(1998) 08 MP CK 0005

In the Madhya Pradesh High Court

Case No : Writ Petition No. 1164 of 1995 (J)

Som Distilleries Ltd. APPELLANT

Vs

State of M.P. and Others RESPONDENT

Date of Decision : 03-08-1998

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (2000) 1 MPJR 261

Hon'ble Judges : Dipak Misra, J

Bench : Single Bench

Advocate : N.C. Jain, with Mr. Ashok Agrawal, for the Appellant; S.L Saxena, Advocate General for Respondents Nos. 1, 2 and 5, Mr. A.K. Chitaley, with Mr. Rohit Arya, Advocate for Respondent No. 3 and Mr. V.K. Tankha, Advocate, for the Respondent

Judgement

Dipak Misra, J.

Invoking the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India the Petitioner has prayed for issue of a writ in the nature of certiorari for quashment of the order passed vide Annexure-G whereby the Respondents Nos. 3 and 4 were granted contracts for supply of country spirit for the areas of Bhopal and Indore, and further issue a writ in the nature of mandamus commanding the Respondents Nos. 1, 2 and 5 for grant of contract for the aforesaid places to the Petitioner as his offer was the lowest.

The essential facts leading to the filing of this writ petition are that a notification was issued in M.P. Rajpatra dated 6.2.95 inviting sealed tenders for supply of country spirit in sealed bottles for various districts mentioned therein for the period 1.4.95 to 31.3.96. Each distillery was free to tender for any one area or more than one area. The tenderer was required to give the rate for supply and to give other particulars besides earnest money. The condition No. 4 (v) of the tender notice required that alongwith the application the tenderer was to supply a certificate from the Excise Commissioner that the distillery has already installed or has taken sufficient measure to instal effluent treatment plant in the distillery and would not be closed on the ground of no or inadequate effluent measures during the period of contract. The Petitioner submitted his tender for supply of country spirit for Indore and Bhopal alongwith other areas. The rate quoted by the Petitioner for Indore area was Rs. 11.99/-. Negotiations were held and at that time of negotiations the Petitioner reduced his rate to Rs. 8.50/- which was the lowest. The Respondent No. 3 had given the rate at Rs. 12.22/- and reduced it to Rs. 9.90/- at the time of negotiation. It is averred that the contract was awarded for supply of country spirit for Indore area to Respondent No. 3 which was higher by Rs. 1.40/- than that of the Petitioner. In respect of supply to Bhopal area the Petitioner had quoted the rate at Rs. 7.24/- and during the negotiation he further reduced the rate to Rs. 6.75/-. The rate of Respondent No. 4 was Rs. 11.99/- and he reduced it to Rs. 7.00/- during negotiation. However, ignoring the lower rate of the Petitioner, the said Respondent was awarded the contract for Bhopal area. According to the Petitioner it is a reputed concern and the rates quoted by it was workable and there was no speculation. It is alleged that the matter was placed before the Cabinet Sub Committee (hereinafter referred as to ''the committee'') under the Chairmanship of the Finance Minister of Madhya Pradesh and the Committee did not accept the lowest rate of the Petitioner and awarded the contract in favour of the Respondents Nos. 3 and 4 in respect of Indore and Bhopal areas respectively. It is also putforth that the Respondent No. 4 has been allotted 51.09% supply in the State of M.P. in different names and Respondent No. 3 has received 13.2% and the Petitioner has received 9.46% only. It is alleged that the award of contract is not justified and there was no special circumstances to weigh in favour of the said Respondents. It is alleged that the Cabinet Special Committee has taken extraneous material into consideration for recommending, and on the basis of the said recommendations the State Government further recommended to the Excise Commissioner for award of contract which is arbitrary and violative of conscience of Article 14 of the Constitution. It is also alleged that the Respondent No. 4 -Company does not have Cearance certificate from the Pollution Control Board and (sic) on the basis of certain interim orders passed by Indore Bench of the High Court. There is also allegation that the Respondents Nos. 3 and 4 have been shown undue favour which vitiates the grant in entirety.

