

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.10087-10090 OF 2010
(Arising out of SLP (C) Nos.17742-17745 of 2007)

Lake Development Authority,
Nainital Through Chairman

...Appellant

Vs.

Heena Khan & Ors.

....Respondents

ORDER

Leave granted.

2. The first respondent wanted to have a retail outlet for the petroleum products of HPCL, at Bellview Compound, Tallital, Nainital. He filed a writ petition seeking a direction to the appellant to issue formal sanction to enable him to establish, install and run the retail outlet. According to first respondent, the appellant neither granted nor refused sanction. Therefore, the first respondent approached the High Court by filing WP No.1067/2004.

3. The High Court has passed a series of orders in the said proceedings. It appointed an Advocate as a conciliator to settle the dispute on 14.11.2006. On 6.12.2006, the said order was withdrawn and the Chairman of the appellant was required to be present on 12.12.2006 in court. By order dated 12.12.2006, the High Court disposed of the writ petition purportedly recording an undertaking of the Chairman of the appellant that the appellant/District administration would give an alternative land with an NOC to the respondent within one month. Thereafter, the first respondent filed an application for review seeking a direction to the appellant to grant permission to respondent to establish a petrol pump at the original site. The High Court allowed the review petition by order dated 28.3.2007 and directed the grant of sanction to first respondent within fifteen days, a licence to construct a petrol pump (retail outlet) at the originally applied plot. Again, the respondent applied for modification seeking a direction to the appellant to release the sanction plan within one week or to permit him to proceed on the basis of deemed sanction. The High Court allowed the said modification application also on 2.5.2007. Thereafter, the High Court has initiated contempt action *suo moto* and issued a notice dated 18.8.2007. At that stage, the appellant approached this Court challenging the orders dated 12.12.2006, 28.3.2007, 2.5.2007 and 18.8.2007 on several grounds.

4. On the facts and circumstances of the case and on perusal of the orders, the least that can be said about the aforesaid orders is that they are unsustainable. However, at this stage, learned counsel for the first respondent submitted on instructions that the first respondent will unconditionally withdraw the writ petition itself and make a fresh application to the appellant in accordance with law for sanction with a request to consider and dispose of the same expeditiously. He also submitted the impugned orders may be set aside without considering them on merits.

5. On the facts and circumstances, we are of the view that the request of the first respondent for withdrawal of the writ petition is worthy of acceptance.

6. In view of the above said request, we set aside the orders of the High Court of Uttarakhand dated 12.12.2006, 28.3.2007, 2.5.2007 and 18.8.2007 and permit the first respondent to withdraw WP No.1067/2004 with liberty to apply afresh for sanction. If and when such an application is made, the appellant will consider the same uninfluenced by what had transpired till now and in accordance with law. We are sure that having regard to the fact

that the issue had been pending for several years, such application may be disposed of expeditiously if the first respondent complies with all the requirements of law.

.....J
(R. V. Raveendran)

.....J
(A. K. Patnaik)

New Delhi;
November 26, 2010