

Workmen of Tirumala Tirupathi Devasthanam

Vs

Management and Another

Civil Appeal No. 290(L) of 1974

(V.R. Krishna Iyer, R.S. R.S. Sarkaria, O. Chinnappa Reddy JJ)

30.11.1979

JUDGMENT

KRISHNA IYER, J. -

1. The main issue raised in this appeal turns on a construction of Section 32(5) of the Payment of Bonus Act and its application to the facts of the present case. The Tirumala Tirupathi Devasthanam has a very wide circle of devotees who come from all over the country. The Devasthanam caters to their needs and provides the amenities since pilgrims flock to the shrine. One of those facilities is stated to be offering transport services for pilgrims to come to Tirupathi from distant places. Inevitably the Transport Department is operating under the Devasthanam and employs a large number of transport workers. These workmen raised an industrial dispute making a demand for bonus for the years 1965-1973. The reference was duly made to the Tribunal which considered inter alia the question as to whether Section 32 of the Act excluded from the operation of the bonus obligation, the respondent-institution. The plea was upheld and the reference was held to be invalid.

2. The Tirumala Tirupathi Devasthanam, a vast and unique religious organisation in the country, is certainly not founded for making profit and attracts people who want to offer worship to Shri Venkateshwara but then the specific question with which we are concerned is whether the transport operation by the administration falls within the category of institutions within the meaning of Section 32(5)(c). Is the Transport Development so merged in and integrated with the Devasthanam as to be incapable of independent identity? Is the Transport Industry run by the Devasthanam sufficiently spread as to be treated as an institution in itself? There is no doubt, as the Tribunal has rightly held, that it is an industry but the further question arises whether it is an institution in the context and within the text of the Payment of Bonus Act. This question has not been properly appreciated by the Tribunal. Secondly, assuming that it is an institution, it does not necessarily follow that Section 32 is excluded. On the other hand, there must be proof that the Transport Department (a) is an institution; and (b) established not for the purpose of profit. The Tribunal has not correctly appreciated the import of this latter requirement. It has been found that profits made in some years are ploughed back whatever that may mean. It is also found that the motive for running the industry of transport was to afford special facilities for the pilgrims. These by themselves do not clinch the issue whether the institution has been established not for purposes of profit, nor are we satisfied that merely because in the administrative report of the Devasthanam, there is mention of the transport establishment as a remunerative enterprise, that is decisive of the issue.

3. The Tribunal has to decide whether the Transport Department, having regard to the features of its administration, the sources of its finance, the balance-sheet that is drawn up and the disposal of the profits, can be considered to be an institution in itself, whether it has nexus with the Devasthanam or

not. The fact that it is run by the Devasthanam, does not keep it out of its being an institution. This aspect has not been considered and must be decided de novo.

4. Likewise, merely because it is an institution, the Transport Department does not cease to be one established 'not for purposes of profit', that has got to be made out on its merits. The institution may be designed for profit although it may make or may not make profit. The institution's profits or earnings may be used for other charitable purposes. That also does not determine finally the character of the institution. Was the institution 'not one for purposes of profit', motives apart ? If it was one, definitely not for earnings profit, but merely as an ancillary facility for pilgrims to reach and to return, Section 32(5) will exclude the institution. If we may tersely put it, the dominant purpose of the Transport Department will be the decisive factor.

5. We, therefore, set aside the findings of the Industrial Tribunal and direct it to decide the issue de novo. We sustain the other findings but permit parties to adduce further evidence on this question so as to enable the Tribunal to make the correct decision. We allow the appeal, remand the case to the Industrial Tribunal but parties will bear their own costs.

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