

CASE NO.:
Appeal (civil) 7867 of 2001

PETITIONER:
PARAS RAM

RESPONDENT:
STATE OF RAJASTHAN & ORS

DATE OF JUDGMENT: 14/02/2008

BENCH:
H.K. SEMA & MARKANDEY KATJU

JUDGMENT:
JUDGMENT

O R D E R
CIVIL APPEAL NO. 7867 OF 2001
WITH
C.A.NO.7868/2001; C.A. NO.7869/2001 & C.A. NO.7870/2001

These appeals are directed against the judgment and order dated 24/11/2000 passed by the Division Bench in DBCWP Nos.1088/2000, 1267/2000, 1276/2000 & 1270/2000. Since the question involved in these appeals are identical, we are taking the facts from C.A. No.7867/2001.

We have heard the parties at length.

Briefly stated, the facts are as follows.

Pursuant to a tender notice dated 9/2/1999, the appellant made an offer by its letter dated 30/3/1999. The said offer was subject to the following condition:
"CONDITION

That during the term of Financial Year 1999-2000 and 2000-2001, if any Liquor/Beer Group in the State of Rajasthan
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is granted any financial or policy based benefit or benefits in exclusive privilege amount, then the same benefit shall, in proportionate manner, be given in respect of Kota Liquor/Beer Group also."

The aforesaid offer was provisionally accepted by a letter dated 30/3/1999. It appears that in the letter provisionally accepting the offer there is no mention that condition mentioned in the offer letter is rejected. On the other hand, a close reading of the acceptance letter dated 30/3/1999 clearly shows that the offer by the appellant with the condition was accepted. In our opinion, the word 'provisionally' in the acceptance letter dated 30/3/1999 only means that the offer of the appellant (with the condition) was accepted subject to his complying with the formalities mentioned in that letter.

It appears that the financial benefits for other Liquor/Beer groups in Rajasthan during the financial year 1999-2000 and 2000-2001 was not extended to the appellant. Aggrieved thereby, they preferred a writ petition.

The High Court was of the view that the condition which was offered and accepted by the State does not appear in the licence and on this sole ground the writ petition was

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dismissed. The finding of the High Court, in our view, is clearly erroneous. As already noted, the appellant's offer with the condition has been accepted by the respondent without any demur. Since the offer has been accepted by the respondent the benefit during the financial year 1999-2000 and 2000-2001 was also available to the appellant if the same has been granted to any other Liquor/Beer group in the State of Rajasthan.

Learned counsel for the respondent strenuously contended that the condition in the offer was not accepted by the respondents and, therefore, the appellants are not entitled for any benefits during those financial years. We do not agree. We repeatedly asked the counsel for the respondent to show us in the letter of acceptance anywhere where it is mentioned that the condition was not accepted. There is no answer forthcoming to this query. Even otherwise, a reading of the letter of acceptance dated 30/3/1999 does not disclose that the conditional offer by the appellant was rejected. On the contrary, the offer was accepted with the condition. Hence, it was a concluded contract under Section 7 of the Contract Act.

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For the reasons afore-stated, the impugned judgment of the High Court is not tenable in law. It is, accordingly, set aside. The appeals are allowed. No costs.