

Before M. M. Kumar and H. S. Bhalla, JJ.

UNION OF INDIA AND ANOTHER,—*Appellants*

versus

KRISHAN GOPAL DHAWAN,—*Respondent*

LPA No. 164 of 2005 in

C.W.P. 1547 of 1999

5th February, 2009

Constitution of India, 1950—Art. 226—Instructions dated 30th March, 1985 (revised on 30th March, 1989) issued by Government of India—Paragraph 3.1.1, 4 and 4.1—Seizure of contraband goods on information supplied by petitioner—Sanction for reward accorded—Petitioner claiming reward money up to 20% of market value of contraband as per paragraph 3.1.1 of Instructions dated 30th March, 1985—Revised instructions provide that final reward should be paid only after actual realization of Central Excise duty/customs/penalty/fine etc.—Sufficient amount already awarded to petitioner—No judicial review of reasons recorded by department for announcing award limiting same to a particular sum—Single Judge committing error in law rewarding 20% of total amount of contraband items—Appeal allowed, order of Single Judge set aside.

Held, that no direction could be issued to the appellant for rewarding the full amount because the appellant has taken a categorical stand that the petitioner-respondent was not entitled to any other relief as sufficient amount of over Rs. 10 lakhs was rewarded for a vague information supplied by him. The further stand of the appellant in the written statement was that the petitioner-respondent did not come forward to apprehend the culprits nor his life was put to risk by the appellant-department. Therefore, we are of the considered view that the learned Single Judge committed error in law by issuing directions to the appellant because no mandamus could be issued on the basis of instructions dated 30th March, 1985 as revised on 30th March, 1989.

Secondly the revised instructions have not been considered by the learned Single Judge and thirdly, the reasons recorded by the officers of the appellant-department for announcing the award limiting the same to a particular sum could not be subjected to judicial review. Therefore, the appeal merits acceptance. Consequently, the writ petition filed by the petitioner-respondent is liable to be dismissed.

(Para 9)

None for the appellants.

Mr. Gaurav Chopra, Advocate, *for the respondent*.

M. M. KUMAR, J.

(1) This appeal filed under Clause X of the Letters Patent, is directed against judgment dated 27th April, 2005 passed by the learned Single Judge of this Court rendered in C.W.P. No. 1547 of 1999. The learned Single Judge has allowed the prayer of the petitioner-respondent and has issued directions to the appellant that the petitioner-respondent be rewarded 20% of the total amount of the contraband items seized by him in pursuance of the policy instructions dated 30th March, 1985.

(2) Brief facts of the case are that on the information supplied by the petitioner-respondent, 245 gold biscuits were seized by the Custom and Police Department on 17th January, 1994. Even the smugglers were arrested. In pursuance of the policy instructions dated 30th March, 1985, the revenue accorded sanction for rewarding the petitioner-respondent a sum of Rs. 7,14,000 and the same was paid to him on 30th May, 1994. The petitioner-respondent was further informed that the final reward would be paid to him only after the case had been finally adjudicated upon by the competent authority. Thereafter, a further sum of Rs. 3,00,000 has been sanctioned and paid to the petitioner-respondent.

(3) The petitioner-respondent did not feel satisfied with the reward money paid to him and continued making representations to the appellant claiming that as per paragraph 3.1.1 of the Government instructions dated 30th March, 1985 (P-1), he was entitled to the reward money of up to 20% of the market value of the contrabands involved

and that he had received only a paltry amount. Eventually, the petitioner-respondent issued a legal notice through his counsel which did not elicit any response which led to the filing of C.W.P. No. 1547 of 1999 before this Court.

(4) After taking into account the written statement filed by the appellant and weighing the rival contention, the learned Single Judge felt persuaded to take the view that although according to para 3.1.1 of the instructions, the maximum reward money could be 20% yet according to para 4.1 if the amount lesser than the 20% was to be paid then some reason must be spelt out by the competent authority at a stage prior to the payment of the reward. The learned Single Judge then proceeded to notice para 9 of the written statement and observed as under :—

“It is indeed surprising that the respondents, while accepting the information given by the petitioner, leading to the recovery, have held that the competent authority was of the opinion that only vague information had been supplied by the petitioner and that he had himself not come forward to apprehend the culprits and was therefore not entitled to the full reward amount. I, however, find that the reasons given in Paragraph 9 of the written statement are clearly irrelevant and an after thought. To say that the information given by the petitioner was vague, is to say the least clearly unacceptable. Moreover, it would be evident from the instructions, Annexure P-1, that the reward has to be given to an informer leading to the recovery of contraband and it is not the requirement of the instructions that he should participate in the apprehension of the smugglers, which was clearly the duty of the employees of the department.

I had, at one stage toyed with the idea of remitting the matter to the department for reconsideration but in the light of the fact that the department had taken a firm stand in the written statement, challenging the petitioner’s claim, it would be futile exercise to do so.”

