

SUPREME COURT OF INDIA

State of Rajasthan

Vs.

D.D. Sood

C.A.No.5197 of 1995

(Dr. A.S.Anand CJI., R. C. Lahoti and Shivaraj V. Patil JJ.)

14.02.2001

ORDER

1. This is an appeal by special leave from the order of the Central Administrative Tribunal, Jaipur Bench, Jaipur (hereinafter referred to as 'the CAT') D / -17th November 1994 in O.A. No. 333/ 94.

2. On 29th August, 2000 when the matter came up before the Bench, it was found that since some of the issues involved in this appeal, could have wider implications in States other than Rajasthan also, it would be appropriate to have the assistance of the Union of India and a notice was issued to the learned Solicitor General to assist the Court. Mr. Harish N. Salve, learned Solicitor General is present before us and has assisted us in dealing with this appeal.

3. Respondent Shri D. D. Sood filed on Original Application before the CAT. The reliefs sought for by him in that application read as follows:-

"8. RELIEF SOUGHT:

i. That the respondent State may be directed to consider name of applicant for appointment and appoint the applicant as Member, Board of Revenue.

ii. That respondents may be directed to assign the year 1979 as year of allotment to the applicant in I.A.S.

iii. That any other appropriate order or direction which the Hon'ble Tribunal may consider just and proper in the facts and circumstances of the case may kindly also be passed."

4. Before the CAT there was no dispute between the parties regarding its jurisdiction to adjudicate on issues revolving around relief (ii). CAT, has so recorded in its order also.

5. A preliminary objection appears to have been raised by the State and the Union of India before CAT to the effect that CAT had no jurisdiction to adjudicate on issues on which relief (i) was sought for. The CAT vide order impugned before us upheld the preliminary objection and held that CAT had no jurisdiction to adjudicate on matters covered by prayer (i). In para 22 of the order, the CAT opined thus:

"22. We are of the view that we have no jurisdiction as far as the prayer No. 1 regarding consideration of appointment of the applicant is concerned. We accept this part of the submission of the State Government that this Tribunal does not possess the jurisdiction to entertain the petition in relation to prayer No. 1 referred to above."

6. We have heard Mr. Harish N. Salve, the learned Solicitor General appearing for the Union of India and Mr. Sushil Kumar Jain, learned counsel appearing for the State.

7. Mr. Salve submitted that after having found that the CAT had no jurisdiction insofar as relief prayed for in prayer (i) is concerned, it ought not to have dealt with any issues concerning constitution of the Board of Revenue or the manner of appointment of its Chairman and Members particularly those belonging to the I.A.S. cadre. We find considerable force in this submission. Though, we have our reservations about the finding recorded by the CAT about its lack of jurisdiction to deal with matters referable to prayer (i) but, since the respondent Shri D. D. Sood has not questioned that finding, we need not pronounce upon it.

8. The observations made by the CAT regarding constitution of the Board of Revenue and the appointment of Chairman and Members particularly from I.A.S. cadre had not been raised in the application filed by Shri Sood before the CAT and strictly speaking the same did not require any consideration by the CAT. We would, however, not like to pronounce on the question whether or not the observations made by and view expressed by the CAT in that behalf is correct for want of any material on the record. We leave that issue open. It may be decided in an appropriate proceedings brought before an appropriate forum by any aggrieved party. We, however, clarify that in the peculiar facts and circumstances of the case those observations ought not to have been made by the CAT.

9. In view of what we have said above, this appeal stands disposed of with no order as to costs.

10. We place on record our appreciation for the assistance rendered by the learned Solicitor General.

Order accordingly.