
(2001) 11 JH CK 0028

In the Jharkhand High Court

Case No : CWJC No's. 3346, 3458, 3480 and 3488 of 2000

Suriti Rawat etc.

APPELLANT

Vs

Unit Trust of India and Others

RESPONDENT

Date of Decision : 20-11-2001

Acts Referred:

Constitution of India, 1950 — Article 14, 21, 300A, 39F, 46
Unit Trust of India Act, 1963 — Section 19, 21(1)(4), 22

Citation : (2001) 11 JH CK 0028

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : T. Sen, Prabhas Kumar and A.R. Choudhary, for the Appellant; R.N. Trivedi, M.B. Lal and Pankaj A. Savant, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—In all these cases, as common question of law involved and decision contained in letter dated 28th August. 2000 is under challenge, they were heard together and are being disposed of by this common order.

2. To decide the issue, it is necessary to discuss the relevant facts, as mentioned hereunder.

3. The Respondent Unit Trust of India U.T.I, for short-floated Raj Lakshmi Unit Scheme, 1992 R.U.S. 1992 for short-exclusively for minor girl child upto the age of five years who were allowed to take part under the R.U. Scheme. 1992. The petitioners' fathers/or writ petitioner invested certain amount in the name of female child which was to continue under the scheme for about 20 years. In terms with the said scheme, a Sum of Rs. 1,000/- invested in the name of female child would have become Rs. 21,000/-after 20 years. However, in the mid stream, the Respondent U.T.I. Board of Trustees having taken decision to terminate R.U. Scheme, 1992 w.e.f. 1st October, 2000, as communicated vide letter dated 20th August, 2000, such decision has been challenged by petitioners.

4. According to the counsel for the petitioners, the decision aforesaid contained in letter dated 20th August. 2000 asking the investors to take back the terminal proceeds or to reinvest the same in any other scheme of U.T.I, is unreasonable, arbitrary and opposed to public policy.

5. The petitioners have also assailed Clause 27 of the R.U. Scheme 1992 on similar ground.

6. Mr. T. Sen, learned counsel for the petitioners submitted that the respondents are bound to give full effect to the promise made by the respondent U.T.I, in the form of R.U. Scheme, 1992 in its letter and spirit. Termination of such undertaking and promise is arbitrary, illegal and mala, fide being violative of Articles 14, 21. 39-F. 48 and 300-A of Constitution of India.

7. Reliance was placed by the counsel on the format of R.U. Scheme 1992 to suggest that for protection of minor girl child's interest, the R.U. Scheme 1992 was floated with specific locking period for growth of money 21 times in 20 years, as mentioned hereunder :

Entry Age (in years)	Minimum Amount Lock in period (in years)	Maturity amount payable after completion of lock in period
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Upto and including 1	Rs. 1000/-	20 Rs. 21,000/-
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Above 1 to 2	Rs. 1000/-	19 Rs. 18,000/-
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Above 2 to 3	Rs. 1000/-	18 Rs. 15,000/-
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Above 3 to 4	Rs. 1000/-	17 Rs. 13,000/-
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Above 4 to 5	Rs. 1000/-	16 Rs. 11,000/-
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The maturity value was to be given only to the beneficiary and the same was made irrevocable.

8. The counsel for the petitioners relied on certain decisions of Supreme Court on the question of estoppel, including the decision of Union Carbide Corporation, etc., etc. Vs. Union of India, etc. etc., as, according to him, the decision is opposed to the legitimate expectations. The decision of the Supreme Court in the case of Delhi Cloth and General Mills Ltd. Vs. Union of India (UOI), was also cited.

9. According to the respondent U.T.I., it encourages saving and investment by participation in the income, profit and gains accruing from acquisition, holding, management and disposal of securities. The business is, inter alia, selling and purchasing units, investing in securities etc. as provided u/s 19 of the Unit Trust of India Act, 1963 (52 of 1963). The general superintendence, direction and management of the affair and business of respondent U.T.I, is vested in the Board of Trustees and its function under the Act to act on the business principles regard being had to the interest of the unit holders. The Board makes, from time to time, various scheme u/s 21(1) of the Act for issuing units and for investment by the public. It also makes plans in relating to the schemes u/s 19(1)(g) of the

Act. The corpus of the scheme is invested in debts, equities and/or other securities as per investment objective of the respective schemes of which security based schemes also carry market risk. The returns indicated in such investment schemes are potential and indicative in nature and it is expressly clarified in Clause (9) of the application form as quoted below :

"All securities investments carry market risk. Consult your investment adviser or agent before investing.

