
(1991) 05 DEL CK 0005

In the Delhi High Court

Case No : Civil Writ Appeal No. 466 of 1980

Great Eastern Shipping Co. Ltd.

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 13-05-1991

Acts Referred:

Customs Act, 1962 — Section 115(2)

Citation : (1991) 44 DLT 605

Hon'ble Judges : Sunanda Bhandare, J;Chander Mohan Nayar, J

Bench : Division Bench

Advocate : Anu Haksar, Tarun Banga and H.S. Phoolka, for the Appellant;

Judgement

C.M. Nayar, J.

(1) The preseat writ petition impugners the order in revision dated 7/20.11.1979 passed by the Government of India in Customs Revision Application against the order in Appeal No. 9/78 dated 17.2.1978.

(2) The petitioners are the owners of a vessel "M.V. Jag Darshan". The said vessel berthed at about 19-22 hrs. at Paradip Port on 29.3.1976 to discharge the cargo of wheat. The last port of call of the vessel was Singapore. The Customs Officers at Paradip Port received some secret information on 5.4.1976 that M.V. Jagdarshan was carrying a large amount of contraband including large number of tape recorders and other goods of foreign origin and that one of the port employees had already gone inside the ship to purchase a tape recorder. The authorities kept a close watch over the ship and at about 0245 hrs. on 6th April 1976, a port Trust employee was intercepted in the Gangway while getting down from the ship. He was found carrying one Panasonic tape recorder, some cassette tapes and Rs. 1,370.00 in Indian currency and those were seized by the Customs Officers.

(3) The Customs Officers commenced rummaging of the vessel at 07.00 hrs. on 6.4.76 and it continued till 02.00 hrs. on 7.4.76. The Rummaging Officers on 7th

April 1976 went inside the hatch No. 6 and requested the Chief Officer of the vessel to open the Tween deck which was found closed. The Officers further alleged that Chief Officer of the ship refused to cooperate and this aroused suspicion and three Customs Officers crawled through the manhole into the Tween-deck of starboard side. While searching through darkness of the Tween-deck they came across the hollow space of samson post just below the blower where they found some bags hanging from a bock at a height not easily accessible. These bags with goods were recovered. The Officers also recovered four packages with goods hanging inside the hollow space of the Samson post. All these packages were dragged to the manhole of the Tween- decks and then lowered to the hatch by means of rope and brought outside the cabin allotted to Customs Boarding Officers. The packages were opened and found to contain a large number of undeclared goods viz.. National Panasonic Portable Cassette tape-recorders, compact cassettes, calculators, folding umbrellas, sun-glasses, cigarettes, whisky bottles, fabrics, accessories of tape recorders etc, worth about Rs. 40,000.00 . The details are already referred to in the annexures filed with the show cause notice. The vessel was kept under guard and rummaging was resumed at 0.8.00 hrs. on 7.4.1976. The manhole of the double bottom tank was opened with great difficulty and further packages and bags containing contraband goods valued at Rs. 82,680.00 approximately were recovered. The vessel was detained by issue of notice to the Master u/s 110 of the Customs Act, 1962, (hereinafter referred to as the Act) for thorough rummaging of other parts and for more suspected and concealed goods. Detention order was served on the master on 7.4.1976 and agents of the vessel. On the same day, in course of search of cabins of two crew members S/Shri S. Fernandes and S.P.D. Costa, 220 pieces of perfumes which were not declared in the property list were recovered and seized by the Customs Officers. The rummaging operation was again resumed at 0.8.00 hrs. on 8.4.1976 when other contraband and undeclared goods were recovered. The vessel remained at roads on 9.4.1976 and 10.4.1976 on account of lack of berthing facility. On 10.4.1976 when the vessel was brought to the shore the customs rummagers rummaged the engine room and recovered undeclared goods valued at Rs. 1,520.00 , comprising of perfumes, wrist watches, cassette tapes etc. etc.

(4) It has also been alleged in the show cause notice that further intelligence collected by the rummagers revealed that large quantity of contraband goods were released through fishing boat when the ship remained at roads on 9th and 10th April, 1976. The relevant inventories of the contraband goods were made in the presence of the Captain Shri HK. Roy, Master of the vessel and the representative of M/s. International Clearing and Shipping Agency, Paradip as agents of the vessel and they accepted them. The copy of the inventories was supplied to the master of the vessel. All the contraband goods recovered in course of rummaging operations were seized for violation of the provisions of Section 11 of the Act read with Section 3(1) of the Import and Export (Control) Act, 1947.

