

would clearly show that the petitioner had been appointed before the said meeting was held.. The Minutes further show that the Governing Council had *only noted the fact* of appointment of the petitioner and no approval was accorded because it was not required.”

(13) From a reading of the above averments it appears that the matter regarding the appointment of the petitioner to the post of Secretary was placed before the Governing Council and it had noted the appointment. Surely if the Council had any reservation regarding the appointment, it could have disapproved. I, however, cannot persuade myself to hold that the appointment was not approved. When the Governing Council did not object to the appointment it shall be deemed to have accorded its approval to the appointment of the petitioner. I am further of the view that the approval would relate back to the date of original appointment. In my view the appointment had been approved by the Governing Council and was thus in accordance with the rules.

(14) In any case, the validity of the petitioner's appointment is not in issue in the present case.

(15) I, therefore, hold that a function entrusted to an authority must be performed by that authority only and that too in the exercise of its own judgment. It can delegate its function only if there is a specific power to do so. Such a power is lacking in the present case.

(16) In view of the finding that the action of the Principal Director was without, jurisdiction, it is not necessary to go into the other contentions raised in the petition. I, therefore, allow this petition and quash the orders at Annexures P-25 and P-26. The petitioner shall also be entitled to his costs, which are assessed as Rs. 2,000.

R.N.R.

Before : V. K. Bali, J.

ASHISH HANDA AND ANOTHER,—Petitioners.

versus

THE DISTRICT MANAGER, TELEPHONES, CHANDIGARH AND ANOTHER,—Respondents.

Civil Writ Petition No. 1338 of 1991.

11th September, 1991.

Constitution of India, 1950—Art. 226—Tatkal Scheme—Release of telephone connections of principle of 'First come first served'—Irregular distribution of application forms—Method of working

scheme, held, arbitrary and discriminatory—Abuse of discretion—Advertisement inviting applications liable to be quashed—Re-advertisement ordered—Court formulating guidelines for allotment of telephone connections.

Held, that though the Tatkal Scheme as such may not invite any adverse comment, yet the way and the manner in which it has been worked has resulted into arbitrariness. The discretion that vested with the authorities in implementing the Tatkal Scheme was so applied that the same has to be styled as abuse of discretion. The 'first come first served' basis for its proper implementation required that the application forms should be available at a number of places instead of in the office of the respondents alone. Assuming that the application forms were available at many places in the town, yet if so many people were to get the application forms on the same day and also after filling in the forms submit them to the authorities on the same very day, it is not understandable how the scheme of 'first come first served' would have worked and precedence amongst those who submitted the forms on the same day fixed. The respondent-authorities during the course of arguments explained that priority amongst those who were to submit the forms on the same day was to be fixed on the basis of getting the forms earlier, which had a smaller number embossed on the forms, than the ones which were distributed later in point of time. In my considered view, this method was not permissible for reason that the Tatkal Scheme clearly prescribes registration on the basis of application forms along with a payment of Rs. 1,000. The deposit of Rs. 1,000 was pre-condition for registration of the application. The respondents could not possibly fix the precedence of the one who had been distributed the form prior in point of time, alone, if the said person had not after duly filling in the application form deposited the initial amount of Rs. 1,000 and a finding has, thus, to be returned that the Tatkal Scheme on the 'first come first served' basis could not possibly work. If that is so, a further finding has to be given that the discretion exercised by the respondent-authorities resulted into abuse of discretion.

(Para 7)

Held, that the advertisement inviting the applications under the Tatkal Scheme and giving telephone connections to those who applied in consequence of the same advertisement has necessarily to be quashed and is, therefore, quashed.

(Para 10)

Held further, that if guidelines mentioned in the judgment are adopted, the scheme would work in a proper, efficient and just manner.

(Para 11)

Held further, that the respondent-authorities are accordingly directed to re-advertise the scheme keeping in view the principles

which have been elaborated as such and strictly accord precedence for allotting telephone connections in accordance with the said principles.