Units will be issued subject to the provisions of Raj Lakshmi Unit Scheme."

10. The object of establishing U.T.I was to mobilise small savings and channelise them in the capital market, and at the same time, make available the advantage of higher returns, combined with adequate risk management to the small investors. Each scheme is like an independent portfolio of investment managed for the benefits of the unit holders. A scheme u/s 22(2) of the Act has to be a self-contained scheme and Sub-section (3) of Section 22 bars applying the money received on one scheme for the purpose of another. All such schemes for flowing units are u/s 21 for enabling participants to participate in incomes, profits and gains, arising from the holding, management, or disposal of securities by the U.T.I. The return on a unit scheme in the ultimate analysis depend upon the capital generated by management of the funds of respective schemes.

11. The counsel for the respondents placed reliance on Section 21(4) of the Act, whereunder the statutory provisions made to notify a scheme in the official gazette. It was suggested that once a scheme made u/s 21(1) is notified, it becomes statutory in character and becomes effective. Publication is not a condition precedent for scheme to give effect to such scheme. Apart from this position in law, factually the copies of the schemes were made available to the offices of the U.T.I. to potential investors and the application forms expressly contained a note of caution advising potential investors to consult their investment advisors or agents before investing.

12. Clause XXVII of Raj Lakshmi Unit Scheme 1992 provides for termination of the scheme and reads as under :

"XXVII. Termination of the Scheme.--The Scheme may if circumstances so prevail not being in the interest of the unitholders or the Trust be terminated with sufficient notice to the government. All unitholders who have participated in the Scheme shall be paid the value of the units standing to their credit at the final repurchase price fixed for the purpose. Besides receiving the final repurchase price so determined no further benefit of any kind either by way of increase in the repurchase value or by way of dividend for any subsequent period shall accrue. The Unit Certificate received for repurchase shall be retained for cancellation."

13. The impugned letter dated 20th August, 2000 and Clause XXVII of R.U. Scheme. 1992 fell for consideration before Nagpur Bench of Bombay High Court

in Writ Petition Nos. 3141 of 2000 and 3319 of 2000. The Court by its judgment dated 28th September, 2000 taking into consideration Clause XXVII, observed that when the aforesaid clause entitles the Respondents to terminate the scheme, the circumstances so prevail not in the interest of the unit holders or the Trust, the impugned action on their part cannot be held to be without any authority, nor can be held to be illegal. The unilateral act on the part of the U.T.I. terminating the scheme cannot be assailed on the ground of causing loss and damage to the unit holders, nor can be the ground to enforce upon the respondents U.T.I. to continue with such scheme, which is financially not viable. However, it was made clear that the dismissal of the writ petitions does not effect the legal right, if any, of the parties under the common law.

14. The aforesaid view was also taken by the Bombay High Court in its original side in Writ Petition No. 2001 of 2000 with Chamber Summons No. 118 of 2000. which dismissed the cases vide judgment dated 20th October, 2000.

15. The learned counsel for the respondents produced judgment in the same question delivered by other High Courts, including Punjab and Haryana High Court in Civil Writ Petition No. 14548 of 2000, disposed of on 13th March, 2001; Kerala High Court's decision dated 16th February, 2001 in O.P. No. 27838 of 2000-L; Patna High Court's decision in C.W.J.C. No. 270 of 2001, disposed of on 11th January, 2001, whereby and whereunder, similar writ petitions have been dismissed.

16. In the facts and circumstances and in the light of the decisions, referred above, as the statutory provisions under the scheme. in question, has been framed by the competent authority and does not violate any fundamental right of any of the petitioners guaranteed under Part III of the Constitution or of any other constitutional provisions, it cannot be held to be arbitrary. Further as it appears that the decision to terminate the scheme was taken by U.T.I., keeping in mind the best interest of the investors, viz. minor female children, if it considered advisable, prudent and in the interest of unit holders to discontinue such scheme before any irrevocable erosion in the capital of the scheme, cannot be held to be arbitrary or mala fide, merely on the ground that undertaking to continue with the scheme for 20 years was given by the U.T.I.

17. In the facts and circumstances, there being no merit, all the writ petitions are dismissed.