A return has been filed by the answering Respondents Nos. 1, 2 and 5 contending, inter alia, that the State Government had taken a decision on 3.2.95 to invite tenders from distilleries for grant of privileges for supply of country spirit through bonded warehouses to the retail sale contractors in sealed bottles and poly pouch for the period from 1.4.95 to 31.3.96 for 21 supply areas. In pursuance of the tender notice, 64 tenders were received from 9 tenderers. The tenders were opened on 1.3.95 at about 3 p.m. A decision was taken as per condition no .3 of the tender notice (Annexure-R-1) to finalise the tender after inviting tenderers for negotiation in order to get supply of the country spirit at appropriate rate and proper distribution of supply areas. By order dated 24.3.95

a Cabinet Special Committee was constituted for negotiation with the tenderers and finalisation of the proposal. The committee was headed by Finance Minister and the other members were Ministers of the State for Commerce and Industries, Commerce and Taxes and Energy. Another committee was constituted to advise the Cabinet Sub Committee in negotiation and finalisation of the proposal. This committee comprised of three members, namely, Principal Secretary of Finance, Secretary of Commerce and Taxes, and Excise Commissioner. The date of negotiation was fixed to 20.3.95 and negotiation started, as intimated at 3 p.m. The representatives of the 9 tenderers were present during the negotiations. It was decided that the tenderers would be called for negotiations individually and would be asked about the rates and areas. The tenderers were called personally and discussions were recorded and specific questions were put to them, that if the lower offer is received whether they would further lower rate. The reply to the querry of every tenderers was recorded in the meeting. The representatives of the Petitioner-company, Shri Jagdish Arora and Mahesh appeared, participated in the negotiation. During the negotiations they had expressed that in addition to supply for the area of Betul and Bhopal they should be given 4 other supply areas, namely, Jabalpur, Dhar, Indore and Bastar. The negotiations were conducted in two rounds. In the second round the Petitioner-company was informed that after negotiation the rate for Betul supply area had come down to Rs. 7,00/- per proof litre. The representative of the company refused to lower its rate. For Betul supply area the offer of the Petitioner-company was found to be the lowest. For Bhopal and Ujjain spply area after negotiation minimum supply rate at Rs. 7.00/-per proof litre was received. For other 18 supply areas the tenderers had offered rates Rs. 11.95 per proof litre or more than that, and during negotiations all the tenderers agreed that they would agree for the common uniform rate which may be fixed by the State Government. It was decided that the common rate would be Rs. 9.90/- per proof litre. All the tenderers agreed for the common rate for all those supply areas because the period of supply was one year. The commitee considering all the factors and the availiability of raw materials and its market value and other ancillary factors fixed the unfiorm rate at Rs. 9.90 per proof litre for those supply areas for the year 1995-96. After the negotiation the committee took a decision in respect of the distribution of supply to 9 tenderers. The offer of the Petitioner-company for Betul supply area was Rs. 7.49 and that being the lowest it was decided that the Betul supply area and Jabalpur area shall be allotted to him. In respect of other tenderers the Committee had taken decisions considering the various factors, rates and areas. The minutes of negotiations have been brought on record as Annexure-R-VI. It is stated in the return that at 7.45 p.m. Excise Commissioner informed all the tenderers that the result would be communicated on 30th March, 1995. After the conclusion of the negotiation at about 7.50 p.m. the Managing Director of the Petitioner-company submitted a letter reducing the rates for 10 supply areas but as the time was over and negotiation had already been closed and the tenderers had left the venue, it was taken on record but not considered. It is also stated that the Petitioner-company had refused to lower its rate during negotiation. It is pleaded in the counter affidavit that the Petitioner''s offer was not bonafide and was made with some ulterior motive after conclusion of the negotiations. It is also put forth that the decision regarding finalisation of the tender after negotiations had been taken by the committee and the same was approved by the entire cabinet, it is specifically controverted that in the second round of negotiation the Respondent No. 3 company had agreed that if Indore and Rajgarh supply areas were allotted at common rate they would supply liquor at the rate of Rs. 7.27 per proof litre for Ujjain supply area but the Petitioner had refused, to lower its rate. The Respondent No. 4 had agreed to supply liquor at the rate of Rs. 7.00/- per proof litre for Ujjain and Bhopal supply areas if Ratlam supply area was allotted at the common rate. Thus in the return the Respondents Nos. 1, 2 and 5 have stated that the negotiations have been done in a fair and non-arbitrary manner.

