

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4521 OF 2007

State of Karnataka & Ors. .. Appellant(s)

Versus

State of Sikkim & Ors. .. Respondent(s)

O R D E R

1. This appeal is directed against the judgment and order passed by the High Court of Karanataka in W.P. Nos. 31451 and 31393 of 2004, dated 02.06.2006, whereby and whereunder the High Court has come to the conclusion that there is no essential difference between paper lottery and on-line lottery and thus, Section 2(b) of the Lotteries (Regulation) Act, 1998 (for short "the Act") includes on-line lotteries.

2. The High Court, in the impugned judgment and order, has observed that the resultant effect of the Digitally signed by Ramana Venkata Ganti Date: 2014.07.23 12:24:36 IST Reason:

paper lotteries and on-line lotteries is pernicious in nature and in light of the principles laid down by this

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Court in B.R. Enterprises v. State of U.P. & Ors., (1999) 9 SCC 700. The Court further concluded that if the State permits the paper lotteries organized by it within the territory of the State, then the said State could not have issued the notification prohibiting on-line lotteries of another State, namely, the State of Sikkim in the instant case.

3. Aggrieved by the aforesaid reasoning of the

learned Judges, the State of Karnataka is before us in this appeal.

4. We have heard the learned counsel appearing for the parties to the lis and carefully perused the impugned judgment and order and the documents on record.

5. Shri K.N. Bhat, learned senior Counsel appearing for the State of Karnataka very fairly states before us that, as of now, the State of Karnataka has become a lottery free zone in the sense that presently it is not engaged in organizing, conducting or promoting either the paper lotteries or the on-line lotteries.

6. In light of the statement made by Shri Bhat, we are of the considered opinion that since the State of

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Karnataka is now a lottery free zone it would not be necessary for this Court to delve into the question of law canvassed in the instant case and the exercise would purely be an academic consideration of the issue in hand.

7. In that view of the matter, we dispose of this appeal without expressing any opinion on the correctness or otherwise of the judgment and order passed by the High Court in light of the State of Karnataka now being a lottery free zone.

8. However, we reserve liberty to the respondent(s) herein to seek appropriate remedy if, for any reason, the State of Karnataka diverges from its present status of being a lottery free zone and dissidents its earlier notification by issuing a fresh notification to that effect.

Ordered accordingly.

.....J.  
[ H.L. DATTU ]

.....J  
[ R.K. AGRAWAL ]

NEW DELHI,  
JULY 16, 2014

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6632 OF 2014  
(Arising out of S.L.P.(C).No.15222 of 2007)

State of Kerala & Ors. .. Appellant(s)

Versus

A.John Kennedy (Proprietor) & .. Respondent(s)  
Ors.

WITH  
C.A.NO.6631 OF 2014  
(Arising out of S.L.P.(C)NO.14278 of 2007)

AND WITH  
C.A.NO.6671 OF 2014  
(Arising out of S.L.P.(C)NO.15291 of 2007)

O R D E R

1. Leave granted in all the Special Leave  
Petitions.

C.A.@ S.L.P.(C)No.15222 of 2007

2. For the sake of convenience, we would refer to  
the facts of this appeal as the lead case.

3. This appeal arises out of the judgment and  
order passed by the High Court of Kerala at Ernakulam

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in W.A.(C) No. 101 of 2007(A), dated 30.03.2007,  
whereby and whereunder the Division Bench of the High  
Court has dismissed the Writ Appeal filed by the State  
of Kerala and allowed the Writ Appeal by the  
Respondent No. 2 herein and upheld the finding  
recorded by the learned Single Judge that the Asst.

Commissioner (Assessments), Commercial Taxes,  
Palakkad, respondent No. 6 herein, has no jurisdiction  
to issue show cause notice to the respondent no. 1 on

the ground of violation of Section 4 of the Lotteries (Regulation) Act, 1998.

4. Aggrieved by the dismissal of the aforesaid Writ Appeal by the High Court, the State of Kerala is before us in this appeal.