(Para 12)

Civil Writ Petition under Articles 226/227 of the Constitution of India praying that this Hon'ble Court may be pleased to issue a writ in the nature of certiorari calling for the relevant records from the respondents and after perusing the same may be pleased to :—

- (i) *Issue an appropriate writ, direction or order quashing the impugned Tatkal Scheme framed by the respondents as advertisement Annexure P 1;*
- (ii) *Issue an appropriate writ, direction or order staying the operation of the Tatkal Scheme and issuing of the telephone connections thereunder;*
- (iii) *Issue any other appropriate writ, direction or order that this Hon'ble Court deems fit to the petitioners and dispense with the filing of certified copies of the Annexures; and*
- (iv) *Award costs to the petitioners.*

M. L. Sarin, Sr. Advocate with Jaishree Thakur and Meet Malhotra, for the petitioners.

A. S. Chowdhry, Advocate, for the respondents.

JUDGMENT

V. K. Bali, J.

Petitioners of Civil Writ Petition 1338/91, as also, of Civil Writ Petition Nos. 3621 of 1991; 1174 of 1991 and 694 of 1991, have challenged the validity and legality of a scheme known as Tatkal (immediate) Scheme for providing telephone connections as made and prescribed by the Government of India, Ministry of Communications and Department of Telecommunications dated 26th May, 1988 (Annexure R1), more by way of Public interest litigation than to seek any individual benefits for themselves. In as much as the scheme aforesaid is challenged on party of the same reasoning in all the petitions, it would suffice, if the facts of Civil Writ Petition No. 1338 of 1991 alone are given.

(2) Petitioner No. 1 is an advocate, practising in this High Court, whereas petitioner No. 2 is serving in the Armed Forces. Petitioner No. 2 had booked a telephone in the year 1984 in the category known as 'Ordinary' by depositing a sum of Rs. 1,000 and in the revised

waiting list, he was allotted booking No. SEC. 34/CH/Genl./R/673. The need of the telephone by the petitioners is stated to be acute for various reasons, inclusive of the fact that their mother who is a patient of angina needs medical facilities and, as per nature of things, such medical aid needs to be catered for immediately. Even though by standing in queue, the petitioners were waiting for their number to be allotted a telephone in 'Ordinary' category, when they noticed an advertisement appearing in the Tribune and Indian Express dated January 13, 1991,—*vide* which they had a chance to get a telephone connection within a fortnight, they heaved a sigh of relief. After a frustrating wait, time had come when the necessity of the telephone at their end could be fulfilled, even though at a huge cost of Rs. 30,000. The advertisement, reference of which has been given above, provided registration on the basis of 'first come first served' by making applications on forms which were to be available on January 14, 1991, at the Head Office of the Commercial Officer (Telephones) alone. In their anxiety and utmost need to get the telephone connection, petitioner No. 1 went to the office of respondent No. 2 on the date fixed i.e., January 14, 1991. There, to his disappointment he found a massive crowd of 5,000 people which had thronged the office and that there were absolutely no arrangements for regulating the procedure for getting the application forms. The overcrowding in the office virtually resulted into stampede and in the utter confusion that followed the office of respondent No. 2 was shut down with the help of the police and no application forms were given to the petitioners and also scores of others who were present at that time. As per claim of the petitioners, an official of the respondents on January 14, 1991, announced that no application forms would be distributed and that the necessary clarification would appear in the Press on the following day. On the next day, however, no clarification appeared as promised by the department and on an enquiry, the petitioners came to know that only 100 applications were distributed to a selected few on totally extraneous grounds and on arbitrary basis by simply following the principle of pick and choose. The way and the manner the things had gone about on January 14, 1991, were highlighted by the Press by reporting that "for about 100 telephones that the department will release under this scheme, thousands of people thronged the office for obtaining the necessary forms" and that "the department closed its grill gate to prevent the crowd from entering its office." The news item aforesaid was accompanied by a photograph which supports the reporting of the Press as has been indicated above. Only 100 application forms

