SUPREME COURT OF INDIA

High Court of Madras

Vs.

M.Manickam & Ors.

C.A.No.7030-7031of 2011

(Mukundakam Sharma and Anil R.Dave,JJ.,)

17.08.2011

JUDGMENT

Dr.Mukundakam Sharma,J.,

SLP(Civil)No.3780-3781 of 2008

1. Delay condoned.

2. Leave granted.

3. The present appeals are filed against the judgments and orders dated 15.03.2007 and 21.07.2007 in Second Appeal No. 1064 of 2005, and Review Petition No. 19 of 2007, respectively, passed by the Madras High Court whereby it dismissed the second appeal and the review petition filed by the appellant herein accepting the contentions raised by the Respondent No. 1. By its judgments and orders aforementioned, the High Court set aside the judgment and decree of Subordinate Court and restored the judgment and decree of District Munsif Court dated 09.10.2002.

4. The facts leading to the filing of the present appeals are that the Respondent No. 1- M. Manickam joined the State Subordinate Judicial Service as District Munsif-cum-Judicial Magistrate on 04.11.1988, after getting duly selected for the said post by the Tamil Nadu Public Service Commission. It is alleged by the Respondent No. 1 that in his service records, his date of birth has been entered as 19.03.1947, as found in the S.S.L.C. Book, whereas his actual date of birth is 24.11.1950 and that due to the wrong entry of his date of birth in the service records, he would retire from his service 3 years, 8 months and 5 days before his actual date of superannuation.

5. He submitted a letter dated 07.10.1993 to the Chief Judicial Magistrate, Kanyakumari requesting him for permission to peruse his service register in which he submitted that his date of birth has wrongly been submitted. He also requested him for supplying of requisite proforma for changing his date of birth. Thereafter Respondent No. 1 submitted an

application dated 11.11.1993 to Registrar, High Court of Madras seeking change of his date of birth. In response to his application, the Administrative Officer of the High Court asked for certain particulars and documents in response to which Respondent No. 1 submitted his reply vide letter dated 27.01.1994.

6. Subsequent thereto Respondent No. 1 filed a Suit before the District Munsif Court, Karur, which was registered as O.S. No. 549/1995, for a declaration that his date of birth is 24.11.1950 and for a mandatory injunction to enter his date of birth in his S.S.L.C. book and in the Service Records as 24.11.1950, instead of 19.03.1947. The Munsif Court vide order dated 09.10.2002 decreed the suit in favour of Respondent No. 1 and against Respondent Nos. 2-4. The Munsif Court granted mandatory injunction against Respondent Nos. 2-4 to make the change of date of birth in their S.S.L.C. book. However, mandatory injunction against the present appellant to alter the date of birth in the service register was not granted.

7. Aggrieved by the decision of the Munsif Court, Respondent Nos. 2-4 filed an appeal before the Sub-Judge, Karur which was allowed by the Sub-Judge by its judgment and order dated 12.10.2004. Against the said order of the Sub-Judge, Respondent No. 1 preferred Second Appeal before the High Court of Madras which was registered as S.A.No. 1064 of 2005. The High Court vide its judgment and order dated 15.03.2007 allowed the second appeal of the Respondent No. 1 and restored the judgment and decree of the Trial Court. Review Petition filed by the appellant herein before the High Court also got dismissed vide order dated 21.07.2007. Against these orders of the High Court, viz., 15.03.2007 and 21.07.2007 the appellant has filed the present appeals, on which we heard learned counsel appearing for the parties.

8. Learned counsel appearing for the appellant submitted that the application filed by the respondent seeking for change of his date of birth was filed after the period of limitation contemplated under the Tamil Nadu State Judicial Service Rules (hereinafter referred to as "Rules") which is five years and therefore the decree and the judgment passed by the High Court affirming the decree of the Munsif is illegal and erroneous. In support of the said contention, the counsel relied upon the contents of the letter dated 7.10.1993 which was submitted by respondent No. 1 in which for the first time, he requested for perusal of his service register contending inter alia that his date of birth appears to be wrongly recorded for which he contemplated making of an application at a later point of time. It was submitted that in the said letter, the respondent No. 1 never made a request for said change of date of birth. According to him, the formal application was filed by respondent No. 1 only on 11.11.1993 to the Madras High Court requesting for passing suitable orders directing concerned authorities to change his date of birth as 24.11.1950 instead of 19.3.1947.

