

Oramco Chemicals Pvt. Ltd.

Vs

M/S. Gwalior Rayon Silk Manufacturing (Weaving) Co. Ltd. and Another

Civil Appeal No. 3901 of 1986

(CJI R. S. Pathak, Ranganath Misra, M. M. Dutt JJ)

21.04.1987

ORDER

1. This is an appeal under Section 55 of the Monopolies and Restrictive Trade Practices Act, 1969 (hereinafter referred to as the 'Act'). The appellant, a Private Limited Company, is a manufacturer of "activated earth" in the small scale sector within the notified backward area of Badnawar, District Dhar of Madhya Pradesh State. M/s Gwalior Rayon Silk Manufacturing (Weaving) Co. Ltd., respondent 1, is a large scale manufacturer of basic raw materials like hydrochloric acid. Respondent 1 applied under Section 22 (2) of the Act for approval of the Central Government of its plan to set up an undertaking to manufacture "activated earth" at Nagda, within the District of Ujjain, an adjoining district of Dhar also located within the State of Madhya Pradesh. When the particulars of the application were notified, the appellant raised objection before the Central Government grounded upon several aspects. The appellant filed a further objection after a copy of the application of respondent 1 was made available to it. The application of respondent 1 was, however, allowed after overruling the objections of the appellant by order dated June 17, 1986, and that order is assailed in this appeal. The appellants objections were disposed of by saying :

As regards the locational angle, the representatives of the applicant company said that the very purpose of putting up the project at Nagda was to utilise chlorine which was at present being produced in their caustic soda project at that place. They also stated that they would take all anti-pollution measures to the entire satisfaction of Central and State Governments. In this connection they stressed the point that their present project itself was an anti-pollution step inasmuch as it would utilise chlorine to some extent which was at present being let off in the atmosphere. Referring to the specific point made by the objector company, the representatives of the applicant company clarified that there would be no discharge of chemicals into water and, therefore, the question of pollution of drinking water did not arise.

The proposal of the applicant company has been considered by the government. It is felt that the objections against the proposal have been satisfactorily met by the applicant company. It is also particularly noted that the large Industrial Houses are eligible to take up the manufacture of the proposed item.

2. It is contended that reasonable opportunity was not given to the appellant to support the objections and the points raised in support of the objections have not been taken into consideration by the authority concerned. In *Bombay Oil Industries Pvt. Ltd. v. Union of India* ((1984) 1 SCR 815 : (1984) 1 SCC 141 : AIR 1984 SC 160 : (1984) 55 Com Cas 356), this Court pointed out : (SCC p.

142, para 1)

We must, however, impress upon the government that while disposing of applications under Sections 21, 22 and 23 of the Monopolies and Restrictive Trade Practices Act, 1969 it must give good reasons in support of its order and not merely state its bald conclusion. The faith of the people in administrative tribunals can be sustained only if the tribunals act fairly and dispose of the matters before them by well considered orders. The relevant material must be made available to the objectors because, without it, they cannot possibly meet the claim or contentions of the applicants under Sections 21, 22 and 23 of the MRTP Act. The refusal of the government to furnish such material to the objectors can amount to a denial of a reasonable opportunity to the objectors to meet the applicant's case. And denial of a reasonable opportunity to meet the other man's case is denial of natural justice.

3. Having heard learned counsel of both sides, we are inclined to agree that the appellant's objections have not been properly disposed of. In the two sets of objections raised by the appellant, several contentions were advanced. The impugned order does not notice all these objections and the conclusion that the objections have been fairly met, fails to satisfy us that all the objections were really taken into account, particularly when a few of them only have been specifically referred to. Since we are remitting the matter to the respondent for reconsideration, we do not propose to express any opinion which might prejudice either side. The appeal is allowed. The impugned order is vacated and the matter shall go back to respondent 2 for a fresh disposal in accordance with law. There will be no order for costs.

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