

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3731 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 22843 OF 2015]

K.K GUPTA & ORS.

Appellant (s)

VERSUS

HIMACHAL PRADESH PETROLEUM DEALERS
ASSOCIATION & ANR.

Respondent(s)

WITH

CIVIL APPEAL NO. 9310 OF 2016

WITH

CIVIL APPEAL NO. 3732 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 1865 OF 2016]

J U D G M E N T

KURIAN, J.

SLP (C) No. 22843 OF 2015

1. Leave granted.
2. The appellants are before this Court, aggrieved by the direction dated 28.05.2015 issued by the High Court of Himachal Pradesh at Shimla in Contempt Petition (COPC) No. 587 of 2014. It was the allegation of the respondents - writ petitioners that the policy guidelines dated 17.02.2014 framed pursuant to the directions issued by the court are in violation of the spirit of the Judgment dated 17.05.2012. It was also alleged that there is a

violation of the interim arrangement made by the court. In order to appreciate the contention, it is necessary to extract the operative portion of the Judgment dated 17.05.2012, which reads as follows :-

"42. Consequently, in view of the observations and analysis made hereinabove, the writ petition is allowed. Respondent No. 1 is directed to take a decision to notify petroleum, petroleum products and natural gas within a period of twelve weeks from today. Respondent Nos. 2 to 4 are directed to comply with the action approved in the meeting held on 9.6.2011, as per para 7, within a period of six weeks from today. Thereafter, respondent No. 1 shall take final decision and issue appropriate directions/guidelines/instructions on the opening of new retail outlets. Till then, the parties are directed to maintain status quo as of today. Pending application(s), if any, also stands disposed of. There shall, however, be no order as to costs."

3. We do not think that there is any ambiguity in the order. The direction was only to frame guidelines and till the guidelines are framed, there was a direction to maintain status quo as on the date of the Judgment.

4. The guidelines were framed on 17.02.2014, as directed by the High Court and notified on

21.05.2014. Paragraph 4D of the guidelines thus framed, reads as follows :-

"D. Existing Roster of earlier SRMPs and advertisement of Back Log locations :-

The existing Roster of old SRMPs made under the earlier guidelines has been frozen and closed in July 2012. The locations already advertised and which are at various stages of commissioning will be governed as per their advertisement conditions.

Industry will work out the backlog for locations under SC/ST category based on the outlets commissioned/COCO's divested and LOI's issued against advertisement released after 01.04.2002, under prevailing Marketing Plans of OMCs and advertise the same."

5. The High Court, as per the impugned order in the contempt petition, took the view that the guidelines framed by the companies are in violation of the Judgment. The High Court, in exercise of its contempt jurisdiction, issued further orders as well. The order to the extent relevant is at Paragraph 12, which reads as follows :-

"Thus, in furtherance of implementation of Judgment of this Court in CWP No. 3723 of 2010 dated 17.5.2012 in letter and spirit, respondents are directed to consider the

old cases, which were pending at the time of filing of the petition also, as per the new guidelines. Accordingly, the petition is disposed of and the notice is discharged. No costs."

6. Aggrieved, the appellants are before this Court.

7. We have heard Mr. Tushar Mehta, learned Additional Solicitor General appearing for the appellants, and Ms. Vernika Tomar, learned counsel appearing for the respective respondent(s). As we have already indicated above, it is very difficult to appreciate the stand of the High Court that there is violation of the status quo order granted on 17.05.2012. The direction to maintain status quo was only till framing of guidelines. Once the guidelines are framed, the life of the interim order to maintain status quo also expires and thereafter, the field is to be governed by the new guidelines framed and notified on 21.05.2014. If the respondents are, in any way, aggrieved by the guidelines, it is for them to pursue appropriate remedy but not proceedings for contempt. In contempt jurisdiction, the Court cannot expand the scope of the Judgment which is alleged to have been violated. The Court's jurisdiction in contempt proceedings is to see whether there is willful disobedience of any direction or a

contumacious attempt otherwise to circumvent the Judgment. Sans that the rest should be left to the aggrieved party to pursue the matters in other appropriate proceedings. Accordingly, the impugned order dated 28.05.2015 is set aside and the appeal is allowed as above.

CIVIL APPEAL NO. 9310 OF 2016 and SLP (C) No. 1865 OF 2016

1. Leave is granted in SLP (C) No. 1865 of 2016.
2. In view of the Judgment passed above, these appeals are disposed of.

Pending Interlocutory Applications, if any, stand disposed of.

.....J.
[KURIAN JOSEPH]

.....J.
[MOHAN M. SHANTANAGOUDAR]

.....J.
[NAVIN SINHA]

New Delhi;
April 11, 2018.

ITEM NO.2

COURT NO.5

SECTION XIV

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

Petition(s) for Special Leave to Appeal (C) No(s). 22843/2015

(Arising out of impugned final judgment and order dated 28-05-2015 in COPC No. 587/2014 passed by the High Court Of Himachal Pradesh At Shimla)

K.K GUPTA & ORS.

Petitioner(s)

VERSUS

HIMACHAL PRADESH PETROLEUM DEALERS
ASSOCIATION & ANR.

Respondent(s)

(IA No.134256/2017-EARLY HEARING APPLICATION)

WITH

C.A. No. 9310/2016 (XIV)

SLP(C) No. 1865/2016 (XIV)

Date : 11-04-2018 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR
HON'BLE MR. JUSTICE NAVIN SINHA

Counsel for the
parties

Mr. Tushar Mehta, ASG
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Mr. Ankit Jain, Adv.
Mr. Mohit Darar, Adv.
Mr. Chandra Prakash, AOR

Ms. Vernika Tomar, AOR

Mr. Sandeep Sethi, ASG
Mr. Ritesh Kumar, Adv.
Mr. Mukul Singh, Adv.
Mr. S. A. Haseeb, Adv.
Mr. Raj Bhahadur Yadav, Adv.

Mr. Kaushal Yadav, AOR

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

SLP (C) No. 22843 OF 2015

Leave granted.

The appeal is allowed in terms of the signed reportable
Judgment.

Pending Interlocutory Applications, if any, stand disposed of.

CIVIL APPEAL NO. 9310 OF 2016 and SLP (C) No. 1865 OF 2016

Leave is granted in SLP (C) No. 1865 of 2016.

The appeals are disposed of in terms of the signed reportable
Judgment.

Pending Interlocutory Applications, if any, stand disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(RENU DIWAN)
ASSISTANT REGISTRAR

(Signed reportable Judgment is placed on the file)