**Ashish Handa and another v. The District Manager, Telephones, 183
Chandigarh and another (V. K. Bali, J.)**

were distributed to the favourites of the department by following no procedure whatsoever. On the facts stated above, the case of the petitioners is that even though the scheme known as Tatkal Scheme as such may not be bad, *ultra vires* or arbitrary but the way and manner it has been worked by introducing the advertisement which, in turn, fixes precedence on the basis of 'first come first served' has resulted into utter chaos. Such precedence in the wake of facts and circumstances of this case was fraught with arbitrariness and open to abuse.

(3) This petition has been opposed by way of filing written statement on behalf of respondent Nos. 1 and 2 by respondent No. 2, H. R. Sharma, Commercial Officer, Telephones, Chandigarh. In response to the main allegation of the petitioners, it has been stated in the written statement that only a limited number of application forms under the Tatkal Scheme for the release of total 105 connections in exchange area of Sector 34 and Sector 17 were to be delivered to the public on January 14, 1991, strictly on 'first come first served' basis as per the advertisement that appeared in the newspaper on January 13, 1991. However, since there were lot of desirous applicants yet only 160 application forms were sold strictly in accordance with queue and there was police arrangement to control the long queue. In so far as the claim of the petitioners with regard to their booking in the 'Ordinary' category is concerned, it has been stated in the written statement that as per Tatkal Scheme issued by the department the petitioners had a right to convert the same into Tatkal Scheme and in as much as no steps were taken by them towards that direction, they cannot make any complaint in that regard.

(4) Mr. M. L. Sarin, Senior Advocate, appearing on behalf of the petitioners, without making any complaint with regard to Tatkal Scheme as such, however, vehemently contends that the procedure in which the Tatkal Scheme was sought to be executed was not only impracticable but also arbitrary. His objection is only with regard to the advertisement inviting applications and registering the applicants on 'first come first served' basis. The learned counsel contends that in the facts and circumstances of this case, the authorities, who had discretion to implement the aforesaid scheme, had necessarily to be alive to the situation that in view of acute shortage of telephone connections, as also in view of the manifold

demand of telephone connections commensurate to its supply, fixing of precedence on the basis of 'first come first served' would result into utter chaos and confusion. The authorities were well equipped with the information that hundreds and thousands of people who had applied under 'General Category' or 'OYT category' are still waiting for telephone connections from years. Also, it was within the notice of the authorities that on account of acute shortage of telephone connections and inability of the department to cope with the requisite demand, the telephones were being sold in the market at a premium of Rs. 40,000 to Rs. 50,000 at the relevant time. If this was the situation and it was known to the authorities then by introducing preference on the basis of 'first come first served' the scramble was in the offing.

(5) After hearing the learned counsel for the petitioners the court summoned the record of the department, as also the District Manager, Telephones, Chandigarh, to verify important and relevant matters which would have bearing on the controversy involved in this case. The records containing the register maintained by the department with regard to Tatkal Scheme and application forms was produced. The District Manager, Telephones, along with Commercial Officer, attended the court and was fair enough to admit that on the date in question there was an unprecedented rush for obtaining the application forms and it was with great difficulty that order could be restored after requisitioning the police. However, the District Manager Telephones endeavoured to explain that on account of earlier experience and various other factors, the department did not expect that so many people would gatecrash, resulting into stampede and chaos. There was absolutely no intention of the officers of the department to favour someone at the cost of someone else. That may be so and there may not be any intention to favour somebody but the perusal of record somehow shows glaring contradictions in operating the Tatkal Scheme on the basis of 'first come first served'. The virtue of 'first come first served' primarily lies in an endeavour for everyone to get up as early as possible in the morning and stand in the queue and yet it is admitted by all concerned that the number of people who visited the office on the date in question to obtain the application forms, swelled so high that instead of a queue it was only a crowd. Even though the case of the petitioners is that on account of stampede the respondent-authorities closed their office and distributed the application forms stealthily to their favourites, yet if this is not believed, the fact

