

State of Maharashtra

Vs

G. A. Pitre and Others

Special Leave Petition No. 1369 of 1980

(CJI Y. V. Chandrachud, E. S. Venkataramiah JJ)

03.05.1982

ORDER

1. This special leave petition is directed against the judgment dated June 28, 1979 of the Bombay High Court in Special Civil Application No. 1444 of 1977.
2. As long back as on August 25, 1980 a three-Judge Bench passed an interim order in this special leave petition directing the Government of Maharashtra, the petitioner herein, to decide the question whether the order staying the cancellation of the licences or leases granted by it should be upheld or set aside. The court observed in its order that the State Government may decide the aforesaid question notwithstanding any finding recorded by the High Court of Bombay in its judgment dated June 28, 1979. The State Government was directed to dispose of the question after hearing the parties and by a reasoned order. The special leave petition was adjourned for four weeks in order to enable the State Government to decide the question.
3. The special leave petition came up before the court three months later, i.e. on November 24, 1980. Since the Government of Maharashtra had not yet decided the question referred to it, the matter was adjourned to December 18, 1980.
4. On December 18, 1980 the court was informed when the special leave petition came up for hearing that the Government of Maharashtra had still not taken any steps in the matter. The court adjourned the matter on that date for six weeks with a specific observation that it should be understood clearly that no further adjournment will be granted in the matter.
5. The special leave petition came up for hearing on March 13, 1981 when we found to our surprise that no step whatsoever was taken by the Government of Maharashtra for deciding the question which, advisedly, was relegated to its decision. On that date, the special leave petition was adjourned for a further period of four weeks, since it was stated by the State Government's counsel that the Minister in charge of the Department will be able to give his decision within that period.
6. The special leave petition came up for hearing seven and a half months thereafter, i.e. on October 29, 1981. Finding that the State Government had not yet recovered from its supine attitude, the court adjourned the matter for yet another period of two months in the hope and belief that it will come to a decision within that period.
7. Today is the 3rd of May, 1982, which is seven months after the date on which the special leave petition last appeared in the list and was adjourned for two months. Shri M.N. Shroff, Advocate-on-Record for the State of Maharashtra, has circulated a letter dated May 1, 1982 stating that he has

received a telex message from the Government of Maharashtra to the effect that "in view of the Assembly Session, the Government was not able to take any decision" and that he was instructed to request the court to grant an adjournment. We consider this as a deplorable state of affairs. It is a matter of deep concern and regret that despite specific directions given by this Court from time to time and despite numerous adjournments granted at the instance of the Government of Maharashtra over a period of 21 months, the Government has not bothered to give any attention to this matter whatsoever. We do not know whether the parties have been heard by the State Government as directed by us and, if so, why the decision is not being divulged. We are unable to understand that the State Government is unable to take any decision in the matter "in view of the Assembly Session". The fact that the Legislative Assembly is in session is no reason or justification for the Executive to neglect to discharge its imperative functions. We do not believe that the entire administration of the State of Maharashtra has come to a grinding halt on account of the fact that the Legislative Assembly is in session. And we do believe, and would like to take this opportunity to give clear and strong expression to our view, that the State Government has hit upon a totally untenable excuse in order to explain away its indefensible indifference to a matter which has been hanging fire for 21 months. This Court receives enquiries from time to time from the Secretariat of the Parliament in connection with questions put by members of the Parliament regarding pendency of arrears in various courts and the reasons for delay caused in disposing of court cases. The special leave petition before us is a speaking example of how delays occur in administering justice. We hope that, if and when any Hon'ble Member of the State Legislature puts a question as to law's delays, the State Government, in fairness to this Court, will cite the career of this unfortunate special leave petition as a telling example.

8. We should have dismissed the special leave petition filed by the State Maharashtra for reasons stemming from its total unconcern with a matter which it has itself brought to this Court. But, temper has no place in the scheme of justice and we cannot refuse to do justice to the parties by applying mechanically the frustrating adage that justice delayed is justice denied. Experience has it that it is at least marginally more satisfactory to do justice even after a prolonged delay than to perpetrate injustice in quest of speed.

9. This SLP and the companion SLP shall be placed for disposal immediately after the summer vacation, on July 26, 1982.

10. The Government of Maharashtra shall pay the costs of the day's hearing which we quantify at Rs 1000 (one thousand). Out of this amount, Rs 500 shall be paid to Supreme Court Legal Aid Committee and Rs 500 to respondent 5.

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