

P. C. Sumatra

Vs

Chairman-Cum-Managing Director/General Manager, New India Assurance Co. Ltd. and Another

Civil Appeals Nos. 2112-13 of 1978

(R.S. Pathak, O. Chinnappa Reddy, Baharul Islam JJ)

03.02.1981

JUDGMENT

PATHAK, J. -

1. These two appeals by special leave are directed against the orders of the High Court to Punjab & Haryana dismissing in limine two writ petitions filed by the appellant.
2. It appears that the principal objection to the two writ petitions before the High Court at that stage was that the High Court was not empowered to entertain the writ petitions because no relief could be granted against the respondent, New India Assurance Co. Ltd., even though a Government company. As we have said, the High Court dismissed the writ petitions in limine. There is a dispute before us whether the High Court had also the merits of each writ petition in mind when it dismissed the writ petitions. There is nothing in the order of the High Court which indicates the ground on which it passed the orders of dismissal. Since then, in *Som Prakash Rekhi v. Union of India* [(1981) 1 SCC 449 : 1981 SCC (L & S) 200 : AIR 1981 SC 212] this Court has decided in respect of the Bharat Petroleum Corporation Limited that the latter is a "State" within the meaning of Article 12 of the Constitution. Dr. Anand Prakash, learned counsel for the respondents states that for the purpose of deciding these two cases, he does not press his contention that the respondent New India Assurance Co. Ltd. is not amenable to the writ jurisdiction of the High Court. That being so, plainly the merits of the two cases call for consideration. Having regard to the circumstances that the writ petitions were dismissed in limine and that in our opinion the two cases are cases where the merits of the appellant's claim should be considered, we set aside the order of the High Court dismissing the two writ petitions and remand the cases to it for decision on the merits of each case. We are of opinion that the High Court should dispose of these cases expeditiously, if possible, before the end of April 1981. It will give a opportunity to the respondents to file their respective returns in the writ petitions.
3. The appeals are disposed of accordingly. There is no order as to costs.

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