(5) The vessel M.V. Jagdarshan who also seized u/s 110 of the Act on 15.4.1976 for contravention of the provisions of Section 115(2) of the Act, in as much as it was used as a means of transport of smuggled goods recovered from its different parts in course of rummaging on 6th, 7th, 8th and 10th April 1976 respectively. The vessel was released provisionally on execution of a guarantee bond by the Great Eastern Shipping Company Ltd., petitioners herein as owners of the vessel, with a cash security of Rs. ten lakhs. We may also mention that inspection of the Log Book maintained in the vessel revealed that this vessel was rummaged between 10.9.1975 and 27.9.1975 by the Customs Officers, Visakhapatnam and a lot of contraband goods including foreign liquor, cigarettes, N.P. Radio cassette recorders, N.P. Cassette tape recorders, cassette tapes etc. were recovered and seized. This fact is not denied by the petitioners. They only state in reply to show cause notice as follows :

" THE statements contained in paragraph 5 of the said notice are admitted. It is to be noted, however, that the Master, Shri H.K. Roy was not the Master of or no board the vessel on the voyage which took her to Visakhapatnam".

(6) The statement of Captain of the vessel was recorded on 8.4.1976. He took the stand that he had no knowledge of the goods, when and who concealed the same. The portions of the statement which are relevant for present purposes may be reproduced as follows :

"I have no knowledge of the goods and when and who concealed the contraband. As the Master of the vessel and under instructions received from time to time from my owners, I cautioned the crew and the officers not to indulge themselves in the smuggling of contraband articles of any kind since it is an offence under the Indian Customs Act; the consequences would be on the entire crew and officers. Time to time circulars have been displayed on Notice board drawing the attention of the crew and officers, the stringent punishment the offender gets for detection of contraband. Inspire of all the beat efforts, the present unhappy incident occurred .I enquired from all the crew and officers about the ownership of the contraband goods recovered on rummaging as per the enclosed list for which they all disowned and they claimed that they had no knowledge whatsoever. Under the circumstances, I am completely helpless and I offer my sincere apology to you all for the inconvenience caused. I hereby request that the matter may be viewed leniently since the goods are unclaimed and vehemently request to release the vessel immediately in order not to miss the tide at Calcutta, which may ensure in further delay at sand heads to the vessel on this account. As the vessel is carrying Government of India Cargo i.e. Food grains and is lightened to a particular draft in accordance with the particular prevailing tide on 8 th/9th of April 76 the balance of cargo on board must be discharged at Calcutta without causing any further delay to the vessel".

(7) He made a further statement on 10.4.1976 wherein he emphasised that on questioning the officers and crew once again no one has claimed the ownership of the goods and requested "that since the goods are unclaimed, the matter may

be viewed leniently.....".

(8) On 3.7.1976, the Collector of Customs and Central Excise, Bhubneshwar, Orissa issued show cause notice to Shri H.K. Roy, Master of the vessel, M/s. Great Eastern Shipping Company Ltd., the owners of the vessel and M/s. International Clearing and Shipping Agency, Paradip Port as agents. appointed by the Master of the vessel. The said show cause notice gave full details of the incident.

(9) The master of the vessel Sh. H.K. Roy, the owner of the vessel M/s. Great Eastern Shipping Co. Ltd. and the agents M/s. International Clearing and Shipping Agency were called upon to explain in writing and to show cause within ten days from the date of the receipt of the notice why the vessel M.V. Jagdarshan should not be confiscated u/s 115(2) of the Customs Act, 1962 and why a penalty should not be imposed on them u/s 117; Sh. H.K. Roy was also called upon to explain in writing and to show cause to the Collector of Customs and Central Excise why the goods should not be confiscated u/s 111(d)(e) and (f) of the Act and why penalty should not be imposed on him u/s 112.

