

CASE NO.:
Appeal (civil) 4449-4505 of 2006

PETITIONER:
Ravi Rao Gaikwad and Ors.

RESPONDENT:
Rajajinagar Youth Social Welfare Asson. and Ors.

DATE OF JUDGMENT: 03/05/2006

BENCH:
Arijit Pasayat & Tarun Chatterjee

JUDGMENT:
JUDGMENT

ARIJIT PASAYAT, J.

Challenge in these appeals is to the common Judgment rendered by a Division Bench of the Karnataka High Court permitting the respondent No.1 to participate in the proceedings before learned Single Judge, pursuant to the order of remand passed.

Factual background in a nutshell is as follows:

Several writ petitions were filed by the appellants praying for a declaration that the writ petitioners shall be deemed to have been granted licenses for carrying on business in video games at premises in question and for appropriate direction to the respondents in the writ petitions not to interfere in their business relating to video games.

Learned Single Judge held that in the fact situation it shall be deemed that licenses have been granted. Under the provisions of Licensing and Controlling of Place of Public Amusement (Bangalore City) Order, 1989 (in short the 'Order'). Stand of the appellants was that they had filed applications which were not considered within the time prescribed under sub clause (7) of Clause 4 of the Order and hence it shall be deemed that licences have been granted in terms of sub clause (8) of Clause 4. It is to be noted that a petition styled as "Public Interest Litigation" had been filed by respondent No. 1 which was dismissed. In the writ petitions filed, the respondent No.1 filed application to be impleaded as an intervenor. No order accepting the prayer had been passed. The State of Karnataka as well as respondent No.1 filed Writ Appeals which were disposed of by the impugned judgments. The High Court held that certain documents were placed before it to show that orders had in fact been passed. Therefore the matter was remitted to learned Single Judge to consider the effect of such claim. While giving this direction the Division Bench inter alia directed as follows:

"It is open to the intervenor to participate in the case."

Challenge in these appeals is to the aforesaid quoted portion of the judgment passed by the Division Bench. It is submitted that the respondent No. 1 had failed in their attempt to cause problems so far as the appellants are concerned and the petition (writ petition No. 2869/97) filed by it was dismissed. Application for being impleaded as intervenor was also rejected and, therefore, the High Court could not have permitted it to participate before learned Single Judge. The bonafides of respondent No. 1 are doubtful. The question which is to be adjudicated by learned Single judge is whether the claim of the appellants regarding deemed license is acceptable or stand of the official respondents to the effect that orders have in fact been passed and, therefore, there is no deemed license is correct. The question has to be decided on the basis of the materials to be

placed by the official respondents and the respondent No. 1 have no role to play in the matter.

Learned counsel for the State on the other hand submitted that no prejudice is caused to the appellants if permission granted by the High Court to the respondent No. 1 to participate is carried out.

In *Saraswati Industrial Syndicate Ltd. v. Commissioner of Income Tax Haryana, Rohtak*, [1993] 3 SCC 141 a three - Judge Bench observed that the only purpose of granting an application for intervention is to entitle the intervener to address argument in support of one or the other side. In *State of T.N. and Anr. v. Board of Trustees of the Port of Madras*, [1994] 4 SCC 630.

In the present case undisputedly the writ petition filed by the respondent No.1 was dismissed. Additionally its prayer for intervention in the writ petitions was not accepted. As the impugned order of the Division Bench goes to show, learned Single Judge has been directed to consider the effect of certain orders which were placed for consideration by the official respondents. As rightly submitted by learned counsel for the appellants, the question whether there was deemed grant of license has to be considered on the basis of materials to be placed by the appellants and the official respondents. The respondent No.1 cannot throw any light on this issue. Therefore, the Division Bench was not justified in permitting respondent No.1 to participate in the proceedings before learned Single Judge. That part of the directions is set aside. The appeals are allowed to the above said extent. No costs.