A return has been filed by the Respondent No. 3 whereby the entire action of the Petitioner has been criticised. As far as the reduction of the rates, averments have been made justifying the process of negotiations and the ultimate result. It is also stated that the State Government has fixed a uniform price for many areas to avoid unhealthy competition and to achieve, equitable distribution of the supply areas to all the tenderers by entering into contracts for supply of country spirit depending upon manufacturing capability of the tenderers, rates offered by them, number of tenderers and such other relevant factors. It is also alleged that the Petitioner has notacted in a bonafide manner as he has tried to blow hot and cold at the same time as he has taken advantages of the procedure of negotiation by getting Betul and Jabalpur, more so, when he is getting more rate (Rs. 9.90) than the rates offered by him (Rs. 9.15) for Jabalpur and Rs. 7.24/- for Betul, It is also averred that the rates tendered by the Petitioner for Indore supply area was Rs. 11.99 per proof litre againstthe rate of Rs. 9.99/- tendered by the Respondent No. 3 and had the Petitioner reduced its rate for the said area during negotiation the said Respondent Would have got opportunity to further reduce its rates. However, eventually it was given to the said Respondent at the uniform rate of Rs. 9.90/- as fixed by the State Government.

A counter affidavit has been filed by the contesting Respondent No. 4 stating that the writ Petitioner has been filed after expiry of one month from the date of supply and hence it is to be dismissed on the ground of delay and laches. It is the stand of this Respondent that in case of Bhopal supply area the offer of the Petitioner was Rs. 7.24/- and the offer of the said Respondent was Rs. 11.99/-. However during negotiation it. reduced its offer whereas the representative of the Petitioner company expressed its inability to reduce its offer from Rs. 7,24/-. In the circumstances Respondent No. 4 was accepted to be the lowest and was awarded the contract. Reduction of the rate by the Petitioner has been criticised as an after thought and to defeat the process of negotiation. It is also alleged that the same was submitted after completion of the process of the negotiation. It is also pleaded that as many factors were to betaken into consideration to ensure proper supply with effect from 1.4.95, it was imperative for the State

Government to bring the negotiation to an end latest by 29.3.95. The Respondent No. 4 has also justified the grant in its favour. It is also pointed out that the Petitioner''s further revised offer was unworkable offer as that would have required of him to supply 1.84 crores proof litres whereas he had the capacity to produce one crore proof litres.

A rejoinder affidavit has been filed by the Petitioner contending that when tenders are invited the person quoting the lowest price gets a vested right to get the order of supply in his favour and he cannot be deprived of his right by resorting to unwarranted negotiation. It is also putforth that the negotiation is not the mode provided anywhere while considering the rates as submitted in tenders. It is pleaded that entire process of negotiation has no sanction of law. It is also putforth that for Bhopal region the Petitioner had quoted Rs. 7.24/- per proof litre and the Respondent No. 3 had quoted Rs. 11.99 and, therefore, there should have been no negotiation. It is also stated that sub committee should have considered that lowest offer of the Petitioner as that was not only the lowest but also the cheapest. It is also alleged that the offer of the Respondent No. 3 was a conditional one and, therefore, the Petitioner should have been called for further negotiation so that he would have been in a position to be aware of the conditions offered by the Respondent No. 3 and make a revised offer. It is also contended that no fixed time was announced for negotiation and the negotiation was done after 22 days from the date of communication sent by the Secretary recommending the name of the Petitioner, and hence the entire action of the State Government is unjustified. It is also alleged that the distribution had been made in an inequitable manner which vitiates the whole action. It is also putforth that the offer of Rs. 7.00/- for Bhopal area with a condition that Respondent No. 4 should be granted Ratlam area is unsustainable and in fact, has caused huge loss of exchequer. The fixation of common rate by committee has been seriously criticised.

An additional return has been filed by Respondent No. 3 stating that under the MP. Excise Act and the Rules framed thereunder the State Government has the authority to dispose of the licence by tender or auction and is entitled to grant licence in any such other manner and, therefore, the action taken by the State Government is justified in law. It is also putforth that a cartel had been formed by giving similar rates and, therefore, the State Government thought it appropriate to constitute a committee to negotiate to fetch more acceptable rate. It is also stated that during the negotiation, each tenderer was called for personal hearing and asked to reduce the tendered rates and the Petitioner''s representatives had refused to reduce the rate for which the committee had accepted offer of the Respondent No. 3. Apart from this, conduct of the Petitioner has been seriously criticised.