5. It is expedient to notice the prayers sought for by the writ petitioner, one A. John Kennedy (Proprietor), Megha Distributors, (respondent No. 1 herein) in the Writ Petition (c) No. 30355 of 2006 filed under Articles 226 and 227 of the Constitution of India before the High Court of Kerala. The Writ

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Petitioner had sought for the following reliefs :

"A. Issue a Writ of Certiorari or any other appropriate Writ, order or direction quashing notice (Ext.P 11) dated 27.10.2006 issued by Respondent no.6 and;

B. Issue a Writ of mandamus or any other appropriate Writ, order or direction directing the Respondents 1 & 4 and 6 to uninterruptedly accept the advance tax from the petitioner for the period 1.12.2006 onwards.

C. Issue a Writ of Prohibition or any other appropriate Writ, order or direction restraining the Respondents 1 to 4 and Respondent no.6 and other authorities acting under them from interfering, prohibiting, stopping the entry or the sale of the lotteries of the State of Sikkim in the State of Kerala.....;"

6. In so far as the first prayer is concerned, the appellant has requested the Court to quash the Show Cause Notice issued by the Asst. Commissioner (Assessments), Commercial Taxes, Palghat, dated 27.10.2006. By the said notice, the Asst. Commissioner (Assessments) had directed the appellant to show cause within a particular timeframe as to why the registration certificate issued to him under the Kerala Tax on Paper Lotteries Act, 2005 ('the Act, 2005' for short) should not be cancelled. Learned

Single Judge and the Division Bench are of the view

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that the respondent-authority had no jurisdiction under the aforesaid Act to issue such a show cause notice. Be that as it may.

7. A lottery distributor operating in the appellant-State is required to obtain a registration certificate under the provisions of the Act, 2005. The life of the registration certificate is for a period of one year. It is brought to our notice that by the time the Writ Petition was disposed of by the Division Bench, there was no valid registration obtained by the appellant under the Act, 2005.

8. Insofar as the second prayer of the Writ Petition is concerned, the respondent no. 1 has sought for a direction for an uninterrupted acceptance of the advance tax for the period 1.12.2006 onwards by the appellant-State and its authorities. The High Court has directed the appellant-State and its authorities to accept the advance tax payable or paid by the petitioner under the Act, 2005 if and until they are registered under the Act.

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9. In view of the aforesaid, since the respondent is not currently registered under the Act, in our considered view, if the respondent to make an appropriate application for registration under the Act, 2005, the same shall be considered by the authorities under the Act, 2005 in accordance with law. Further, if the said registration be granted by the appropriate authority, the authorities will accept the advance tax payable or paid by the person who has obtained the registration.

10. In respect of the third prayer, in our

considered opinion, since the appellant-State insofar as the paper lotteries are concerned, is not a lottery free zone, the question of State of Kerala prohibiting the State of Sikkim from organising, conducting or promoting the paper lotteries would not arise, in view of what has been stated by this Court in the case of B.R. Enterprises v. State of U.P.& Ors., (1999) 9 SCC 700.

11. In that view of the matter, we permit the respondent no. 1 to make an appropriate application <sup>9</sup> for registration under the Act, 2005. If such an application is made by the respondent no. 1, the same shall be considered by the appropriate authorities under the Act, 2005 in accordance with law. Further, if the said registration be granted by the said authorities, the authorities will accept the advance tax payable or paid by the respondent no. 1.

12. Insofar as the paper lotteries organised, conducted or promoted by the State of Sikkim is concerned, the appellant-State shall not restrain them from doing so as long as the State of Kerala does not become a lottery free zone.

13. The appeal is disposed of with the aforesaid observations and directions.

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CIVIL APPEAL @ S.L.P.(C) NO.14278 OF 2007 AND CIVIL APPEAL @ S.L.P.(C) NO.15291 OF 2007:

These appeals are also disposed of, in the same terms, conditions, observations and directions as the Civil Appeal @ S.L.P.(C)No.15222 of 2007.

Ordered accordingly.

.....J.  
[ H.L. DATTU ]

.....J.  
[ R.K. AGRAWAL ]

.....J  
[ ARUN MISHRA ]

NEW DELHI,  
JULY 16, 2014.

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ITEM NO.101  
(P.H.)

COURT NO.2

SECTION IVA

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 4521/2007

STATE OF KARNATAKA & ORS.

Appellant(s)

VERSUS

STATE OF SIKKIM & ORS.