9. He further submitted that since representation for change of his date of birth was submitted after five years, therefore, the same was required to be rejected summarily in terms of the Rules. So far as the medical report to which reference was made by the courts below, it was submitted that the aforesaid medical report was not supported by any test report and proof of having made any ossification test or any supporting document like test reports or X-Ray

reports and therefore the said medical report relied upon by respondent No. 1 and done at his instance is of no evidentiary value and is of no assistance.

10.He also submitted that reliance on the horoscope itself for change of birth is unfounded as the said horoscope is not only a very weak piece of evidence but the horoscope on which reliance is placed by respondent No. 1 is doubtful and appears to have been created for the purpose of fortifying the claim for change of date of birth.

11.He had also drawn our attention to the copy of the S.S.L.C.certificate. By way of reference to the said S.S.L.C. certificate, it was submitted that originally the date of birth of respondent No. 1 was recorded as 19.3.1947 which appears to have been subsequently changed in a different handwriting, changing it to 24.11.1950 without indicating as to who had changed the same. There is neither the identification of the person who corrected the same nor any seal of the concerned authority permitting and making such necessary changes.

12.The aforesaid contentions of the counsel appearing for the appellant were refuted by the counsel appearing for the respondent No. 1 who submitted that in the present case, the respondent No. 1 has submitted not only documentary evidence in support of his claim but such a claim for change of his date of birth was also supported by medical evidence as also oral evidence. He also submitted that inadmissibility of the horoscope was not a question raised in the special leave petition and therefore, the same cannot be gone into and cannot be made a case to exercise jurisdiction under Article 136 of the Constitution of India. He submitted that the aforesaid change of date of birth in the S.S.L.C. certificate was made pursuant to an order made by the competent authority and therefore, there is nothing wrong in relying on the same by the High Court as also by the Munsif Court who held in favour of respondent No. 1.

13. We have perused the records very carefully in the light of the aforesaid submissions. Rule 30 of the then Rules which is the relevant service Rule for deciding the case provides for the procedure for alteration of date of birth. Sub-Rule (a) of Rule 30 provides that if at the time of his appointment in service by direct recruitment, a candidate claims that his date of birth is different from that entered in the S.S.L.C. books or Matriculation Register or School Records, he should make an application through the High Court stating the evidence on which he relies and stating that how the mistake had occurred. The said application when received should be forwarded to the Board of Revenue for report after investigation by an officer not below the rank of Deputy Collector and on receipt of the report, the Government should decide as to whether such alteration of date of birth should be permitted or the application should be rejected. Sub Rule (b) of Rule 30 provides that after the person has entered the service by direct recruitment, an application to correct his date of birth as entered in the official records should normally be entertained only if such application is made within five years of such entry into the service and that such application shall be made to the government through the High Court and should be disposed of in accordance with the procedure laid down in sub-Rule (a). Sub-Rule (c) of Rule 30 on the other hand, provides that any application received after five years of entry into service should be summarily rejected.

14. Counsel appearing for the respondent No. 1 put his emphasis on the word "normally" in sub-rule (b). This sub-rule (b) is indisputably applicable to the respondent. However, sub-rule (c) which immediately follows makes it mandatory that an application which is received after five years of entry into the service should be summarily rejected. Therefore, the pre-requisite of filing such an application is that it must be submitted within five years period and when it is so submitted the same should be entertained.

15. In this case, the formal application was admittedly filed after expiry of the period of five years. Sub-Rule (a) of Rule 30 clearly emphasizes that the application seeking for change of date of birth is to be made to the government through the High Court. The letter on which reliance is placed by respondent No. 1 which is dated 11.11.1993 is not addressed to the government but it is addressed to the Registrar of the High Court and in that application the respondent No. 1 has formally sought for change of his date of birth stating the reason as to why such date of birth is called for.

