
(2002) 01 SC CK 0131

In the Supreme Court Of India

Case No : Review Petition (Civil); Writ Petition 402 of 1997; 585 of 1994

Shiela Kaur

APPELLANT

Vs

Shiv Sagar Tiwari

RESPONDENT

Date of Decision : 23-01-2002

Acts Referred:

Constitution of India, 1950 — Article 137, 14

Citation : AIR 2002 SC 2868 : (2002) 2 SCALE 213 : (2002) 10 SCC 667

Hon'ble Judges : R. P. Sethi, J;G. B. Pattanaik, J;B. P. Singh, J

Bench : Full Bench

Final Decision : Allowed

Judgement

1. This review application was filed against the judgment of this Court dated 8-11-1996 since Shiv Sagar Tiwari Vs. Union of India and others, . By the said judgment a Bench of two learned Judges of this Court decided the validity of allotments of 52 shops and stalls made by Smt. Shiela Kaul (petitioner herein), the then Minister for Housing and Urban Development, Govt. of India, on a public interest petition and came to hold that the allotments had illegally been made. Having held so, the Court also considered the question as to what appropriate directions could be issued under the facts and circumstances of the case and having examined the earlier order of the Court dated 4th Nov. 1996 in the case of Capt. Satish Sharma for illegal allotment of Petrol Pump and L.P.G. Dealership and awarding Rs. 50 lakhs as damages, in the case in hand directed that Smt. Kaul should pay an exemplary damage to the tune of Rs. 60 lakhs. The Court also further observed that the C.B.I. should investigate into the matter without being influenced by any observations made by the Court and then decide the course of action on the material collected and available in course of investigation. We are told that in the meantime, the C.B.I. has completed the investigation and have filed a charge sheet launching criminal prosecution against Smt. Kaul. The judgment of this Court in Capt. Satish Sharma's case awarding damages to the tune of Rs. 50 lakhs was considered in review by a three Judge Bench of this

Court in Common Cause, A Registered Society Vs. Union of India and Others, . In the aforesaid reviewed judgment the learned Judges not only quashed the damages imposed, but also quashed the direction for criminal prosecution and Mr. P.N. Misra, learned senior counsel appearing for Smt. Kaul, contended that in view of the aforesaid reviewed judgment in Capt. Satish Sharma's case, the Court should quash both the award of damages as well as the direction for criminal prosecution so far as Smt. Kaul is concerned.

2. On examining the impugned reviewed judgment Common Cause, A Registered Society Vs. Union of India and Others, , we, prima facie, do not agree with several conclusions on law, but since that judgment has been rendered by a three Judge Bench, we cannot go into the question except referring the matter to a Constitution Bench. But, having regard to the peculiar facts and circumstances of Smt. Kaul, who is stated to be old and ailing and the gross hardship of the case, we think it appropriate to quash the damages part of the impugned judgment was awarded against Smt. Kaul, we make it clear that the correctness of the reviewed judgment of this Court (1996) 6 SCC 667 can appropriately be considered in an appropriate case by a Constitution Bench. We further make it clear that the direction to launch criminal prosecution on the basis of investigation by C.B.I. is not being altered in any manner and if any criminal proceeding has already been instituted, that must take its own course on the materials produced. This petition stands disposed of accordingly.