

CASE NO.:
Review Petition (civil) 1083-1084 of 2003

PETITIONER:
M/s. J.P. Srivastava & Sons (Rampur) Pvt.Ltd.& Ors.

RESPONDENT:
M/s.Gwalior Sugar Company Ltd.& Ors.

DATE OF JUDGMENT: 25/03/2004

BENCH:
N.Santosh Hegde & B.P. Singh.

JUDGMENT:
J U D G M E N T

IN

CIVIL APPEAL NOS. 4579-4580/2003

SANTOSH HEGDE, J.

While considering the above review petitions in Chambers and while giving liberty of oral hearing to the parties we issued notice on 27.8.2003 to the respondents on these review petitions.

Heard the learned counsel for the parties. Review petitions are admitted.

After hearing the learned counsel we think it appropriate to dispose of these review petitions finally. The learned counsel for the petitioners submits while remanding the above appeals back to the High Court, we had indicated that we will not be expressing any final opinion on any of the issues involved in the said appeals. But while perusing the copy of the judgment parties noticed that in regard to the question of the authority of a single Member of the Company Law Board to decide issues such as one that was involved in the case before the Company Law Board, we had expressed our agreement with the finding of the learned single Judge of the High Court which according to the learned counsel was not intended since we had decided to remand the matter back to the High Court for consideration of issues not considered by the High Court in the impugned order.

The learned senior counsel for the respondents however contended that this question was argued before this Court and the finding given by us on the said question was not unintended but was a finding given after hearing the parties concerned. Therefore, there is no need to review the said order.

As could be seen from our order under review, the issue that arose for consideration before the High Court was not only the question of jurisdiction of a single member of the Company Law Board to take up the matters sitting singly, but also other issues involving various other questions. But the High Court decided only the question of jurisdiction of the single Member of the Company Law Board to entertain a petition without going into the other issues. Therefore, while requiring the High Court to give a finding on all other issues also which arose before it in the appeal, we think it was not correct on our part to have expressed our views in regard to the sole issue decided by the learned single Judge. While this Court on remand need not go into the issue already decided by it, namely, the jurisdiction of the single member to entertain a petition, we expect the High Court to decide the other issues so that the aggrieved party could take recourse to such remedy as is available to them in law. In that process, we think the expression of a view by us as to the correctness of the finding of the learned single Judge was unnecessary.

Though this expression of our view may not be an error apparent on the face of the record, in the interest of justice, we think that this issue though it stands concluded so far as the High Court is concerned, same should be kept open to be agitated in a future proceeding after the High Court decides the other issues involved in the appeal as directed in the above order of ours.

Therefore, we in the process of reviewing the order delete the observation as to our agreement with the finding of the learned single Judge on the question of the authority of a single member of the Company Law Board to decide issues such as one that was involved in the cases before him, and as held in the original order of ours, the matter will stand remitted to the High Court for deciding the other issues except the one already decided by the High Court.

With the above modification, the review petitions stand allowed.

JUDIS