

SUPREME COURT OF INDIA

STATE OF WEST BENGAL & ORS.

Vs.

NIRANJAN SINGHA

14/12/2000

(S.R.Babu, K.G.Balakrishna)

Appeal (civil) 7366 of 2000
Special Leave Petition (crl.) 13664 of 2000

JUDGMENT

RAJENDRA BABU, J. :

Leave granted.

The respondent filed a writ petition in the High Court contending that under an agreement he was appointed as an agent for collection of toll/taxes from vehicles plying over Matangini Setu on the Haldia River at Nargat in the district of Midnapore for one year from April 4, 1999 to April 3, 2000. The agreement between the parties provided for a clause as follows :-

5. After expiry of one year the term may be extended provided that one month before expiry of such one year the agent shall by registered letter request the Executive Engineer concerned for such extension and provided that payment upto the date of such application have been received by the Executive Engineer regularly and there have been no default of any of the terms and conditions herein contained. The decision as to whether there has been any default or not on the part of the agency shall rest with the Executive Engineer, and shall be binding on the agent.

The respondent requested the Executive Engineer concerned for extension of the agency for a period of another one year in terms of clause 5 of the agreement having complied with the conditions stated therein. The appellant having invited fresh bids for appointment of the agent to collect toll or taxes instead of extending the period of agency in favour of the respondent, a writ petition was filed by the respondent in the High Court seeking for quashing of the notification calling for fresh bids and to consider the representation of the respondent for extension of the period of agency. The learned Single Judge directed for consideration of the representation of the respondent. The appellants took the stand that extension of period of agency is a matter of discretion with them and not a matter of right with the respondent and rejected the representation. Thereafter, the writ petition was allowed by upholding the claim of the respondent for renewal of the agreement for another period of one year and directed the concerned authorities to grant such renewal in his favour from April 4, 2000 to April 3, 2001 subject to his compliance with the other terms and conditions and other formalities required under the law. The matter was carried in appeal to the Division Bench to contend that the discretion to grant a fresh lease in pursuance of clause 5 of the agreement, to which we have

adverted to earlier, was left to the Executive Engineer concerned and there is no right available to the respondent and further it was contended that the learned Single Judge could not have granted the relief in favour of the respondent. On behalf of the respondent the contention put forth before the court was that clause 5 of the agreement entered into between the appellant and the respondent, involved an element of legitimate expectation and non-consideration of the same would amount to arbitrary exercise of the power and, therefore, the learned single Judge was justified in issuing the writ. The Division Bench took the view that clause 5 of the agreement provided for extension of the period of agency though not renewal, and inasmuch as the conditions imposed in respect of such extension had been fulfilled, it was not a case involving grant of a fresh agency but extension of the existing one and relied upon a decision of this Court in *Food Corporation of India v. M/s Kamdhenu Cattle Feed Industries*, 1993 (1) SCC 71, and upheld the order made by the learned Single Judge. Hence this appeal. We may notice that the distinction sought to be made by the High Court that this is not a case involving grant of a fresh agency but extension of the existing one does not make much sense. An extension of an agreement or renewal is granted on the expiry of the period of the existing agreement. Either the extension or the renewal of the existing agreement may be on the same terms or on different terms. If it is a case of extension of the existing agreement on the same terms and conditions and such consideration gives rise to a question of legitimate expectation being a part of the concerned agreement, economic consideration of getting higher bid for the same period would be a relevant consideration. If the Governmental authorities had found that it would be feasible to have the agency, as in the present case, on fresh terms by enhancing the amount payable to the Government, it would be a relevant factor and in such a case it cannot be said that the legitimate expectation of the respondent had been affected because the public interest would out-weigh the extension of the period of the agreement. The doctrine of legitimate expectation is only an aspect of Article 14 of the Constitution in dealing with the citizens in a non- arbitrary manner and thus, by itself, does not give rise to an enforceable right but in testing the action taken by the Government authority whether arbitrary or otherwise it would be relevant. The decision in *Food Corporation of India v. M/s Kamdhenu Cattle Feed Industries* (supra) does not lay down any principle which detracts from what we have stated now. In a case where the agency is granted for collection of toll or taxes, as in the present case, it can be easily discerned that the claim of the respondent for extension of the period of the agency would not come in the way of the Government if it is economically more beneficial to have a fresh agreement by enhancing the consideration payable to the Government. In such an event, it cannot be said that the action of the Government inviting fresh bids is arbitrary. Moreover, the respondent can also participate in the tender process and get his bid considered. Hence, we do not think that the view taken by the High Court can be justified. We set aside the order made by the Division Bench affirming the order of the learned single Judge in the writ proceedings and dismiss the writ petition. However, it is made clear that until fresh arrangements are made the terms upon which the agency has been granted in favour of the respondent may continue. The appeal is allowed in the aforesaid terms.