

SUPREME COURT OF INDIA

Govt. of National Capital

Vs.

Inder Pal Singh Chadha

(R.C. Lahoti and P.V.Reddi JJ.)

20.08.2001

ORDER

1. The Delhi Development Authority some time in the year 1969 sought for permission of the central government to run lotteries in Delhi. By order dated 17th April, 1969, it was conveyed to the Lt. Governor of Delhi that the President of India was pleased to grant permission to the 'occasional running of lotteries' in Delhi by the Delhi Development Authority. By order dated 31st March, 1992, the central government decided the running of Delhi lotteries to be transferred from Delhi Development Authority to Delhi Administration with effect from 1st April, 1992. On 21st December, 1994, the Government of Delhi took a decision, with the approval of the Lt. Governor, to close down Delhi lotteries with effect from 3rd January, 1995.

2. Some of the agents running lotteries put in issue the decision of Delhi government by filing a writ petition before the High Court of Delhi. The High Court of Delhi formed an opinion that Delhi is a Union Territory and cannot be equated with state and thus, it is not possible for the court to uphold the contention put forth on behalf of the Delhi Government that Article 239AA of the Constitution is a complete Code dealing with legislative and executive powers of Delhi Government. The High Court also held that executive power under Article 298 of the Constitution is not co-terminus with the limited legislative power conferred by Article 239AA(3)(a) on Delhi Government as Article 298 does not apply to the Union Territory of Delhi. In the opinion of the High Court, the proper course for the Delhi Government to follow, after having taken a decision to close down the lotteries, was to approach the Government of India for appropriate directions. In view of these reasons, the High Court struck down the decision of Delhi Government referred to hereinabove.

3. Feeling aggrieved by the judgment of Delhi High Court, the Government of National Capital Territory of Delhi has come up in appeal by special leave.

4. The contention of the learned Counsel for the appellant is that Delhi Government is a full fledged state and it has power to take administrative decisions and to implement them on all the subjects on which it has power to legislate. This has been disputed on behalf of the central government by the learned Attorney General submitting that Delhi continues to be a Union Territory administered through Lt. Governor.

5. In our opinion, the present case does not call for adjudication of the pleas and the constitutional issues raised before the court. It was conceded at the bar that in the year 1969, it was only a permission granted by the central government to Delhi Development Authority to run the lotteries occasionally' and on 1st April, 1992, the operation of the lotteries came to be transferred to Delhi government. The permission granted to Delhi Development Authority, later on transferred to Delhi Government, did not imply any compulsion to run the lotteries and if Delhi Government does not wish to run the lotteries, there is nothing in the decision of the central government which compels it to do so.

6. We are, therefore, of the opinion that the High Court need not have entered into and dwelt upon the questions which it did and as such, the expression of opinion by the High Court is unnecessary and uncalled for. Constitutional issues should not be decided unless that is necessary to do for the purpose of giving relief in a given case. We, therefore, do not express any opinion on the pleas raised in the writ petition and in the appeal and leave the same open for decision in an appropriate case.

7. The appeal be treated as disposed of.