

A THE LT. GOVERNOR & ORS.
v.
SHIV CHANDER MORE & ORS.
(Civil Appeal No. 5091 of 2004)

B APRIL 9, 2008
(DR. ARIJIT PASAYAT, P. SATHASIVAM AND
AFTAB ALAM, JJ.)

Administrative Law:

C *Grant/renewal of licence – Authorities found second*
renewal not permissible in view of the judgment of Supreme
Court in Ratan Kaur vs. Union of India – Challenge to – Single
Judge of the High Court held that the decision in the said
D *judgment applicable, however, granted the relief – Division*
Bench of the High Court held that the decision in the said
judgment not applicable – Correctness of – Held: Incorrect –
It was not open for the Division Bench of the High Court to
take a different view without indicating any reasons in support
thereto – The authorities rightly refused to grant/renewal of
E *licence.*

The question which arose for determination in this
appeal was as to whether the Lt. Governor was right in
refusing to grant/renew the licence to respondent in terms
of the judgment of this Court in *Ratan Kaur vs. Union of*
F *India.*

Allowing the appeals, the Court

HELD: The Lt. Governor rightly found that a second
renewal was not permissible in view of a judgment of this
G Court in *Ratan Kaur vs. Union of India.* Once Single Judge
of the High Court held that the decision was applicable, it
was not open to the Division bench of the High Court to
take a different view without even indicating any
distinguishing feature. (Para – 2) [107-F, H, 108-A]

Ratan Kaur vs. Union of India (1997) 10 SCC 61 – A
referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal No.
5091 of 2004

From the final Judgment and Order dated 06.02.2002 of B
the High Court of Calcutta, Circuit Bench at Port Blair in M.A.T.
No. 28 of 2001.

WITH

Civil Appeal No. 5092 of 2004. C

T.S. Doabia, Varuna Bhandari Gugnani, A. Tariq and D.S.
Mahra for the Appellants.

Vijay Hansaria, Sneh Kalita, Parmanand, Rajiv Talwar and
Sushma Suri for the Respondents. D

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. CIVIL APPEAL NO.5091 OF
2004.

1. Heard learned counsel for the parties. E

2. We find the approach of the High Court, (both learned
Single Judge and the Division Bench), to be erroneous. It is
conceded by learned counsel for the respondent that the
representation made on 05.05.2000 by Shiv Chander More was
for a fresh grant of license. The Ltd. Governor found and, in our
view, rightly, that a second renewal was not permissible referring
to a judgment of this Court in *Ratan Kaur Vs. Union of India*
(1997 (10) SCC 61). The order was challenged before learned
Single Judge. Strangely, though learned Single Judge held that
the decision was applicable but nevertheless granted relief to
the respondent. The matter was carried in appeal before the
Division Bench by the Lt. Governor, the Deputy Commissioner
and the Tahsildar. Peculiarly, the Division Bench found that the
decision in *Ratan Kaur's* case (*supra*) to be not applicable to
the facts and circumstances of the case. Once learned Single F
G
H

- A Judge held that the decision was applicable, it was not open to the Division Bench to take a different view without even indicating any distinguishing feature. However, Mr. Vijay Hansaria, learned senior counsel appearing for respondent Nos. 1 to 4 submitted that the representation did not reflect the correct state of affairs, and in fact, what was being objected to was the action for eviction. That matter was never projected before the Lt. Governor and, as noted above, the prayer was for renewal. The order of the Lt. Governor, therefore, was legal and proper and the High Court should not have interfered with it. If the respondent has any remedy, as claimed, other than seeking fresh grant and/or renewal, that did not fall for consideration in the representation before the Lt. Governor and the High Court. We express no opinion in that regard.

- D 3. The appeal is allowed to the aforesaid extent without any order as to costs.

CIVIL APPEAL NO. 5092 OF 2004

In view of the judgment in Civil Appeal No.5091 of 2004, this appeal is allowed.

- E S.K.S. Appeals allowed.