
(2023) 10 UK CK 0054

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2833 Of 2023

I.M.P.C.L. Karmachari Sang

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 10-10-2023

Acts Referred:

Citation : (2023) 10 UK CK 0054

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Dr. Kartikey Hari Gupta, V.K. Kaparuwan

Final Decision : Dismissed

Judgement

Ravindra Maithani, J

1. The challenge in this petition is made to advertisement dated 01.09.2023 along with Global Invitation of Expression of Interest of September, 2023, by which, the respondent no.1, the Union of India, has notified that it intends to disinvest its entire stake in Indian Medicine and Pharmaceutical Corporation Limited ("IMPEL") through Strategic Disinvestment in Transfer of Management Control. The petitioner has also sought related reliefs.

2. Heard learned counsel for the parties and perused the record.

3. It is the case of the petitioner that the IMPEL is a profit making undertaking. The petitioner is a trade union. Its members were appointed on various posts from the beginning of the year 1982 onwards in the IMPEL. They are permanent workmen. According to the petitioner, the decision of the disinvestment and advertisement for expression of interest is contrary to the Industrial Employment (Standing Orders) Act, 1946, as the expression of interest, which are the terms and conditions of the disinvestment, does not provide any age of superannuation of the employees/petitioner members.

4. According to the petitioner, the IMPEL does not require any disinvestment on

account of financial assets; the proposed disinvestment is not in public interest; the decision of disinvestment is against the very object and purpose of establishing the IMPEL; the present policy of the IMPEL favours the local level procurement of herbs from the local farmers. The proposed decision is also against the policy of the State of Uttarakhand, which attempts to promote the industrial development in the State, particularly in the hill areas. Various other grounds have been taken in the petition.

5. Learned counsel appearing for the petitioner would submit that the IMPEL is established in a Reserve Forest, for which, land was transferred in the year 1977 with the stipulation that in case the land is not used by the IMPEL, it shall be returned to the Forest Department. Reference has been made to the communication dated 18.01.1997 of the Deputy Secretary, State of Uttar Pradesh to a Forest officer as well as communication dated 13.12.1976. It is also argued that, in fact, the public representative and one of the Secretaries to the Government of India had also expressed the reservation for the proposed disinvestment. Reference has been made to the copy of the letter dated 05.10.2018 of Secretary, Government of India, Ministry of Ayurveda, Yoga and Naturopathy.

6. Learned counsel for the petitioner would also invited the Court's attention to the disinvestment policy and referred to the suo motu statement of the then Minister of Disinvestment, made in both the Houses of the Parliament on 09.12.2002, in which the Hon'ble Minister has stated as follows:-

"The main objective of disinvestment is to put national resources and assets to optimal use and in particular to unleash the productive potential inherent in our public sector enterprise. The policy of disinvestment specifically aims at:

- Modernization and upgradation of Public Sector Enterprises;
- Creation of new assets;
- Generating of employment; and
- Retiring of public debt.

Government would continue to ensure that disinvestment does not result in alienation of national assets, which, through the process of disinvestment, remain where they are. It will also ensure that disinvestment does not result in private monopolies."

7. Learned counsel for the petitioner would submit that the proposed decision is arbitrary; it is against public policy; it is not in consonance with the disinvestment policy; it is not for public domain; it is against the provisions of the Constitution.

8. It is a writ petition under Article 226 of the Constitution of India, a jurisdiction much unlimited, but, also controlled by certain guidelines. In pure policy matters, generally, the Court refrains to make any interference. Every activity of the executive may not be controlled by the judiciary.

9. Disinvestment is a policy decision. The Court posed a question to the learned counsel for the petitioner as to what is the interest of the petitioner? They are workers in the IMPCL. Do they have any grievance with regard to their service conditions? They may approach the appropriate authority. Why are they concerned as to who is running the show.

10. Learned counsel for the petitioner would submit that once disinvestment is done, there is no surety of service condition of the petitioner's association.

11. What is important to note in the instant case is that way back in the year 2019, when the disinvestment of IMPCL was proposed, WPPIL No. 213 of 2019, Neeraj Tiari Vs. Union of India and Others, was filed in the Court ("the first petition"). The first petition was decided on 11.12.2019, and it was dismissed. The Court had then observed that "these are all matters in which this Court lacks expertise, and would ordinarily defer to the wisdom of the experts in the field." Paragraphs 7 and 8 of the judgment dated 11.12.2019 of the first petition are as follows:-

"7. In so far as the petitioner's contention that both the Government of Uttarakhand and the Ministry of Ayush have also opposed such a move for disinvestment, and that the subject company is a profit making unit, unlike other public sector undertakings which are running at a loss and are required to be supported by funds from the public ex-chequer, suffice it to observe that these are all matters for the Union of India to examine, and take a considered decision thereupon."

"8. While we see no reason to entertain this Writ Petition, allegedly filed in public interest, for these are all matters in which this Court lacks expertise, and would ordinarily defer to the wisdom of the experts in the field, suffice it to observe that we have no reason to doubt that, before a final decision is taken regarding dis-investment of its share capital in the subject unit, the Government of India would take into consideration the reservations expressed both by the Government of Uttarakhand and the Ministry of Ayush before taking a final decision as to whether or not it should off-load its share capital in the subject industrial unit."

12. This Court cannot presuppose that the concern, that has been raised by the Court in its order dated 11.12.2019, in the first petition, has not been addressed to by the Union of India. Even today, this Court lacks expertise to evaluate the decision to disinvestment. Various factors are involved in this process. Public interest definitely is at the peak of it. Therefore, this Court does not see any reason to make any interference. Accordingly, the petition deserves to be dismissed at the stage of admission itself.

13. The writ petition is dismissed in limine.