Ordinarily this writ petition would have been disposed of having out lived its utility as the period of supply was from 1,4.95 to 31.3.96. But the matter requires to be dealt with because of the orders passed by this Court on 10.5.95

and again on 23.9.97. Relevant part of the order passed on 10.5.95 reads as under -

After hearing counsel I am of the opinion that there is a challenge in this petition of the acceptance of higher rate for supply of the country spirit given to Respondents Nos. 3 and 4 for Bhopal and Indore areas. It would be appropriate in the circumstances to direct the Excise Commissioner and Respondent State to make the payment of supply on the rate of Rs. 8.50 per proof litre for Indore area and Rs. 6.75 per proof litre for Bhopal area. The balance amount of the accepted rate Rs. 9.90/- for Indore and Rs. 7.00/- for Bhopal shall be kept in deposit in separate account from 11th May, 1995 till the decision of this petition.

The aforesaid order was modified by order dated 23.9.97. The essential part of the aforesaid order reads as under -

The above application has been filed seeking modification of the Order dated 10.5.1995. By the said order after hearing the parties, it was directed that the Excise Commissioner and Respondent State shall make payment to the Respondent No. 3 at the rate of Rs. 8.50/-per proof litre for Indore area and the balance amount shall be kept in deposit in separate account by Respondent No. 1. Learned Counsel for Respondent No. 3 submits that on account of non-payment of the amount as agreed by the State Government, the Respondent No. 3 Industry has come to a stage of severe financial crisis. During the course of arguments, it was suggested by the learned Counsel for the Respondent No. 3 that the Respondent No. 3 is willing to furnish bank guarantee for the refund of the amount, if the amount lying to the credit of the Respondent No. 3, in accordance with the direction contained in the order dated 10.5.95, is paid to the Respondent No. 3. Since the Respondent No. 3 is willing to furnish bank guarantee there does not appear to be any objection to the course suggested by the Respondent No. 3.

Accordingly, the order dated 10.5.95 is modified and it is directed that if the Respondent No. 3 furnishes bank guarantee to the satisfaction of the Respondents No. 1 and 5, the amount lying to the credit of the Respondent No. 3 but withheld by the Respondents No. 1 and 5 on account of the order dated 10.5.95 be paid to the Respondent No. 3 against the said bank guarantee. The Respondents Nos. 1 and 5 shall release the amount within a period of two weeks from the date of bank guarantee to their satisfaction has been furnished by the Respondent No. 3. The Respondent No. 3 shall keep the Bank guarantee alive till further orders.

In view of the aforesaid, it is essential to adjudicate the controversy involved in this litigation. The other aspect whether the State Government should be allowed to award contract in respect of supply in the manner it was done in the year 1995-96 has also gained importance.

I have heard Mr. N.C. Jain, learned senior counsel with Mr. Ashok Agrawal, learned Counsel for the Petitioner, Mr. S.L. Saxena, learned Advocate General for the Respondents Nos. 1, 2 and 5 and Mr. Chitaley, learned senior counsel with Mr. Rohit Arya for Respondent No. 3 and Mr. Vivek Tankha, learned Counsel for the Respondent No. 4.

It is strenuously urged by Mr. Jain that the Respondents Nos. 3 and 4 should not have been permitted to supply at the rate of Rs. 9.90/- as that has caused immense loss to the public exchequer. Controverting the aforesaid submission, it is contended by Mr. Chitaley and Mr. Tankha that the Petitioner has no locus standi to come forward with such a prayer inasmuch as it has drawn higher rates than quoted by it because the State Government had fixed the uniform rate for many an area. Mr. Saxena has supported the Governmental action.

