

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 23498 OF 2017
(Arising out of SLP(C) No. 32719 of 2017)

THE STATE OF WEST BENGAL AND ORS.

... Appellant(s)

Versus

M/S. G.S.N.MURTY AND ORS.

... Respondent(s)

O R D E R

Leave granted.

By an order dated 08.06.2015 passed, pursuant to an order of the High Court of Calcutta dated 08.05.2015 after a copy of the inquiry report was given to the respondents and after examining the matter on merits, the Director Government of West Bengal came to the conclusion that there has been misappropriation as a result of which the licence of the respondents was cancelled. Without interfering with the established fact that misappropriation has taken place, the learned Single Judge set-aside the order on the ground that inspection took place on the basis of a void order. The fact of the matter still remains that pursuant to such inspection, it was clear that misappropriation was established. Such report cannot, therefore, be treated as nonest. Further, on the ground of non supply of material, the aforesaid cancellation was set-aside. The appeal to the Division Bench resulted in a dismissal

stating that :

Bearing upon the facts discussed above and documents on the basis of which the authority passed the order impugned cancelling the licence and imposing fine upon the respondent No. 1 under challenge before the writ court, we are of the view that in such matter writ court should not take the matter so lightly however, since the writ court has not curtailed the right of the appellate authority to proceed afresh as per the rule, we decline to interfere with the other order and direction given by the writ court to hold fresh inquiry and to conclude the same within twelve weeks afresh by supplying the documents to the writ petitioner/respondent herein."

We are of the view that both judgments are required to be set-aside, and the cancellation order be restored, together with payment of Rs. 20,88,11,900/- together with interest thereon, consisting of Rs. 6,13,71,900/- @ 3686 KL p.m. and penalty thereon at double the said amount amounting to Rs. 14,74,40,000/-.

The appeal is accordingly allowed.

.....J.
(ROHINTON FALI NARIMAN)

.....J.
(NAVIN SINHA)

New Delhi,
Dated: 15th December, 2017.

ITEM NO.55

COURT NO.12

SECTION XVI

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). 32719/2017

(Arising out of impugned final judgment and order dated 28-06-2017 in MAT No. 2130/2016 passed by the High Court At Calcutta)

THE STATE OF WEST BENGAL & ORS.

Petitioner(s)

VERSUS

M/S G.S.N. MURTY & ORS.

Respondent(s)

(IA No.113098/2017-CONDONATION OF DELAY IN FILING)

Date : 15-12-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s) Mr. Raja Chatterjee, Adv.
Mr. Chanchal Kumar Ganguli, AOR

For Respondent(s)

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

Delay condoned.

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application, if any, stands disposed of.

(SHASHI SAREEN)
AR CUM PS

(SAROJ KUMARI GAUR)
BRANCH OFFICER

(Signed order is placed on the file.)