(10) The owners of the vessel, the Great Eastern Shipping Co. Ltd. replied to the show cause notice on September 10, 1976 wherein it was stated that the seized goods had been secreted in intricate and not easily accessible places so that their presence could not be detected in the course of the search that might be conducted and was in fact conducted by the Ship Officers on the directions of the Master. There was no basis whatsoever for the allegation that the Master had knowledge of the seized goods and that the goods had been smuggled into India by the Master in collusion with other officers and crew members of the vessel. Nevertheless, all reasonable precautions had been taken both by the owners as well as the Master to prevent smuggling. The owners had been giving strict instructions from time to time to the Master to conduct regular searches on board for detection of cavities and smuggled goods and to maintain constant vigilance against smuggling. As late as 28th March, 1976, prior to the vessel's arrival at Paradip Port, the Chief Officer of the vessel had carried out a search on the Master's order to detect hidden cavities and contraband goods as will appear from the relevant entry in the Log Book of the vessel. Circulars had also been displayed on the notice-board of the vessel, warning officers and crew against smuggling and drawing their attention to the severe punishment provided by law.

(11) The Captain of the ship was proceeded against for charges u/s 132 and 135(b)(i) of the Customs Act, 1962, with having made a false declaration to the Customs Authorities and found keeping contraband goods liable to be confiscation. The Court of Chief Judicial Magistrate, Cuttack on consideration of the entire evidence on record held the accused not guilty, acquitted him accordingly.

(12) The impugned show cause notice dated 3.7.76 was amended by a subsequent notice of 13.1.1977. The amendment reads as follows :

" FOR the words and figures "Shri H.K. Roy, Master of the vessel is "occurring in

the beginning of the sentence in para(II) the following should be substituted. The Great Eastern Shipping Co. Ltd., the owner of the vessel M/s. International Clearing and Shipping Agency, Paradip port as agents of the owner and Shri H.K. Roy, Master of the vessel are individually. Further word "him" occurring in closing part of the same sentence in para (II) should be read as "them".

The petitioners filed reply dated February 28, 1977 to the amended show cause notice and stated that the seized goods were admittedly imported and had been concealed on board "M.V. Jagdarshan" but neither the Master nor the Directors of the Great Eastern Shipping Co. Ltd.; the owners of the said vessel nor the Steamer Agents had any knowledge of the existence of the goods. None of them had imported the said goods or had a belted any of the importers.

(13) The Collector, Customs and Central Excise, Bhubneshwar, proceeded to decide the matter in the presence of the parties and the counsel. The Collector held that it was rather difficult to believe that the various kinds of goods in such huge quantity making a considerable bulk could have been taken on board and kept concealed in different parts of the vessel without the knowledge of the Master, as submitted by the petitioners in the reply to the show cause notice as well as at the time of personal hearing. The contention that since contraband goods were found in the cabin of two crew members who have both admitted about their possession, the goods now seized in this case must have also belonged to these two crew members was not accepted because the goods so recovered from the cabin of the two crew members were perfumes only. The Collector further concluded that it was surprising that when the Chief Officer who was supposed to have searched the vessel to find out contraband goods, if any, on board the vessel on 28th March 1976, which happens to be just one day, before the vessel was berthed at a Paradip Port, he did not even care to look into these places. These two crew members did not appear to have any financial means or resources for procuring the huge quantity of contraband goods seized in this case. It was, Therefore, evident that the owners and the Master of the vessel and the Clearing Agents, all were very much involved in this case. Case record reveals that right from the beginning of the rummaging operations the Master of the vessel was not extending full cooperation and assistance to the Customs Officers. The alleged inability to lower the between deck itself is an evidence of half hearted effort made by the Master and other crew members of the vessel in extending cooperation and assistance to the rummaging party of the Customs. The Collector further concluded that apart from the fact that the Master of the vessel had not taken due care and sufficient precaution to prevent the smuggling, the very fact that the seized goods are of such a bulk that can never be concealed, is sufficient evidence that the Master of the Vessel and M/s. Great Eastern Shipping Co. Ltd. were fully aware of the existence of the smuggled goods on board. In the circumstances, he ordered absolute confiscation of the goods seized in this case u/s 111(d), 111(f) of the Act and imposed a penalty of Rs. 5 lakhs on the petitioners-owners; a penalty of Rs. 1 lakh on the Master of the vessel and a penalty of Rs. 1 lakh on the agents of the

vessel u/s 112(a)(i) of the Act. The vessel was confiscated u/s 115(2) of the Act. The owners of the vessel were however permitted to pay a fine of Rs. 3 lakh in lieu of confiscation and it was ordered accordingly.

