

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 892-896 OF 2017
(Arising out of SLP (C) No.32435-32439 of 2016)

PRINCIPAL SECRETARY, HOME, PROHIBITION & EXCISE DEPARTMENT,
SECRETARIAT AND ANR. ... Appellants

VERSUS

CONSORTIUM OF INDIAN FORMERS ASSOCIATION AND ETC. ... Respondent

O R D E R

Leave granted.

In the present appeal, the legal propriety of the order dated 27.9.2016 passed by the Division Bench of the High of Judicature at Madras in Writ Petition Nos.3914-3918 of 2016 is called in question. The High Court in paragraph 2 of the order impugned has recorded that the controversy relates to a policy issue and thereafter proceeded to state that the State Government is required to be sensitive to the requirements of the farmers and to see that the sugar industry is not destroyed. It has reproduced a passage from the affidavit of the Central Government and thereafter observed that it is not possible for the High Court to go into the commercial aspect and, therefore, it has appropriate that an independent Committee should examine the issue and submit a report to the Court. After expressing certain opinion, it is directed that the Central Government and the State Government should submit a list of experts in the field to analyse as to how to work out the

system better and solve the problem which has been set out by the Central Government.

It is submitted by Mr. C.A. Sundaram, learned senior counsel that once the High Court has expressed the view that it is a policy issue, the justifiability of the policy has to be adjudged on the anvil of Article 14 of the Constitution but the High Court has proceeded to find out whether a better policy can be evolved by appointing a Committee by seeking names from the Central Government and the State Government.

Mr. Ranjit Kumar, learned Solicitor General of India appearing for the Union of India would submit that the High Court should have been well advised to decide the correctness of the policy framed by the Union of India versus the policy formulated by the State Government which basically pertains to ethanol versus liquor.

Mr. S. Prabhakaran, learned senior counsel appearing for the 1st respondent herein, would contend that the High Court in its wisdom has directed for an independent Committee to be constituted so that it can examine all the aspects and submit a report to the Court and, therefore, this Court should decline to interfere.

Having perused the impugned order and appreciating the submissions advanced at the Bar, we are of the convinced opinion that the High Court should not have directed an independent Committee to examine the issue and submit a report to the Court. Such a step is almost like sitting on appeal over a policy matter. The Court can test the correctness of the policy within the

constitutional parameters, regard being had to the precedents of this Court but it is not correct to call for a report from an independent Committee to be constituted by the Central Government and the State Government to test the legality of the policy. That should be left to the respective governments to mutually discuss over a policy matter and arrive at a conclusion. The Court has only to see the defensibility of the policy, and nothing else.

In view of the aforesaid, we allow the appeals, set aside the impugned order and request the High Court to decide the main writ petitions within a span of three months hence. Needless to say, all issues of fact and law are kept open. There shall be no order as to costs.

.....,J.
(Dipak Misra)

.....,J.
(R. Banumathi)

New Delhi;
January 23, 2017.

ITEM NO.8

COURT NO.2

SECTION XII

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). 32435-32439/2016

(Arising out of impugned final judgment and order dated 27/09/2016
in WP No. 3914-3918/2016 passed by the High Court of Madras)

PRINCIPAL SECRETARY, HOME, PROHIBITION & EXCISE DEPARTMENT,
SECRETARIAT AND ANR.

Petitioner(s)

VERSUS

CONSORTIUM OF INDIAN FORMERS ASSOCIATION AND ETC.

Respondent(s)

(with interim relief and office report)

Date : 23/01/2017 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. B. Balaji, AOR

For Respondent(s) Mr. S. Prabhakaran, Sr. Adv.
Mr. Ram Sankar, Adv.
Mr. Elangovan, Adv.
Mr. A. Ramesh babu, Adv.
Mr. N. Rajaram Narayanan, Adv.
Mr. P. Jegan, Adv.
Mr. Y. okesh, Adv.

Mr. Ranjit Kumar, SG
Mr. Bharti Tyagi, Adv.
Mr. Sanjay Kumar Pathak, Adv.
Mr. Arun Kumar Yadav, AOR
Mr. R. Rai, Adv.
Ms. Anil Katiyar, Adv.
Mr. G.s. makker, Adv.

Mr. Mayil Samy K., Adv.
Mr. Muthu Ganesh Pandiyan, Adv.
Mr. Surya Narayan, Adv.
Mr. Jai Kishore Singh, Adv.
Mr. V.J. Usha, Adv.
Ms. Divya Solanki, Adv.

Mr. G. Ananda Selvam, Adv.
Ms. Sujatha, Adv.
Mr. Arun Kumar Singh, Adv.
Mr. Gopal Bansal Sathe, Adv.
Mr. Sam Edwin, Adv.

Mr. M. Yogesh Kanna, AOR
Ms. Nithya, Adv.

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

Leave granted.

The appeals are allowed in terms of the signed order. There shall be no order as to costs.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)