

(1987) 01 RAJ CK 0103
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1225 of 1982

Yashwant Singh

APPELLANT

Vs

Rajasthan Financial Corporation and Others

RESPONDENT

Date of Decision : 05-01-1987

Acts Referred:

State Financial Corporations Act, 1951 — Section 29, 32

Citation : (1987) WLN 291

Hon'ble Judges : Ashok Kumar Mathur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ashok Kumar Mathur, J.—The petitioner by this writ petition has prayed that Section 29 of the State Financial Corporation Act, 1951 (here in after referred to as "the Act") may be declared as unconstitutional and may be struck down. He has also prayed that the Rajasthan Financial Corporation may be restrained from taking over the possession of the factory of the petitioner and the sale notice Ex. 3 may be quashed.

2. So far as the validity of Section 29 of the Act is concerned, the same has already been upheld by this Court at Jaipur Bench in M/s Hotel Ajaymeru Pvt. Ltd. v. Rajasthan Financial Corporation and another (S.B. Civil Writ petition No. 648 of 1985 decided on 19-9-1985) Mr. Singhvi learned counsel for the petitioner submits that Section 32 was not taken into consideration and the judgment of their Lordships of the Supreme Court in Shashi Kumar Sinha & ors v. State of Bihar & ors (Special Leave Petition (Civil) No. 5142 of 1979 decided on 7-5-1980) was not brought to the notice of the learned Judge. Once, the learned Single Judge has already upheld the validity of the provisions of Section 29 of the Act, it would not be proper for me to take different view in the present facts and circumstances of this case. Learned Single Judge after reviewing a large number of Supreme Court cases and taking into consideration the conspectus of the scheme of the Act has held that Section 29 of the Act is valid and I do not see

any reason to take a different view in the matter. Thus, so far as the question of validity is concerned, the question is no longer open so far as this Court is concerned.

3. Before advertng to other contentions of Mr. Singhvi, it would be proper to mention few necessary facts. The petitioner set up an industrial unit in the Mewar Industrial Area, Udaipur in the name of M/s Shiva Chemicals. This unit is engaged in the manufacture of Acid Slurry a chemical used in detergents, soaps and textile auxiliaries. For the purpose of setting up this unit, the petitioner prepared a scheme and loan of a sum of Rs. 1, 86, 000/- was granted by the respondent Rajasthan Financial Corporation. The Unit started production on 7-5-1977. Because of some difficulties the petitioner could not pay the instalments towards the loan and a notice was issued requiring the petitioner to clear off the arrears of the instalments. The petitioner failed to do so and ultimately the unit was seized by the respondent Corporation. The petitioner filed a civil suit in the court of District Judge, Udaipur and obtained a restrained order. Thereafter by way of appeal the matter came up before this Court and this Court finally decided it by its order dated 21-7-1981 and 12-8-1981 and this Court directed the respondent Corporation to open the locks of the factory on working days between 9 a.m. to 5 p.m. and there by enable the petitioner to handle the chemicals either by keeping them at the factory premises or by lifting them. Thereafter, the petitioner has filed the present writ petition challenging the validity of Section 29 of the Act and also made a grievance regarding discrimination that some of the industries which had also failed to pay the loan instalments, they have not been proceeded where as the petitioner has been chosen for this discriminatory treatment.

4. So far as the question of validity is concerned, I have already stated above that in view of the judgment of this Court in M/s Ajaymeru Pvt. Ltd.'s case that question cannot be reopened.

5. The next contention of Mr. Singhvi is regarding discrimination. I have perused the grounds of discrimination and I have also gone through the reply. The instances quoted by the petitioner have been distinguished by the respondents and it has been pointed out that those people who have not proceeded against there is a valid justification. Having regard to the reply filed by the respondents I do not find any substance in the grounds of discrimination.

6. Mr. Singhvi also submitted that there is a charge on the present properties i.e. RICCO. Therefore, the whole unit cannot be taken over by the Corporation. This question is hardly relevant for the reason that if RICCO has grievance they may sort out with the Corporation and that does not help the petitioner in any way. Mr. Singhvi has also brought to my notice a judgment of their Lordships of the Supreme Court in Shashi Kumar and Others Vs. State of Bihar and Others, . In that case in some what similar circumstances the Hon''ble Supreme Court directed the Bihar Government to reformulate the policy. Since the petitioner is also a chemical Engineer and he has been given a loan for the construction of

this chemical unit the same direction as given in the case of Shashi Kumar's (supra) cannot be given for the reason that the scheme was devised by the Central Government and loan was advanced under that scheme. The present loan has been given by the Corporation therefore, the same direction for devising a new scheme cannot be given in the present case. Therefore similar direction as given in Shashi Kumar's case (supra) cannot be given in the present case.

7. Thus, in the result, I do not find any merit in this writ petition and the same is dismissed. No orders as to costs.