(14) The petitioners felt aggrieved by the order dated 15th July 1977, passed by the Collector of Customs and Central Excise, Bhubneshwar, filed an appeal before the Central Board of Excise & Customs. New Delhi. The Board held that the onus placed on the appellants u/s 115(2) of the Act had not been discharged and the fact that the notices were put up on the notice board cautioning against smuggling activities was not enough to discharge the burden cast on them, and Therefore, the vessel was clearly liable to confiscation. However, the appeal was partly allowed on the facts and circumstances of the case and a fine in lieu of confiscation was reduced to Rs. 1,40,340.00 and the personal penalties imposed on the petitioners, steamer agents and the Master of the vessel were remitted. The petitioners filed application for revision of the order in appeal dated 28.2.78/20.3.78 passed by the Central Board of Excise and Customs. The said application was rejected vide order dated 7/20.11.1979 and the same has been challenged before this Court by the present proceedings.

(15) The learned counsel for the petitioners has submitted that the onus cast on the petitioners and the Master of the Vessel has been fully discharged in accordance with the provisions of Section 115(2) of the Act, in as much as notices had been displayed warning the members of the crew and the officers on board of the said vessel against smuggling. Furthermore, the Master of the vessel has been held by a Court of law not to have had any knowledge of nor being concerned about the smuggled goods and, Therefore, no liability can be fastened on the petitioners. The impugned order is also sought to be attacked on the ground that the Master was expected to take only such precautions as a reasonable and prudent man should take and in the absence of rules to be framed u/s 115(2) of the Act, the said onus has been duly discharged. The owners as well as the Master of the vessel Shri H.K.Roy had no knowledge of the concealment of the contraband. On the other hand, learned counsel for the respondents has stated that there has been complete lack of precautions which a reasonable and prudent man was expected to take and the impugned order has been based on appreciation of evidence and interference is uncalled for in the circumstances of the present case. It was further contended, that the onus to prove the negative fact was on the petitioners. The negative fact can be proved only on preponderance of probabilities.

(16) Learned counsel for the petitioners have cited the following authorities in support of his contentions :

Commissioner of Income Tax Vs. Gopal Vastralaya, , Mogul Line Limited v. Addl. Collector of Customs, Bombay and another. (3) Unreported Judgment of Bombay High Court dated 5.10.1982 in Garware Shipping Corporation Ltd. and others Vs. J.H., , Garware Shipping Corporation Ltd. v. J.H. Joglekar. 1985 (21) E.L.T. 936 (Tribunal), Blossom Campania Nariara S.A. and Others v. Collector of Customs

(Preventive) Bombay.

(17) The above Judgments cited by the learned counsel are on the facts of their own cases except that it may be relevant to refer to the two judgments of the Bombay High Court. The learned Judges of the Division Bench in *The Mogul Line Ltd. and Others. A.K. Dutt and another* (supra) have noted that, admittedly no rules have been framed and the precautions have to be taken as are for the time being specified in the rules as mentioned in Section 115(2) of the Act. "Hence in the absence of any such rules, the precautions to be taken must necessarily depend upon the facts and circumstances of each case". The confiscation, of the vessel and imposition of personal penalty on the Master was set aside after appreciation of evidence and material on record and the Division Bench held that the Master took a search as a reasonable and prudent man would do. The other case which has been strongly relied upon by the learned counsel for the petitioners is the judgment of the learned Single Judge in *Garware Shipping Corporation Ltd. and others v. J.H. Joglekar*, (supra) wherein he has referred to the following passage in support of his contention :

"The plain reading of this sub-section indicates that the owner of the conveyance and the Master in charge of the conveyance are required to take all precautions against the use of the conveyance for smuggling of goods and the precautions required are those specified in the rules. It is not in dispute that the Customs authorities had not framed any rules providing for precautions which are necessary to be taken by the owner and the Master of the conveyance for prevention of the smuggling of the goods. In absence of any rules, it is impossible for the Additional Collector to conclude that the owner or the Master had failed to take requisite precautions in accordance with the rules. The Additional Collector observed in his order that the Master failed to take all such precautions before the vessel entered the Indian territorial waters. In my judgment, in absence of any rules providing for a certain set of precautions, it is impossible to direct confiscation of the vessel under sub-section (2) of Section 115 of the Customs Act, 1962 and the order of confiscation, Therefore, requires to be set aside."