16. In *Punjab & Haryana High Court at Chandigarh Vs. Megh Raj Garg and Another reported in*[1] this Court while dealing with the issue of limitation in the case of application for change of date of birth, held as follows:-

> "13. If the correct date of birth of Respondent 1 was 27-3-1938 and this was supported by the certificates is- sued by the schools in which he had studied before ap- pearing in the matriculation examination, then he would have immediately after joining the service made an application to the University for change of the date of birth recorded in the matriculation certificate and persuaded the authority concerned to decide the same so as to enable him to move the State Government and the High Court for making corresponding change in the date of birth recorded in his service book in terms of Para 1 of Annexure A to Chapter II of the Punjab Civil Service Rules, Volume I.....
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> 15. The High Court or for that reason the State Government did not have the power, jurisdiction or authority to entertain the representation made by Respondent 1 after more than twelve years of his entering into service. Therefore, neither of them committed any illegality by refusing to accept the prayer made by Respondent 1 on the basis of change effected by the University in the date of birth recorded in his matriculation certificate. Unfortunately, the trial court, the lower appellate court and the learned Single Judge of the High Court totally misdirected themselves in appreciating the true scope of the embargo contained in the relevant rule against the entertaining of an application for correction of the date of birth after two years of the government servant's entry into service and all of them committed grave error by nullifying the decision taken by the State Government in consultation with the High Court not to accept the representation made by Respondent 1 for change of the date of birth recorded in his service book.

17. This Court has time and again cautioned the civil courts and the High Courts against entertaining and accepting the claim made by the employees long after entering into service for correction of the recorded date of birth. In *Union of India v. Harnam Singh* this Court considered the question whether the employer was justified in declining the respondent's request for correction of the date of birth made after thirty-five years of his induction into the service and whether the Central Administrative Tribunal was justified in allowing the original application filed by him. While reversing the order of the Tribunal, this Court observed: (SCC pp. 167-68, para 7) 7. A government servant, after entry into service, acquires the right to continue in service till the age of retirement, as fixed by the State in exercise of its powers regulating conditions of service, unless the services are dispensed with on other grounds contained in the relevant service rules after following the procedure prescribed therein. The date of birth entered in the service records of a civil servant is, thus of utmost importance for the reason that the right to continue in service stands decided by its entry in the service record. A government servant who has declared his age at the initial stage of the employment is, of course, not precluded from making a request later on for correcting his age. It is open to a civil servant to claim correction of his date of birth, if he is in possession of irrefutable proof relating to his date of birth as different from the one earlier recorded and even if there is no period of limitation prescribed for seeking correction of date of birth, the government servant must do so without any unreasonable delay. In the absence of any provision in the rules for correction of date of birth, the general principle of refusing relief on grounds of laches or stale claims, is generally applied by the courts and tribunals. It is nonetheless competent for the Government to fix a time-limit, in the service rules, after which no application for correction of date of birth of a government servant can be entertained. A government servant who makes an application for correction of date of birth beyond the time, so fixed, therefore, cannot claim, as a matter of right, the correction of his date of birth even if he has good evidence to establish that the recorded date of birth is clearly erroneous. The law of limitation may operate harshly but it has to be applied with all its rigour and the courts or tribunals cannot come to the aid of those who sleep over their rights and allow the period of limitation to expire. Unless altered, his date of birth as recorded would determine his date of superannuation even if it amounts to abridging his right to continue in service on the basis of his actual age."

(emphasis supplied)

Again in *Union of India Vs. Harnam Singh reported in*[2] this Court said about limitation in paragraph 7 in the following manner:-

> "7. ..... It is nonetheless competent for the Government to fix a time-limit, in the service rules, after which no application for correction of date of birth of a Government servant can be entertained. A Government servant who makes an application for correction of date of birth beyond the time, so fixed, therefore, cannot claim, as a matter of right, the correction of his date of birth even if he has good evidence to establish that the recorded date of birth is clearly erroneous. The law of limitation may operate harshly but it has to be applied with all its rigour and the courts or tribunals cannot come to the aid of those who sleep over their rights and

allow the period of limitation to expire. Unless altered, his date of birth as recorded would determine his date of superannuation even if it amounts to abridging his right to continue in service on the basis of his actual age. ...."

17. Therefore, strictly speaking the Respondent while filing the said application did not follow the mandate and requisites of Rule 30 of the Rules. The application was not addressed to the State Government nor the procedure prescribed in sub-Rule (a), which is applicable even for a case where sub-Rule (b) applies was not adhered to nor the said application was filed within five years. Therefore, in terms of sub-rule (c) it was to be summarily rejected.
But, instead of deciding the present appeal only on the aforesaid ground, we proceed to decide on the other issues also which were urged before us and which in our considered opinion call for our decision.