On a perusal of the committee proceedings contained in Annexure-R-IV, it is discernible that for Bhopal and Betul the offer was Rs. 7.24/-and Rs. 7.49/- per proof litre respectively. This was the offer of the Petitioner whereas the offer of the Respondent No. 4 was Rs. 11.95/- for that area. Tenderers were individually called for negotiation and committee found that Vindhyachal Distilleries Respondent No. 3, gave an offer of Rs. 9.99/- per proof litre for Indore, Rajgarh and Ujjain but refused to reduce the rates for Bhopal and Betul. It was stated by the said Respondent that if Indore and Rajgarh would be given to them they would supply to Ujjain at the rate of Rs. 7.25/-. The representatives of the Petitioner during negotiation demanded that Jabalpur, Dhar, indore and Bastar should be given to the Petitioner-company alongwith Bhopal and Betul. The Petitioner did not agree to reduce the rate for Bhopal below Rs. 7.00/-. The Respondent No. 4 placed its claim for Durg, Bastar, Shahdol, Balaghat. The committee considered all the offers and opined that as far as Betul is concerned the offer of the Petitioner was Rs. 7.49 and that being the lowest offer it should be given to it. As far as Shopal and Ujjain are concerned it was observed that the lowest offer was Rs. 7.00/- per proof litre and accordingly those areas were given to the Respondent No. 4. As far as the rest 18 areas are concerned the committee observed that every offeree agreed that the rate which would be fixed by the Government would be acceptable to them. On consideration of the entire factual situation the committee fixed an uniform rate Rs. 9.90/- per proof litre. A decision was taken unanimously to the effect that the Petitioner would be given Betul at the rate of Rs. 7.49/- and Jabalpur at the rate of Rs. 9.90/-. The Respondent No. 4 was given Ujjain and Bhopal at the rate of Rs. 7.00/- per proof litre and Ratlam at the uniform rate. The Respondent No. 3 was given Indore and Rajgarh at the common rate. On a perusal of the proceedings of the committee, it appears that the decision was taken in presence of parties after due negotiation. As it appears the Petitioner had given his offer for Betul at Rs. 7.49/- per proof litre and that has been accepted being the lowest and his offer for Bhopal was Rs. 7.24/- and the said area has been given at Rs. 7.00/- to the Respondent No. 4. The justifiability of the revised offer in respect of the said area after the meeting was over cannot be gone into inasmuch as that remains in the realm of disputed fact. As far as all other areas are concerned the Petitioner''s offer was Rs. 11.99/- per proof litre and he was given Jabalpur at the rate of Rs.

9.90/- per proof litre at the uniform rate, in the reply filed by the Respondents Nos. 1, 2 and 5, ft has been Indicated that for Indore supply area the Petitioner had offered Rs. 11.99/- per proof litre and had refused to supply at a lower rate. Thus, it is crystal clear that the Petitioner did not agree to reduce his rates in. respect of other areas during negotiation. However, as it appears that certain offers were lowered as far as other areas are concerned. The committee fixed the uniform rate at Rs. 9.90/- per proof litre and granted the privilege. It is not disputed before this Court that all other licensees Have drawn the amount at the rate fixed by the State Government. That apart, once the State Government had fixed the uniform rate and the Respondents Nos. 3 and 4 have carried out the supply there is no justification to deny the same to the said Respondents. On a perusal of the entire record it is apparent that the Respondent No. 3 was given Indore and Rajgarh at the rate of Rs. 9.90/- per proof litre and the Respondent No. 4 was given Ratlam at Rs. 9,90/- per proof litre, and Ujjain and Bhopal. at Rs. 7.00/- per proof litre. It also appears that many other concerns were given at the uniform rate and they have been paid. True it is, initially, this Court, had directed the Excise Commissioner to make payment at the rate of Rs. 8.50/- per proof litre for Indore and at Rs. 6.75/- per proof litre for Bhopal area and the balance amount was to be kept in deposit. The Petitioner''s offer was Rs. 8.50/- per proof litre and Rs. 6.75/- per proof litre was given after the meeting was over. As has already been indicated whether the offer was given during the meeting or after meeting cannot be gone into. On a perusal of the report of the committee it is perceptible that this was not given when the committee was carrying on the negotiation. After the other claimants had left the Petitioner could not have been permitted to make further offer and claim the privilege. Negotiations cannot continue ad-(sic). In view of the aforesaid cumulative effect of the emerging fact situation. I am of the considered view that the Respondents Nos. 3 and 4 are entitled to the rate at which the contract was awarded to them by the State, Government and its functionaries. If the amount in question has already been release in favour of Respondent No. 3 on furnishing the Bank guarantees as per the order dated 23,9.97, the Bank guarantees submitted by the said company shall be returned to it. The Respondent No. 4 shall be entitled to payment as per rates fixed by the Government.

Now to the second aspect of the case Mr. N.C. Jain learned senior counsel for the Petitioner, has emphatically contended that the settlement of these privileges should not be done by way of negotiation in the manner it was done for the year 1995-96. It is his submission that if any offer is lowest the said offeree should be called for further negotiation to lower the rate and it any rate is not workable if may be so indicated but where is no reason or justification to call all the tenderers for negotiation and distribute the privileges on the basis of uniform rate. It is further contended by him that if negotiation in this manner is allowed to continue, the calling for tender becomes an exercise in futility and, in effect, is reduced to an apology for settlement by way offender. He has further criticised the entire action on the ground that negotiation is always carried in hot haste before expiry of the period which may not always be bonafide.