The Patna High Court in *Commissioner of Income Tax, Bihar v. Gopal Vastalaya* (supra) referred to the observations of Untwalia C.J. in *Commissioner of Income Tax Vs. Patna Timber Works*, and observed as under :

".....The standard of proof applicable to prove a positive fact and the one which is required to prove a negative fact cannot be the same. A high standard is always applied for the proof of a positive fact while the standard of preponderance of probability is sufficient to prove a negative fact. The assessed, within the meaning of the Explanation, is required to prove that the failure to return correct income did not arise from any fraud or gross or willful neglect on his part. that means, there is absence of fraud or gross or willful neglect. Ordinarily and generally, there cannot be any direct evidence to prove such a fact. The assessed merely has to place materials of the primary facts or the

circumstances which in all reasonable probability would show that he was not guilty of any fraud or gross or willful neglect. He may discharge this onus by placing the facts found in the assessment order to "show that the facts found therein had not in the least given an inkling of fraud or gross or willful neglect on the part of the assessed and, Therefore, it must be held without proof of any other fact that there was no fraud committed by the assessed in his failure to return the correct income nor was he acting grossly or willfully negligently".

(18) We have considered the rival contentions of the parties and have perused the relevant provisions of law as well as the record of the case. It may be necessary to reproduce the provisions of Section 115(2) of the Act which reads as follows:

"115. Confiscation of conveyances- (1) (2) Any conveyance or animal used as a means of transport in the smuggling of any goods or in the carriage of any smuggled goods shall be liable to confiscation, unless the owner of the conveyance or animal proves that it was so used without the knowledge or connivance of the owner himself, his agent if any, and the person in charge of the conveyance or animal and that each of them had taken all such precautions against such use as are for the time being specified in the rules : Provided that where any such conveyance is used for the carriage of goods or passengers for hire, the owner of any conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine not exceeding the market price of the goods which are sought to be smuggled or the smuggled goods as the case may be".

The above said provision was amended and the words "and that each of them had taken all such precautions against such use as are for the time being specified in the rules" were deleted by a subsequent amendment in 1988.

(19) The record of the case would indicate the following glaring facts :

(A) The vessel in question was a cargo ship and there was no one on board except the Master of the vessel and the crew; (b) the search of cabins of two crew members S/Shri S.S. Fernandes and S.P.D. Costa, 220 pieces of perfumes which were not declared in the property list were recovered and seized by the Customs Officers; (c) there were intelligence reports collected by the rummagers that large quantity of contraband goods were released through fishing boat when the ship remained at anchor on 9th and 10th April, 1976; (d) further inspection of the Log Book maintained in the vessel revealed that the vessel was rummaged between 10.9.75 and 29.9.75 by the Customs Officers, Vishakhapatnam and a lot of contraband goods including foreign liquor, Cigarettes, N.P. Radio cassette recorders, N.P. Cassette tape recorders, cassette tapes etc. were recovered and seized. This fact is not denied by the petitioners. (e) The Collector in his order held that the case record revealed that right from the beginning of the rummaging operations the Master of the vessel was not extending full cooperation and assistance to the Customs Officers etc.

(20) The petitioners do not deny the recovery of the contraband goods from the vessel and. they also admit that the contraband goods seized in this case are liable to be confiscation, in as much as they are smuggled into India. Their only contention that they had taken all reasonable precautions to ensure that there was no contraband goods secreted on board the ship did not find favor with the Customs Authorities on appreciation of facts and the evidence on record. There is valid reason for giving a finding that the contraband goods seized in this case would indicate that there was no sincere effort made to ensure that no smuggling was done. It is also .difficult to sustain that the various kinds of goods of such huge quantity were taken on board and kept concealed in different parts of the vessel without the knowledge on the Master and other crew members and furthermore when part of the contraband goods were found in the cabins of two crew members who both admitted their possession. The averment that other contraband must also have belonged to these two crew members would have no basis as it was the duty of the Master of the vessel and the Chief Officer to search the cabins and in case they had done so, the contraband hidden in other parts of the ship would also have been recovered. Therefore, the Master of the vessel did not search the vessel as a reasonable and prudent man would have done. The finding of the Collector and other Authorities which is based on facts and circumstances of the present case cannot be interfered with. It has been correctly held that the case record reveals that right from the beginning of the rummaging operation the Master of the vessel was not extending full co-operation and assistance to Customs Officers. The alleged inability to lower the between deck itself is an evidence of half hearted effort made by the Master and other crew members of the vessel in extending cooperation and assistance to the rummaging part of the Customs. We see no reasons to interfere in the exercise of discretion based on appreciation of evidence on record.

