

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

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 36692/2024

(Arising out of impugned judgment and order dated 17-01-2024 in WA No. 2576/2017 passed by the High Court of Kerala at Ernakulam)

THE WELFARE FUND INSPECTOR NO.II

Petitioner(s)

VERSUS

SHOUKATH C K & ORS.

Respondent(s)

(IA No.203963/2024-CONDONATION OF DELAY IN FILING and IA No.203964/2024-EXEMPTION FROM FILING O.T.)

Item No. 62

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 36689/2024

(IA No.206442/2024-CONDONATION OF DELAY IN FILING and IA No.206444/2024-EXEMPTION FROM FILING O.T.)

Date : 13-09-2024 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s) Mr. K. Rajeev, AOR
Mr. Bijo M Joy, Adv.
Ms. Niveditha R Menon, Adv.
Mr. Pranav Krishna, Adv.
Mr. Aditya Verma, Adv.
Mr. Tarun Kumar, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

Delay condoned.

2. Heard Mr. K. Rajeev, learned counsel appearing for the petitioner(s).

3. Although the counsel submits that the respondent No. 1 is the competent person and employer, under the Kerala Toddy Workers'

Welfare Fund Act, 1969, the following finding of the learned Single Judge is relevant and extracted:

"19. The enquiry which was conducted was confined to the examination of witnesses, by the determination officer. The officer has not attempted, even during the period in which the business was carried on, or at a proximate time immediately thereafter, to verify as to who actually carried on the operation of the shops. There is also no enquiry made, with the Department; who going by the Rules of 1972 and the appointment made of an agent, would take the status of the principal employer. In such circumstances, this Court is of the opinion that the evidence adduced is not sufficient to find an intermediary - the petitioner herein to be the employer under the Welfare Fund Act. There is nothing to prove that the petitioner had engaged in the operation of the license of the subject shops, during the relevant period. Orders at Exts.P1 and P6 hence would stand set aside."

4. Having regard to the above finding, the contrary argument of the counsel is unacceptable. The Special Leave Petition is accordingly dismissed.

5. Pending application(s), if any, shall stand closed.

SLP (Civil) Diary No. 36689 of 2024

Delay condoned.

2. In view of today's order passed in SLP (Civil) Diary No. 36692 of 2024, this Special Leave Petition also stands dismissed.

3. Pending application(s), if any, shall stand closed.

(NITIN TALREJA)
ASTT. REGISTRAR-cum-PS

(KAMLESH RAWAT)
ASSISTANT REGISTRAR