
(2000) 09 SC CK 0127

In the Supreme Court Of India

Case No : Civil Appeal No: 2128 of 1994

Union of India (UOI) and Others

APPELLANT

Vs

Gujarat Ambuja Cements Ltd.

RESPONDENT

Date of Decision : 21-09-2000

Acts Referred:

Constitution Of India - Art. 136 And 226 - Railways Act, 1890 - S. 27a - Railways Act, 1989 - S. 71

Citation : (2001) 1 LLJ 1681 : (2001) 10 SCC 585

Hon'ble Judges : S. Rajendra Babu, J;D. P. Mohapatra, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

S. Rajendra Babu J.-This appeal arises out of an order made by the High Court in LPA No. 11 of 1993. That appeal came to be disposed of agreeing with the order made by the learned Single Judge in disposing of a writ petition in which a question arose as to whether the Central Government had issued orders under Section 27-A of the Indian Railways Act, 1890 (Section 71 of the new Act, 1989).

2. The contention put forth on behalf of the writ petitioners is that the orders under the said provision could be issued by the Central Government alone and in the present case the same having been issued by another authority not competent to do so, such orders are void. Neither the learned Single Judge nor the Division Bench accepted the contention to the contrary made by the appellants that the orders had in fact been issued by the Central Government and there were certain recitals to that effect. They, however, did not produce the relevant files to satisfy the Court as to the manner in which they could plead that the said orders had been issued by the Central Government or under the authority of the Central Government. Before the learned Single Judge several other contentions had also been urged which touched upon the merits of the matter. The Division Bench, however, rest content to hold that the orders in question are invalid and did not proceed to consider other contentions raised.

Hence this appeal.

3. When this appeal was taken up for hearing, an application had been filed before us seeking permission to produce additional material before the High Court to make good the claim that the impugned orders before the High Court were in fact issued by the Central Government or under the authority of the Central Government. Shri Dipankar Gupta, learned Senior Advocate for the respondent impresses upon us the inappropriateness of this application inasmuch as when in fact in the proceedings which were pending before the High Court in the appeal an application had been made by the respondent to get the relevant records which are now sought to be produced under this application, that application having been opposed and the High Court having not asked the appellants to produce such records, it is no longer open to the appellants to make good the blunder occasioning at an earlier stage. He also submitted that if the matter is sent back after setting aside the orders made by the High Court to consider the matter afresh along with new material sought to be produced before the Court, it will amount to reopening the entire case for fresh consideration and such a course should not be adopted. We quite see the force of the submission of Shri Gupta but at the same time we must bear in mind that this is not a civil dispute between two parties agitating for their rights but a matter which arises in public law and several questions affecting public interest need to be decided. Merely because the appellants or their counsel were neither diligent enough nor used appropriate prudence or discretion in making relevant records available, public interest should not become a casualty. There is yet another reason why we should allow this application. In another matter i.e. Special Civil Application No. 4771 of 1993 the learned Single Judge on examination of a similar matter has taken the view that the orders issued with reference to that case had in fact been done by the Central Government or under the authority of the Central Government on examination of relevant records and dismissed the petition. That matter is also pending consideration in an appeal in LPA No. 503 of 1993. Therefore, identical issue is still under consideration before the High Court. Hence, we allow this application.

4. The appellants shall produce the records indicated in the IA and all connected files or records within eight weeks from today before the High Court. It is open to the parties to inspect records including the one produced now pursuant to this order with the permission of the High Court. In the circumstances, having allowed this IA it becomes necessary to set aside the order made by the Division Bench of the High Court in appeal and remit the matter to the High Court for fresh consideration, in the light of the order made by us and in accordance with law. Considering the prevaricating stand taken by the Central Government in this case we think they should pay the cost of the respondent in a sum of Rs 50,000 which sum shall be paid within four weeks. It is made clear that we have not decided any question arising in the case on merits. It is open to both the parties to urge all contentions that may be available to them under law.

5. The interim relief granted by this Court shall enure to the benefit of the parties until disposal of the matter before the High Court. We hope that the matter being an old one, the High Court will dispose of the matter as expeditiously as possible at an early date.

6. The appeal is disposed of as aforesaid.