18. So far as the contention with regard to change made in the S.S.L.C. Certificate is concerned, we have perused the said certificate. In the said certificate, it was clearly mentioned that his date of birth was 19.3.1947 which was entered into by the headmaster of the concerned school. It also contained the declaration of the father of respondent No. 1. The signature of the father of the respondent No. 1 is clearly visible on the declaration and the signature is distinct, bold and beautifully written and therefore appears to be that of a man of letters. The date recorded therein came to be changed to 24.11.1950 by someone by putting his initials, but the same is also without any date and no seal also appears to have been appended thereto in support of such change.

19. Sub-Section(1) of Section 13 of the Registration of Births and Deaths Act, 1969 provides that any birth or death of which information is given to the Registrar after expiry of the period specified therein, but within thirty days of its occurrence, shall be registered on payment of such late fee as may be prescribed. Sub-section (2) thereof provides that any birth or death of which delayed information is given to the Registrar after thirty days but within one year of its occurrence shall be registered only with the written permission of the prescribed authority and on payment of the prescribed fee and the production of an affidavit made before a notary public or any other officer authorized in this behalf by the State Government. Sub-section (3) of Section 30 which is relevant for our purpose also provides that any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order made by a Magistrate of the first class or a Presidency Magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee. There is nothing in the evidence to indicate that the pre-conditions and the requisites of sub-section (3) of Section 30 were followed in the instant case by respondent No. 1. No order of the Magistrate of the first class or Presidency Magistrate is placed on record to prove and establish that such an order was passed after verifying the correctness of the birth nor any other connected document thereof is placed on record and therefore, the change apparently was not made in terms of the aforesaid mandate of Section 13 of Registration of Births and Deaths Act, 1969.

20. Reliance is placed by respondent No. 1 on the evidence of the doctor and the medical certificate. PW-2 is Shri Newmen who has proved the medical certificate stating that he was

the Chairman of the Medical Board and that the medical certificate was given to the plaintiff/respondent No. 1 by the Medical Board which is Ext. A-12. He stated in his examination-in-chief that he was the Chief of the Board formed for issuance of Ex. A-12, which is relied upon by plaintiff/respondent No. 1 and one doctor in Pathology, one General Medical Expert and one Radiologist were in that team. He has also stated that the said medical team generally examined plaintiff/respondent No. 1 and examined him radiologically and came to the conclusion as per Ex. A-12. He also stated that what kind of examination was conducted on plaintiff/respondent No. 1 is noted in the report of the Medical Board.

21. He has specifically stated in his deposition that he has not produced the test report or its copy before the Court showing supporting documents and the tests based on which they had determined the age of respondent No. 1/plaintiff. It must be indicated at this stage that respondent No. 1/plaintiff himself went to the Medical Board and got himself examined and obtained the aforesaid report which was brought in evidence. At the top of the aforesaid medical certificate, it is written as "Age Proof Certificate". The said age proof certificate is signed by the Chairman and also signed by two other members. What is recorded in the said age proof certificate is extracted below:-

> "This is to certify that MEDICAL BOARD No. Office at TIRUPUR have carefully examined THIRU MANICKAM, S/o Thiru V. Muthusamy, Subordinate Judge, Udumalpet an applicant for Age Certificate. His identification marks are;
>
> 1. A Black mole on the right collar bone.
>
> 2. A Black mole on the right hand. According to my physical examination and personal of his appearance of the individual, he appears to be about 48 years (Forty Eight years) according to his own statement"

22. In our considered opinion, the said medical certificate is very vague and unreliable. Whether or not any radiological examination was done and if so, of what nature, and also whether any ossification test was done or not is not reflected from the said report. It is only stated in the certificate that on the basis of physical examination and from his appearance and on the basis of his own statement the age of the respondent was determined as 48 years.

23. This Court in the case of *Ramdeo Chauhan alias Raj Nath v. State of Assam reported in*[3] while dealing with the reliability of the ossification test held as follows: -

> "21. ..... An X-ray ossification test may provide a surer basis for determining the age of an individual than the opinion of a medical expert but it can by no means be so infallible and accurate a test as to indicate the exact date of birth of the person concerned. Too much of reliance cannot be placed upon textbooks, on medical jurisprudence and toxicology while determining the age of an accused. In this vast country with varied latitudes, heights, environment, vegetation and nutrition, the height and weight cannot be expected to be uniform."