(21) The judgments of the Bombay High Court are based on the facts and circumstances of those cases. We are unable to accept the contentions of the learned counsel for the petitioners that in the absence of rules any search conducted by the Master of the vessel or other crew members should be acceptable by the Customs Authorities as correct. The test of a search conducted by a reasonable and prudent person varies on the facts of each case. The mere non-framing of rules u/s 115(2) cannot make any search as proper and reasonable. The Authorities are at liberty to determine the same on the facts of each case. Of course, as observed by the Patna High Court with which we agree, the standard of proof applicable to prove a positive fact and the one which is required to prove a negative fact cannot be the same- A high standard is always applied for the proof of a positive fact while the standard of preponderance of probability is sufficient to prove a negative fact. However, on the facts of this case we find it difficult to accept that the search conducted by the Master of the vessel met the requirement. The search as alleged to the conducted by the Master and the Chief Officer of the vessel cannot be held to be a search as a reasonable and prudent man would do and the facts of the case establish this

conclusion. The mere fact that the Master or the owners of the vessel were not shown to have been privy to the smuggling of contraband goods would not be sufficient to exclude the operation of Section 115(2) of the Act.

(22) It may also be relevant to mention that the petitioners had submitted before the Collector that the ship was running under the control and management of the owners, petitioners herein, and that even if the ship was liable to be confiscation they must have the option of paying a fine not exceeding the market value of the goods seized in this case. This contention was not accepted by the Collector but the same was accepted by the Board who reduced the fine in lieu of confiscation to a sum of Rs. 1,40,340.00 which would not exceed the market value of the goods sought to be smuggled. This fine was imposed in lieu of confiscation of the vessel. The Revisional Authority also upheld the same. There cannot be any interference in the finding of the Revisional Authority that the mere display of notices warning the members of the crew and officers on board the vessel is not sufficient to prove absence of knowledge or connivance and the petitioners had to lead positive and cogent evidence to displace or discharge the onus cast on them. The Authority was quite correct in holding that the petitioners had failed to prove any such evidence on record and the ingredients of sub-section 2 of Section 115 of the Act are fully satisfied and the vessel has rightly been held to be liable to confiscation under the said Section.

(23) It has also been contended that the Board's order setting aside the penalty imposed on the petitioners and others u/s 112 of the Act but still upholding the confiscation of the vessel u/s 115(2) of the Act is contradictory in terms. Reference is also made to the judgment of the Chief Judicial Magistrate, Cuttack who observed that the petitioners had taken all precautions by giving warning to officers and crew members from time to time by putting notices on the vessel against the smuggling of goods; the Magistrate had also acquitted them of the charge u/s 135 of the Customs Act, 1962. The Revisional Authority is correct in holding that the provisions of Section 115(2) clearly cast the burden of proving absence of knowledge or connivance on the person concerned whose vessel is liable to confiscation. The same has not been discharged in the present case and the petitioners have failed to prove any such evidence on record. The ingredients of sub-section 2 of Section 115 are, Therefore, fully satisfied. The burden of proving the requisite knowledge and the reason to believe u/s 112(b) is on the department or the prosecution while in respect of u/s 115(2) the burden is cast on the petitioners themselves. The acquittal of the Master of the vessel by the Magistrate of the charges u/s 135 of the Act does not follow that the vessel is not liable to be confiscation u/s 115 of the Act. There is no infirmity in the order of the Revisional Authority and we see no ground to interfere in the same.

(24) We also notice that the Board as well as the Revisional Authority have already moderated and reduced the fine to Rs. 1,40,340.00 which has been imposed in lieu of confiscation of vessel. The authorities have exercised their discretion and the same is just, fair and proper in the circumstances of the

present case. There is no scope for further interference in the matter and no relief can be granted to the petitioners in the present proceedings. The petition is dismissed accordingly. There shall be no order as to costs.