreign vessels. Initially the petitioner was granted permit for five pairs of deep sea trawlers for a period of three years vide communication dated 31st August, 1982. The permit could be renewed for a further period of two years subject to certain conditions. The petitioner submits that it chartered five pairs of fishing trawlers from a foreign country in view of the said permit granted to it. It is further the case of the petitioner that it applied for permission to purchase foreign trawlers. The respondent granted the permission subject to the petitioner buying equal number of trawlers from an Indian source. According to the petitioner it made huge investments in this behalf. On the expiry of the period of three years for which the permit was initially granted, the petitioner applied for renewal of permit in July 1985. In the meanwhile the Government had taken a decision to suspend chartering of foreign fishing vessels and, Therefore, the request for extension of the permit for two years could not be granted. Admittedly the petitioner was deploying foreign vessels for fishing. In view of the commitments alleged to have been made by the petitioner and in view of the investments incurred by the petitioner it kept on requesting for extension of the permit. Ultimately, vide letter dated 6th July,

1992 the respondent granted extension for one pair of trawlers for a period of about two years. The original permission was for five pairs of trawlers. The petitioner kept on request- ing for permission for five pairs of trawlers but this request was not granted. The petitioner was not interested in utilising the permission granted by the Government for one pair of trawlers because according to the petitioner, it was not economically viable. The petitioner has alleged in the petition that permission was granted to the other parties while the same was denied to the petitioner. The petitioner has challenged this action on the part of the Government in the present writ petition.

2. In the counter affidavit filed by the respondent it has been pleaded that there was too much overcrowding by foreign fishing vessels which was destroying the traditional fishing community. There was lot of agitation from the traditional fishing community. In this view of the matter the Government constituted a Committee to consider all the aspects and make appropriate recommendations regarding deep sea fishing sector. The recommendations of the Committee were not accepted by the fishermen groups. The Government then constituted a Review Committee under the Chairmanship of Mr. P. Murari, a former Secretary to the Government of India. The Committee submitted its report on 8th February, 1996. The recommendations of the Committee were accepted by the Government. The main aspect for consideration before the Government was to safeguard the interests of the tradition- al fishermen. It has been further stated in the counter affidavit that the Government is in the process of formulating a new deep sea fishing policy and, Therefore, the Government has decided not to renew or issue permits for charter/test fishing joint ventures/leasing etc. It is submitted that in view of this policy decision on the part of the Government the petitioner is not entitled to any relief. The allegations made in the writ petition about grant of permits to other parties while the same was denied to the petitioner have been expressly denied. It has been pointed out that as a matter of fact the petitioner was given extension for four vessels (one pair bull trawlers and two stern trawlers). It has been specifically mentioned in the counter affidavit that in no case a permission/extension of more than four vessels has been granted. The respondent has also stated in the counter affidavit that the extension of permit for two years was not as a matter of right, it was subject to condition and, Therefore, the pettioner has no legal right to insist on the same. Admittedly the vessels used by the petitioner are of foreign make and under the Government policy foreign vessels are not being allowed at all for the purposes for deep sea fishing in India.

3. Our attention has been drawn to the recommendations of the Murari Committee. Some of them which are particularly relevant for the present purpose are as under:

"1. All permits issued for fishing by joint ventures/charter/lease/test fishing should immediately be cancelled subject to legal processes as may be required.

2. No renewal, extension or new licenses/permits be issued in future for fishing

to joint venture/charter/lease/test fishing vessels.

3. All licenses/permits for fishing may be made public documents and copy thereof made available for inspection in the office of the registered authority.

4. The areas already being exploited or which may be exploited in the medium term by fishermen operating traditional craft or mechanised vessels below 20m size should not be permitted for exploitation by any vessels above 20m length except currently operated Indian vessels which may operate in the current areas for only 3 years subject to recommendations 1 and 7."

4. We have carefully considered the rival contentions of the learned counsel appearing for the parties. In our view the submission made on behalf of the respondent that the extension of permit for two years is neither automatic nor it can be claimed as a matter of right, has merit. Under the original permit itself renewal of the permission could be on satisfactory performance for one year at a time and for a maximum of two years. The letter dated 31st August, 1982 under which permission was granted to the petitioner contains several conditions. Therefore, cannot be said that renewal of permission was as a matter of right. Secondly, an important fact in this case is the change in Government policy. The facts noted hereinabove show that in larger public interest, the deep sea fishing policy had to be reframed. The Government had to appoint a Review Committee in this behalf and the recommendations of the Review Committee received in February 1996 had been duly accepted by the Government. In view of the entire policy change being undertaken by the Government, the grant of permission for deep sea fishing to foreign trawlers/vessels was totally suspended. The petitioner who admittedly had arrangement with foreign vessels could not, Therefore, get renewal of permit for deep sea fishing. The petitioner cannot seek permission as a matter of right. Moreover, where public interest is involved, individual interest has to give way.

5. So far as the question of discrimination raised by the petitioner in the present petition is concerned, it is to be noted that the respondent has stated in the counter affidavit that in no case any permission for more than four vessels was granted to any party. The petitioner had also been granted such a permission. It is a different matter that the petitioner chose not to utilise the same for reasons of its own. We find no merit in the argument of the learned counsel for the petitioner regarding discrimination. The result is that this writ petition fails. The same is hereby dismissed with no order as to costs.