24. That age proof certificate appears to have been got prepared for the purpose of adducing evidence at the time of hearing of the suit and not before. The document is also found to unrealistic and unreliable. Considering the facts and circumstances of the case, it is very difficult to place any reliance on the authenticity and validity of the said age proof certificate. Respondent No. 1 also relied upon the evidence of two persons in support of his contention that he was born in the year 1950. Let us now proceed to consider the strength of such oral evidence.

25. PW-3, Murugan who is the elder brother of respondent No. 1 was examined. He had stated that respondent No. 1/plaintiff was born in the year 1950. He also stated that in their family except respondent No. 1, nobody studied in school or college which is found to be incorrect because at a later stage he himself had stated that he had studied upto 2nd or 3rd standard.

26. He also stated that generally when the child is born, the same is registered with the Village Munsif and that he did not know whether his father had informed the village Munsif about the birth of respondent No. 1. He had stated that while his brother was at the age of about three or four years, to get him admitted in the school, his father had given innocently his age as about 7 or 8 years and got respondent No. 1 admitted in the school.

27. The only other witness who was examined to prove the age of respondent No. 1 was Chettiappa Velar, PW-4 who had stated that respondent No. 1 was born in the year 1950 and that he also got married in the year 1950. However, in the cross-examination, he could not say as to what is the date and month in which the respondent No. 1 was born. He also could not give the date and month of his marriage as well.

28. The aforesaid evidence adduced by respondent No. 1 in support of his case is most unreliable. Change of date of birth is a very important responsibility to be discharged for there is a general tendency amongst the employees to lower their age and change their date of birth to suit their career and to lengthen their service career. In paragraph 6 of the judgment of this Court in *State of U.P. v. Shiv Narayan Upadhyaya reported in*[4], this Court held thus: -

> "6. .....But, of late a trend can be noticed, that many public servants, on the eve of their retirement waking up from their supine slumber raise a dispute about their service records, by either invoking the jurisdiction of the High Court under Article 226 of the Constitution or by filing applications before the Administrative Tribunals concerned, or even filing suits for adjudication as to whether the date of birth recorded is correct or not."

Again in Para 9 of the said judgment it was stated thus: -

> "9..As such, unless a clear case on the basis of clinching materials which can be held to be conclusive in nature, is made out by the respondent and that too within a reasonable time as

provided in the rules governing the service, the court or the Tribunal should not issue a direction or make a declaration on the basis of materials which make such claim only plausible. Before any such direction is issued or declaration made, the court or the Tribunal must be fully satisfied that there has been real injustice to the person concerned and his claim for correction of date of birth has been made in accordance with the procedure prescribed, and within the time fixed by any rule or order....."

29. There must be strong, cogent and reliable evidence in support of the contention that the date of birth entered in the service records or in the S.S.L.C. certificate was wrongly entered by a mistake.

30. In *State of Punjab Vs. Mohinder Singh reported in*[5] this Court had occasion to deal with the evidentiary value of horoscope as proof of date of birth. It was held in that decision that a horoscope is very weak piece of material to prove age of a person and in most of the cases the maker may not be available to prove that it was prepared immediately after the birth and therefore a heavy onus lies on the person who wants to press it to prove its authenticity. It was further held that in fact a horoscope to be treated as evidence in terms of Section 32(5) of Evidence Act, 1872, it must be proved to have been made by a person having special means of knowledge as regards authenticity of the date, time etc. mentioned therein. In that context horoscopes have been held to be inadmissible in proof of age.

31. Keeping the aforesaid principles laid down by this Court in our mind, we proceed to examine the evidentiary value of the horoscope which is relied upon by the respondent No. 1 in support of his claim. The aforesaid horoscope is the basis and foundation on which the respondent No. 1 primarily relies upon. The said horoscope, therefore, must be shown to have been made by a person who has special knowledge of making such a horoscope. The creator of the horoscope or the writer is not examined in the present case as he was stated to be dead. None of his family members or any of his acquaintances was examined to prove handwriting. In order to come to a definite decision about the authenticity and evidentiary value or the reliability of the document, we have ourselves closely and very minutely considered the horoscope.

