(2004) 06 GUJ CK 0017

In the Gujarat High Court

Case No : Special Civil Application No. 7913 of 1990

Tyrreli Leth Lodge APPELLANT

Vs

Union of India (UOI) RESPONDENT

Date of Decision : 23-06-2004

Acts Referred:

National Savings Certificate (VI Issue) Rules, 1981 — Rule 11, 4, 7

Citation : AIR 2004 Guj 340 : (2004) 24 GLH 306 : (2004) 3 GLR 2686

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Advocate : P.V. Nanavati, for the Appellant; B.B. Naik, for the Respondent

Final Decision : Dismissed

Judgement

D.N. Patel, J.—The petitioner by way of this petition seeks direction of this Court to the respondents to pay principal amount of National Saving Certificates bearing No.549143 to 549152 each of Rs.5000/- as well as interest accrued thereon. The said National Savings Certificates were matured on 13-6-1989 with interest.

2. Learned advocate for the petitioner submitted that the said National Savings Certificates were purchased by the petitioner who is association of persons carrying philanthropic activities in the city of Vadodara on 13-6-1983 in the denomination of Rs.5,000/- each and the petitioner was entitled to receive the sum of Rs.10,075/- on maturity date of each National Savings Certificate i.e. on 13-6-1989. The said National Savings Certificates were purchased by the petitioner from the Post Master, General Post Office, Raopura, Vadodara and the same were issued along with identity slips for encashment thereof. Nobody objected the purchase of said National Savings Certificates at the time when the same were purchased. Learned advocate for the petitioner has also submitted that the amount of Rs.50,000/- of the said National Savings Certificates was enjoyed for a longer time by the Union of India and hence the said amount of Rs.50,000/- ought to have been returned to the petitioner together with interest

on its maturity date. It is submitted by the learned advocate for the petitioner that over and above the principal amount of the said National Savings Certificates, the petitioner is entitled to interest on the amount of Rs.50,000/-. When the petitioner went to the post office of the respondents, the Post Master, General Post Office, Raopura, Vadodara had pointed out that the National Savings Certificates were issued in violation of the National Savings Certificates (VI Issue) Rules, 1981 (hereinafter referred to as "the Rules, 1981") and therefore the petitioner was not entitled to get the interest upon the principal amount of the said National Savings Certificates.

3. I have carefully perused the relevant material on record as well as the Rules, 1981. As per Rule 4 of the Rules, 1981, there are three types of Certificates which can be issued by the respondents. Said Rule 4 reads as under :

"Rule - 4 : Types of Certificates and Issue thereof : (1) The Certificates shall be of the following type, namely :

(a) Single Holder Type Certificates;

(b) Joint ''A'' Type Certificates, and

(c) Joint ''B'' Type Certificates.

(2) (a) Single Holder Types Certificates may be issued to an adult for himself or on behalf of a minor or to a minor.

(b) Joint ''B'' Type Certificates may be issued to two adults payable to both holders jointly or to the survivor.

(c) Joint ''B'' Type Certificates may be issued jointly to two adults payable either of the holders or the survivor."

4. Similarly, Rule 7 of the Rules 1981, permits purchase of National Savings Certificates on behalf of others. Said Rule 7 reads as under :

"Purchase of Certificates on behalf of others : A person or body specified in Column I of the Table below may purchase certificate(s) on behalf of persons specified against his or its name in the corresponding entry in Column II of the said Table :

Provided that the persons specified in the said Column II are eligible under these Rules to purchase certificates.

T A B L E. -- II --- i. An Adult a minor

ii. a Cooperative Society its members, clients, including a Cooperative employees or contractors bank, or a whose moneys are hold as scheduled bank as deposit or otherwise with such such society or bank.

iii. A Gazetted government persons whose moneys are Officer, an officer of held

as deposit or Govt. Co. or of a otherwise with such Corporation or of a officer of the Reserve corporate body like a Bank. marketing committee established under a State Act and authorised by the State Government in this behalf, in his official capacity or the Reserve Bank of India.
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5. From the aforesaid Rules, 1981, it is explicitly clear that the petitioner being an association of persons, was not entitled to purchase the said National Savings Certificates (VI Issue) series from the respondents. The petitioner is neither an adult nor a body specified in Column - I of Rule 7 The said National Savings Certificates were issued irregularly to the petitioner and for that Rule 11 of the Rules, 1981 is material, which reads as under :

"Rule 11 : Irregular holding :

(1) Any certificate purchased or occupied in contravention of these Rules shall be encashed by the holder as soon as the fact of the holding being in contravention of these Rules is discovered and no interest shall be paid on any holding in contravention of these Rules.

(2) If any interest has been paid on any holding which is in contravention of these Rules shall be forthwith refunded to the Government failing which the Government shall be entitled to recover the amount involved from any money payable by the Government to the investor or as an arrear of land revenue."

6. From Rule 11 of Rules, 1981, it is crystal clear that if any certificate is purchased or acquired in contravention of these Rules shall be encashed by the holder as soon as the fact of the holding being in contravention of these Rules is discovered and such holder shall not be paid interest on the principal amount of the National Savings Certificates and interest earned thereon. The Rules, 1981 are not violative of fundamental rights of the petitioner. To purchase National Savings Certificate is not a fundamental right vested in the petitioner. The said scheme of National Savings Certificates has been floated by the Central Government for the purpose of certain persons. Purchase of National Savings Certificate has been made restrictive by specifying purchasers under Rule 4 and 7 of the Rules, 1981. It is not a function of this Court to widen or enlarge the scope of the scheme under the Rules, 1981. Once the petitioner is not entitled to purchase the aforesaid National Savings Certificate though the same have been issued by the Post Office concerned, as per Rule 11 of the Rules, 1981 for such type of irregular holder of the said National Savings Certificate i.e. the petitioner shall not be entitled to the interest on the principal amount of National Savings Certificates. Learned advocate for the petitioner submitted that the petitioner has already received principal amount of Rs.50,000/- of National Savings Certificates purchased by him and mainly this petition has been filed for getting interest on the principal amount.

7. In view of Rule 11 of the aforesaid Rules, 1981, purchaser of irregular National Savings Certificates is not entitled to get interest. Therefore, there is no

substance in this petition and accordingly this petition is dismissed. Rule is discharged, with no order as to costs. Interim relief, if any, stands vacated.

