

SCA/8561/2002 4/4 JUDGMENT

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8561 of 2002

For Approval and Signature:

HONOURABLE MR. JUSTICE AKIL KURESHI

- =====
- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?
- =====

IPCL EMPLOYEES ASSOCIATION & 2 - Petitioner(s)

Versus

UNION OF INDIA & 1 - Respondent(s)

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Appearance :

MR SHALIN N MEHTA for Petitioner(s) : 1 - 3.
MR DEVANG NANAVATI for Respondent(s) : 1,
MR KL PANDYA for Respondent(s) : 1,
NANAVATI ASSOCIATES for Respondent(s) : 2,

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CORAM : HONOURABLE MR. JUSTICE AKIL KURESHI

Date : 01/12/2010

ORAL JUDGMENT

This petition has been filed by the Union- IPCL Employees Association. Main prayer of the petitioners is for supplying of Shareholders' Agreement entered into between the Government of India and the Strategic Partner Reliance Petroinvestment Limited. In paragraph 19(A), the prayer has been worded in following manner :

"19. xxxxx

A) Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents herein to make public or to disclose the Shareholders' Agreement signed between the Government of India and the Strategic Partner Reliance Petroinvestment Limited, and to further supply a copy of the Shareholders' Agreement to the petitioner union:"

Though there are other prayers incidental to the said main prayer, the entire focus of the petitioners is on obtaining copy of the said document.

The said prayer is made in the background of the fact that at the time when the petitioners approached the High Court, the employer company - IPCL was undergoing disinvestment. IPCL till then was Government owned company. It is the case of the petitioners that when such Government owned company was being privatized, consultation of the unions of the workers of the company was necessary. It was in this background that the petitioners required the said document to be able to oppose any disinvestment plan.

Learned counsel for the petitioners submitted that

Union of India at the relevant time did not supply such document. In the affidavit filed before the Court also, no privilege had been claimed. Any stand that in the interest of security such document could not have been supplied was not valid. The stand that the petitioners have no locus standi was not valid. He relied on paragraphs 54, 56 and 61 of the decision reported in Balco Employees' Union (Regd.) V/s Union of India and others reported in (2002)2 SCC 333 in support of his contentions.

Learned counsel for respondent no.2, however, submitted that disinvestment took place long back. Such documents could be claimed by the petitioners even under the Right to Information Act now. No useful purpose would be served in giving any directions as prayed for by the petitioners.

In Balco Employees' Union (supra), the Apex Court has observed in paragraph 59 as under:

"59. In this connection, we approve the following observations of the Karnataka High Court in Prof. Babu Mathew V. Union of India where the Court while dealing with disinvestment upto 49% of the Government's holding in a public sector company observed at p.478G-H as follows:

"Any economic reform, including disinvestment in PSEs is intended to shake the system for public good. The intention of disinvestment is to make PSEs more efficient and competitive and perform better. The concept of the public sector and what should be the role of the public sector in the development of the country, are matters of policy closely linked to economic reforms. While it is true that any policy of the Government should be in public interest, it is

not shown how prior consultation with employees of a PSE before disinvestment is a facet of such public interest."

Prima facie, in view of the observations of the Apex Court, petitioners appear to be correct in contending that they had a voice at the time when disinvestment process was going on and for that purpose certain essential documents would be required to be supplied to them.

In the present case, however, disinvestment took place many years back. The entire process is over. No useful purpose would be served in directing supplying of these documents to the petitioners. The petition is disposed of leaving legal question open to be decided in appropriate case. This petition is disposed of accordingly.

(Akil Kureshi, J)

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