32. Having gone through the same, we find that although it is stated to be a notebook containing the horoscopes of all the sons and daughters of the father of Respondent No. 1 made at different points of time, but a bare perusal of the document would indicate that all the horoscopes are made at one point of time by the same person at one go and not on different dates as sought to be claimed. The book allegedly containing horoscopes of all persons was shown to be maintained from 1939 to 1953. For all the horoscopes written between a period of 14 years the same ink was used by the same writer. First horoscope was of 1939 and written in that year in a note book distributed and published from Trichy-2. At that time, i.e., before independence there was no postal zone. As per materials available the Indian Postal Service which was constituted after Independence has introduced a PIN code system "the Postal Index Number Code System" in India on 15.08.1972. The objective of introduction of the said Code was to simplify the sorting of mails and thus speed up their

transmission and delivery. Since this system came in 1972 the note book has to be of a period after 1972 and, therefore, the contention that immediately on birth of a member in the family, the date of birth was entered in the note book has been falsified. Therefore, it reinforces the findings of this Court that the Respondent No. 1 has incorrectly stated the year of preparation of horoscope. It could be deduced from the materials on record that somewhere around 1993 this document was got prepared. If such a notebook was available, nothing is stated as to why the same could not have been looked at and produced at the time of his admission in the school or at the time of his admission in the college or even at the time when he was entering into the service. From the signature appearing on the school leaving certificate, we find that the father of respondent No. 1 was a man of letters and there was no reason as to why he would subscribe to a wrong age as alleged and that too in his S.S.L.C.

Certificate.

33. The aforesaid S.S.L.C. certificate with the date 19.3.1947 was produced by him at the time of his entry into the college as also in entry into the service knowing fully well that, that particular age is factually recorded. The said notebook allegedly contained the horoscopes of all the persons prepared at different points of time and therefore the said date of birth was known to the family and therefore, if it existed at that point of time, it would have definitely been placed at the time of his entry to the school or admission in the college or the same would have been relied upon at least at the time of his entry to the service. We reiterate the proposition of law laid down by this Court in the aforesaid decision that horoscope is a very weak piece of material to prove age of a person and that heavy onus lies on a person who wants to press it into service to prove its authenticity.

34. We are of a firm opinion that respondent No. 1 has failed to discharge his onus in proving the authenticity of the aforesaid horoscope on which reliance is placed. Since the aforesaid horoscope is a primary document on which reliance is placed for change of his date of birth, therefore, the same is required to be looked into very carefully and minutely so as to ascertain the genuineness of the claim of respondent No. 1. There cannot be any bar to examine the authenticity and evidentiary value of the same while exercising the power under Article 136 of the Constitution of India. Power under Article 136 of the Constitution of India permit such a scrutiny particularly when it relates to the change of date of birth of a person who seeks to get an advantage to his benefit to which he otherwise may not be entitled to. In the decision of this Court in *Ramakant Rai v. Madan Rai and Others reported in*[6] the ambit and scope of power of Article 136 is stated thus: -

> "14. .....In express terms, Article 136 does not confer a right of appeal on a party as such but it confers a wide discretionary power on this Court to interfere in suitable cases. The discretionary dimension is considerable but that relates to the power of the Court. Article 136 is a special jurisdiction. It is residuary power; it is extraordinary in its amplitude, its limits, when it chases injustice, is the sky itself. This Court functionally fulfils itself by reaching out to injustice wherever it is and this power is largely derived in the common run of cases from Article 136. ....."

The difference of age in the present case is also considerable, as it is 3 years, 8 months and 5 days.

35. When we look into the dispute and the matter from any angle, we find that the judgment and the decree passed by the Munsif Court which is affirmed by the High Court cannot be sustained and is liable to be set aside. We hereby set aside the judgment and decree of the High Court and hold that respondent No. 1 has failed to prove that any change of date of birth is called for in the present case. The appeals are allowed and the suit stands dismissed, leaving the parties to bear their own costs.

Judgment Referred.

[1]*(2010) 6 SCC 0482*
[2]*(1993) 2 SCC 0162*
[3]*(2001) 5 SCC 0714*
[4]*(2005) 6 SCC 0049*
[5]*(2005) 3 SCC 0702*
[6]*(2003) 12 SCC 0395*