

ITEM NO.13

COURT NO.1

SECTION XI-A

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). 14830/2020

(Arising out of impugned final judgment and order dated 19-10-2020 in WPC No. 7961/2019 passed by the High Court of Kerala At Ernakulam)

K.P. SURESH & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 126388/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(C) No. 14515/2020 (XI-A)

(IA No. 123002/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT&IA No. 123001/2020 - PERMISSION TO FILE LENGTHY LIST OF DATES)

SLP(C) No. 557/2021 (XI-A)

(IA No. 22127/2021 - EARLY HEARING APPLICATION

IA No. 2896/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 654-657/2021 (XI-A)

(IA No. 3449/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 3448/2021 - PERMISSION TO FILE LENGTHY LIST OF DATES)

Diary No(s). 839/2021 (XI-A)

(IA No. 10185/2021 - PERMISSION TO FILE LENGTHY LIST OF DATES

IA No. 10184/2021 - PERMISSION TO FILE PETITION (SLP/TP/WP/..))

Date : 17-10-2022 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Parties:

Mr. Chander Uday Singh, Sr. Adv.

Mr. C. K. Sasi, AOR

Mr. Abdulla Naseeh V.T., Adv.

Ms. Meena K. Poullose, Adv.

Mr. Renjith B. Marar, Adv.

Ms. Lakshmi N. Kaimal, AOR
Mr. Arun Poomuli, Adv.
Mr. Davesh Kr. Sharma, Adv.
Ms. Ashu Jain, Adv.

Mr. Kuriakose Varghese, Adv.
Mr. V. Shyamohan, Adv.
Mr. Aishwarya Hariharan, Adv.
Mr. Akshat Gogna, Adv.
Ms. Anshika Bajpai, Adv.
Mr. Martin G. George, Adv.
M/S. Kmp Law Aor, AOR

Mr. K.M. Nataraj, ASG
Mr. Nikilesh Ramachandran, AOR
Mr. Vinayak Sharma, Adv.
Mr. Shubham Seth, Adv.
Ms. Mrinal Choudhry, Adv.

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

IA No. 10184/2021 is allowed.

These petitions arise out of the order dated 19.10.2020 passed by the High Court of Kerala at Ernakulam in number of petitions challenging privatization of Trivendrum International Airport as well as the RFP conditions which were set out in the document inviting participation from private bidders.

The basic issue high-lighted by Mr. C.U. Singh, learned Senior Advocate appearing for State of Kerala is about the mutual discussions between the State of Kerala and the Central Government with regard to various reservations expressed on behalf of State Government.

However, as set out in paragraphs 31 and 32 of the judgment under appeal, after all those rounds of discussion,

Govt. of Kerala agreed to the condition that it could have the right of first refusal in favour of any entity in which the Govt. of Kerala had 25% of equity participation in the range of 10%. In terms of such understanding, the State owned Corporation KSIDC participated in the bid unsuccessfully where the successful party had offered the bid was Rs.168 per passenger while that offered by KSIDC was Rs.135 per passenger i.e. less than almost 20%.

These paragraphs 31 and 32 bring out the essence of understanding with which the participation was undertaken by KSIDC and in the circumstances, the case set up by State of Kerala was rightly rejected by the High Court.

One of the submissions advanced on behalf of Union of Employees was to the effect that after handing over of the concerned Airport to the private entity, the status of such employees who were employees of the Airport Authority of India would drastically change and all elements such as retirement age, retiral benefits, etc. would come under a question mark.

As observed by the High Court, option was given to such employees either to stay with the Airport Authority of India or switch over to the services of the successful bidder.

Considering these facts as well as the factor that the private entity has been in operation since October 2021, we see no reason to exercise our jurisdiction under Article

136(1) of the Constitution.

The Special Leave Petitions are therefore, dismissed. One of the issues projected by the State with respect to the ownership of the land in question is however, kept open.*

Pending applications, if any, shall stand disposed of.

(INDU MARWAH)
COURT MASTER (SH)

(VIRENDER SINGH)
BRANCH OFFICER