Respondent(s)

WITH

W.P.(C) No. 474/2003  
(With Office Report)

C.A. No. 3518/2007  
(With Office Report)

C.A. No. 3519/2007  
(With Office Report)

C.A. No. 3520/2007  
(With Office Report)

SLP(C) No. 14278/2007  
(With prayer for Interim Relief and Office Report)

SLP(C) No. 15222/2007  
(With prayer for Interim Relief and Office Report)

SLP(C) No. 15291/2007  
(With prayer for Prayer for Interim Relief and Office Report)

W.P.(C) No. 641/2007  
(With Office Report)

W.P.(C) No. 233/2010  
(With Office Report)

SLP(C) No. 26014/2011  
(With Office Report)

Date : 16/07/2014 These appeals/petitions were called on for  
hearing today.

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CORAM :

HON'BLE MR. JUSTICE H.L. DATTU  
HON'BLE MR. JUSTICE R.K. AGRAWAL  
HON'BLE MR. JUSTICE ARUN MISHRA

For Petitioner(s) Mr. Anil Shrivastav ,Adv.(NP)

in C.A.Nos.3518, Mr.Sudhir Chandra, Sr.Adv.  
3519 & 3520/2007 Mr.Gautam Naryan, Adv.

Ms.Asmita Singh, Adv.  
Mr.Mubashir Mushtaq, Adv  
Mr. Nikhil Nayyar ,Adv.  
  
Mr. Sanjay R. Hegde ,Adv.(NP)

in C.A.No.4521/2007 Mr.K.N.Bhat, Sr.Adv.  
Mr.V.N.Raghupathy, Adv.  
Mr.Anantha Narayana M.G.,Adv.  
Mr.Parikshit P.Angadi, Adv.

State of Kerala Mr.V.Giri, Sr.Adv.  
Mr. Ramesh Babu M. R. ,Adv.  
  
Mr. P. V. Dinesh ,Adv.  
  
Petitioner-in-person .  
  
Mr.V.N.Raghupathy, Adv.

For Respondent(s) Mr.K.Radhakrishnan, Sr.Adv.  
for UOI Ms.Sunita Sharma, Adv.  
Ms.V.Mohana, Adv.  
Mr.Shashank Bajpai, Adv.  
For Ms. Sushma Suri ,Adv.  
For Mr.Shreekant N.Terdal,Adv.  
  
Mr.V.Giri,Sr.Adv.  
Mr.Ramesh Babu, M.R.,Adv.  
  
Mr.Jagjit Singh Chhabra, Adv.  
Mr.Samir Bhalotra, Adv.  
  
Mr. Ajay Pal ,Adv.(NP)  
  
Ms. Liz Mathew ,Adv.

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In S.L.P.(C)No.15222, Mr.Kapil Sibal, Sr.Adv.  
14278, 15291/2007 & Mr.Mahesh Agarwal, Adv.  
26014/2011 Mr.Rishi Agrawala, Adv.  
Ms.Radhika Gauram, Adv.  
Mr.Abhinav Agrawal, Adv.  
Mr.Shashank Monish, Adv.  
For Mr. E. C. Agrawala ,Adv.  
  
Mr. Siddhartha Chowdhury ,Adv.  
  
Ms. Purnima Bhat ,Adv.

In C.A.NO.4521/2007 Mr.Gautam Naryan, Adv.  
Ms.Asmita Singh, Adv.  
Mr.Mubashir Mushtaq, Adv.  
Mr.Nikhil Nayyar, Adv.  
  
Mr.Rituraj Biswas, adv.  
For Mr.Gopal Singh, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

C.A.No.4521/2007:

Appeal disposed of, in terms of the signed order.

C.A.Nos.3518,3519 & 3520/2007, W.P.(C)No.641/2007 & W.P.  
(C)No.233/2010:

Arguments concluded.

Judgment reserved.

W.P.(C)No.474/2003:

Matter called.

None appears.

Dismissed for non-prosecution.

S.L.P.(C)Nos.14278, 15222 & 15291/2007:

Leave granted.

Appeals disposed of, in terms of the signed order.

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S.L.P.(C)No.26014/2011:

As of now, the State of Bhutan is neither conducting, organising or promoting any form of lottery in the State of Kerala. Therefore, in our opinion, nothing survives in this petition for our consideration and decision. Therefore, while disposing of the Special Leave Petition, we keep the question of law raised by both the parties open to be agitated in an appropriate case.

Ordered accordingly.

(G.V.Ramana)  
Court Master

(Vinod Kulvi)  
Asstt.Registrar

(Two separate signed orders are placed on the file)