It is well settled in law that public interest is involved in granting the largess. Any award of contract is a privilege conferred by the State and its validity and propriety are to be tested on the twin touch-stone of reasonableness and public interest. The State while exercising such administrative power cannot act in any arbitrary, unprincipled and whimsical manner and there has to be objective assessment of the offer and dispassionate consideration of the factual scenario in entirety. Public interest has to be given preference and the benefit of the collective has to be given due weightage. An individual interest has to surrender to the collective gain. The discretion of the Executive cannot immune from judicial review. The action of the State has to be fair from all aspects. The authorities have to behave which is behovely of a public trustee. It is bounden duty of the functionaries of the State to see that the maximum price is obtained when a State largess is distributed. Similarly while getting a particular work done, the executive is required to see that it is done at a such rate which does not affect the public exchequer and the State is not put to loss and the work is done as per the expected requirement.

At this juncture, I may refer to the Rule 22 of Rules framed under M.P. Excise Act which reads as under -

XXII Diposal of Licence -(1) Licence for the manufacture or sale of intoxicants shall be disposed off by tender, auction, fixed licence fee or in such other manner as the State Government may, by general or special order, direct.

Except where otherwise prescribed. Licence shall be granted by the Collector or by an officer authorised by him in that behalf.

The aforesaid rule confers a right on the State Government to grant licence in any other manner which would include negotiation. But, a significant but, at the time of acceptance of an offer the imperatives for the interest of collective cannot be allowed to take a back seat. The potentiality of the distress and peril to the collective on one hand and legitimate expectation of an individual have to be rationally and objectively adjudged. If an offer is really low and workable and there is nothing against the offeree there is no reason to have negotiation and give it to someone else at higher uniform rate on the ground of equitable distribution or proper distribution of privileges. True it is, the State Govt, and its functionaries are the best judge in these matters but the discretion vested in them must reflect transparency and command acceptance being reasonable and in public interest. The motto, before the State Government should be to supply country spirit at the cheapest possible rate and to have regular supplies. If the conduct of the supplier has not been up to mark and it is felt by the granting authority that though such a person has made a low offer his bonafides are doubtful or his capacity to execute the supply is not beyond doubt then it may refuse to consider his case. But the negotiation at the cost of public interest is impermissible. It is to be kept in mind that while dealing with public owned property or State owned property the executive has no absolute discretion. The facts and circumstances in a given situation may warrant negotiation but negotiation cannot be taken recourse to at the cost of public good or public interest which is of paramount consideration. The action of the executive has to be legitimate and above board. The attempt to get the best must be bonafide and the ultimate result must be transparent. The State Government or its functionaries cannot act capriciously while entering into a contract. Exercise of sweet-will is totally ostracised. Departure from the prescribed path may have acceptance but that has to satisfy the requirement of achieving the maximum benefit for the collective. Distribution cannot be made without fixing proper parameters and without adjudging the non-workability of an offer or inability of an offeree.

I may hasten to add here that the grievance of the Petitioner is that the negotiation takes place hardly any time before the expiry of the period. This allegation, as the factual matrix shows, is correct. If negotiations are to take place it must take place before a reasonable period before expiry of the last grant, and the State Government may be well advised to keep this in view and carry out the negotiation. Needless to emphasize, the negotiation is not always a must but if the State Government and its authorities so desire must do it before two to three weeks of the expiry of the period of the last grant. I may further state here that nothing has been brought before this Court that how the settlements were made in the subsequent years, namely, 1997-98 and 1998-99 but it is expected in the future the State Government while settling the privileges of this nature shall keep in view the aforesaid observations and act accordingly. Let no grievance be made about the procedure adopted. Let public interest get its due at the appropriate time. The State must act in larger public interest and must remember that the loss to an individual is sometimes is of immense service to the public at large. Let it be borne in mind "nihil honestum esse potest, quod justitia vacat".

Consequently, with the aforesaid observations and directions the writ petition stands disposed of, In view of the peculiar factual matrix there shall be no order as to costs. Registry is directed to send a copy of this order to the Chief Secretary of the State for future guidance.