
(2014) 05 KL CK 0033
In the High Court Of Kerala
Case No : W.P. (C) No. 13331 of 2014

Saroj Subash Nagori

APPELLANT

Vs

Director of State Lotteries

RESPONDENT

Date of Decision : 29-05-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2014 Ker 189 : (2014) 3 KLJ 26 : (2014) 2 KLT 943

Hon'ble Judges : A.M. Shaffique, J

Bench : Single Bench

Advocate : C.K. Sherin, Sr. Government Pleader, G. Hariharan and H. Praveen,
Advocate for the Appellant

Final Decision : Allowed

Judgement

1. Petitioner has approached this Court seeking the following reliefs:

(i) Call for the records relating to the passing of Ext. P2 order rejecting the claim for prize offered in Ext. P1 ticket and quash the same by the issuance of a writ of certiorari;

(ii) Issue a writ of mandamus or any other appropriate writ, commanding the 1st respondent to disburse the prize money of Rs. 5,00,000/- offered and guaranteed under Ext. P1 ticket to the petitioner forthwith, without any further delay.

The facts involved in the case would show that the petitioner is the second prize winner of a lottery conducted by the State. Ext. P1 is the ticket bearing No. PT-332236. Though the petitioner submitted necessary documents along with the original ticket in terms of R.9 of the Kerala Paper Lotteries (Regulation) Rules, 2005, (hereinafter referred to as "the Rules") by virtue of Ext. P2 order, petitioner's claim was rejected.

2. The main contention of the petitioner is that the reason stated for rejecting

the prize amount is baseless and the statute does not provide for any such reasons to be stated for refusing the prize amount.

3. According to the respondents, since the tickets of Kerala State lottery are to be sold only within the territory of the State, and since claims for prize money are coming from outside the State, a monitoring committee is constituted for scrutinising such claims. The petitioner was not in position to produce documents to substantiate his coming to Kerala for purchasing the lottery and the monitoring committee has unanimously decided to reject the prize claimed with a provision to file appeal. Specific reference is made to R.6(4) of the aforesaid Rules, which reads that "No agent shall sell tickets of Kerala State Lotteries outside the State of Kerala, directly or indirectly, against the provisions of sub-rule (3) of R.4." Since the claim was made by a purchaser of a ticket from outside Kerala, the same had to be rejected.

4. The learned Senior Government Pleader would further submit that in so far as the petitioner has a right of appeal against the order passed at Ext. P2 within a period of 30 days, the petitioner has to avail such a remedy and cannot approach this Court seeking interference under Art. 226 of the Constitution of India.

5. On the other hand, the learned counsel for the petitioner would submit that the respondent authorities had no jurisdiction to pass Ext. P2 as there is no statutory provision either under the Lotteries Regulation Act, 1998 or the Rules framed thereunder to refuse the prize amount to a person who resides outside the State. According to the petitioner, there is no reason for the petitioner to produce any proof regarding the fact that the petitioner had come to the State for purchasing lottery.

6. The restriction imposed in terms of R.6(4) apparently is on the agents of the lotteries and it is not a restriction imposed on the purchaser of a lottery. In that view of the matter, I do not think that R.6(4) permits the respondent authorities to refuse payment of prize amount to a person who submits the prized ticket before the respondents.

7. That apart, as per the scheme of lottery, the prize amount has to be paid to the holder of the prized lottery. Retaining such amounts by the Lottery Department amounts to unlawful enrichment. If at all the Lottery Department has a case that the purchaser of the ticket or the prize winner is involved in money transaction which is in violation of any other provision of law, such action has to be taken by the appropriate authorities and not by the Directorate of Lotteries.

8. Rule 9(3) prescribes the procedure for payment of prize winning tickets. The nature of enquiry that might be required for payment of prized tickets is to ensure genuineness of the prized ticket in terms of R.9(8). Sub-r.(9) of R.9 further indicates that the prize winning ticket shall be surrendered to the officer concerned in good condition and tampered or mutilated tickets will be rejected. The officer passing the prize claim is liable to ascertain the "genuineness of the

tickets" before disbursing the amount of such claim. Such a situation has not arisen here as there is no doubt about the genuineness of the prized ticket. The doubt is regarding the entitlement of the ticket holder to receive the prize. Such an enquiry is not contemplated under the provisions of the Lotteries (Regulation) Act, 1998 or the Rules. Under such circumstances, it is clear that Ext. P2 is without jurisdiction and illegal and is liable to be quashed.

Under these circumstances, Ext. P2 is quashed and respondents 1 and 2 are directed to pay the prize amount to the petitioner within a period of one month from the date of receipt of a copy of this judgment.

The Writ Petition is allowed as above.