(5) We have perused the pleading of the parties and have examined the view taken by the learned Single Judge. After close scrutiny, we have reached the conclusion that the view taken by the learned Single Judge does not merit acceptance because the matter is no longer *res integra*. In the case of **Union of India versus C. Krishna Reddy (1)**, the policy instructions dated 30th March, 1985 were considered. The instructions have been revised on 30th March, 1989. On 17th January, 1994, the information was supplied by the petitioner—respondent to the appellant—department, therefore, the revised instructions would govern the issue. It is pertinent to notice that paras 4 and 4.1 of the instructions in categorical terms clarifies that the reward is purely *exgratia* payment which subject to the guidelines, may be awarded on the absolute discretion of the authority. Paras 4 and 4.1 of the policy instructions read as under :—

“4. Reward should not be granted as a matter of routine.

4.1 Reward is purely an *exgratia* payment which subject to the guidelines, may be granted on the absolute discretion of the authority competent to grant rewards and cannot be claimed by anyone as a matter of right. In determining the reward will keep in mind the specificity and accuracy of the information, the risk and trouble undertaken, the extent and nature of the help rendered by the informer, whether information gives clues to persons involved in smuggling, or their associates, etc. the risk involved for the Government servants in working out the case, the difficulty in securing the information, the extent to which the vigilance of the staff led to the seizure special initiative efforts and ingenuity displayed etc. and whether besides the seizures of contraband goods, the owners/organisers/financers/racketeers as well as the carriers have been apprehended or not.”

(6) The aforesaid guidelines were reviewed and modified on 30th March, 1989, which provided ‘that final reward should be paid

(1) (2003) 12 S.C.C. 627

only after actual realization of the Central Exercise duty/customs/penalty/fine etc.’

(7) After noticing the aforementioned paras of the policy instructions, Hon’ble the Supreme Court in *C. Krishna Reddy*’ case held that many factors have to be taken into account by the competent authority before announcing the reward. It further held that the factors like specificity and accuracy of the information, the risk and trouble undertaken, the extent or the nature of help rendered by the informer, whether information gives clues of the person involved in smuggling or their associates, the difficulty in securing the information, the risk involved for the Government servants in working out the case and whether apart from seizure of the contraband goods, the owners/organisers/financers/racketeers have been apprehended. The Supreme Court went on to observe in para 12 as under :—

“The High Court in writ jurisdiction cannot examine or weigh the various factors which have to be taken into consideration while deciding a claim regarding grant of reward. These are matters exclusively within the domain of the authorities of the Department as they alone can weigh and examine the usefulness or otherwise of the information given by the informer. In the writ petition filed by the respondent, no details had been given on the relevant issues. If the grant of reward cannot be claimed as a matter of right it is not understandable as to how a writ of mandamus can be issued commanding the Government to give a particular amount by way of reward.....”

(8) Hon’ble the Supreme Court further held that a writ of mandamus can only be granted in a case where there is a statutory duty imposed upon the officer concerned and failure on the part of that officer to discharge the statutory obligation. Therefore, it is required to be shown that a statute imposes a legal duty and the aggrieved party has a legal right under the statute to enforce its performance. The Supreme

Court relied upon its earlier judgments rendered in the case of **Bihar Eastern Gangetic Fishermen Co-operative Society Ltd. versus Sipahi Singh, (2)**, **Lekhraj Satram Dass Laivanai versus Deputy Custodian-cum-Managing Officer, (3)** and **Dr. Umakant Saran versus State of Bihar, (4)**.

(9) The principles laid down by the Hon'ble Supreme Court in C. Krishna Reddy's case when applied to the facts of the present case would show that no direction could be issued to the appellant for rewarding the full amount because the appellant has taken a categorical stand in para 9 of the written statement that the petitioner-respondent was not entitled to any other relief as sufficient amount of over Rs. 10 lakhs was rewarded for a vague information supplied by him. The further stand of the appellant in the written statement was that the petitioner-respondent did not come forward to apprehend the culprits nor his life was put to risk by the appellant- department. Therefore, we are of the considered view that the learned Single Judge committed error in law by issuing directions to the appellant because no *mandamus* could be issued on the basis of instructions dated 30th March, 1985 as revised on 30th March, 1989. Secondly, the revised instructions have not been considered by the learned Single Judge and thirdly, the reasons recorded by the officers of the appellant-department for announcing the award limiting the same to a particular sum could not be subjected to judicial review. Therefore, the appeal merits acceptance. Consequently, the writ petition filed by the petitioner-respondent is liable to be dismissed.

(10) For the reasons aforementioned, the judgment of the learned Single Judge dated 27th April, 2005 is hereby set aside and the writ petition filed by the petitioner-respondent is dismissed.

R.N.R.

(2) AIR 1977 S.C. 2149

(3) AIR 1966 S.C. 334

(4) AIR 1973 S.C. 964