remains that the queue that might have been there for some time must have broken a number of times and the order restored only after the police was summoned. Even if the version of the respondent-authorities is believed that the queue that came into being after the police restored order, it could not result in giving the forms on priority to a person who might have come to get it earlier than others. At the very threshold, thus, the principle of 'first come first served' stood violated. It shall be seen with regard to Sector 17 Exchange that one Vinay K. Kaushal made an application and his name was registered at S. No. 155. On the same address that Vinay K. Kaushal gave two more applications under the Tatal Scheme which are registered at Sr. Nos. 156 and 157. Neeru Mehta, SCO 21, Sector 17-E, Chandigarh, was registered at Sr. No. 154. On the same address, there is registration of another person with the name Lt. Col. K. C. Mahajan, whose serial number is 160. Likewise, Lakhvinder Singh, 39, Sector 5A, Chandigarh is registered at Sr. No. 166 and on the same address there is another registration No. 167 although with the name of Pritpal Singh. One Surinder Kumar Singla, 1512, Sector 11D, Chandigarh is registered at Sr. No. 184, whereas on the same address there is another registration No. 185 in the name of Chaman Lal Singla. One Dimple Oberoi, SCO No. 839, 1st Floor, Mani Majra is registered at Sr. No. 189 and on the same address on the name of Sanjeev Oberoi there is another registration at Sr. No. 192. Agro Technical India Ltd. Dhillon Complex, Mani Majra is registered at Sr. No. 225 as also Sr. No. 241. M/s Eureka Forbes, SCO No. 14, Sector 7-C, Chandigarh, is registered at Sr. No. 195 as well as Sr. No. 53 in Sector 34 Exchange. Industrial Organic Ltd; 1137, Sector 44-B, Chandigarh, stands registered at Sr. No. 43 as also at Sr. Nos. 44 and 59. Sushil Mahajan, 390, Sector 44-A, Chandigarh is registered at Sr. No. 70 and on the same address there is another registration at Sr. No. 71. Dalbir Randhawa, 520, Sector 36-B, Chandigarh is registered at Sr. No. 63 as also at Sr. No. 78. Khurana Saris (Prop.) 169-70, Sector 35-D, Chandigarh stands registered at Sr. No. 36 and on the same address there is registration No. 38 as well.

(6) The matter does not end here and it shall be further seen that whereas for all others the date fixed for depositing Rs 1,000 was January 14, 1991, with regard to Pritpal Singh, 39, Sector 5-A, Chandigarh, registered at Sr. No. 167, the date of depositing Rs. 1,000 was January 15, 1991. With regard to Motor India Company

registered at Sr. No. 224, the last date for payment of Rs. 1,000 was extended upto January 16, 1991. For Agro Technical Ltd. Dhillon Complex, Mani Majra, registered at Sr. No. 225, the last date for payment of Rs. 1,000 was extended upto January 17, 1991. Yet for another applicant registered at Sr. No. 241 on the same address, the last date of payment of Rs. 1,000 was similarly extended upto January 17, 1991. Regarding Surjit Singh, Mehfil Restaurants and Hotels Ltd; Sector 17, Chandigarh, registered at Sr. No. 242, the last date of payment of Rs. 1,000 was extended upto January 21, 1991. For Ajit Fal Gandhi, 650, Sector 11-B, Chandigarh, registered at Sr. No. 243, the last date of payment of Rs. 1,000 was extended upto January 23, 1991. Similar is the situation with regard to 34-Exchange. The record summoned in this Court shows that one Lehri Singh, registered at Sr. No. 41, was allowed to deposit Rs. 1,000 in any post office. Videocon International Limited, registered at Sr. No. 85, was allowed to pay Rs. 1,000 upto January 17, 1991. For Krishan Kumar, registered at Sr. No. 86, the date of payment of Rs. 1,000 was extended upto January 23, 1991. For S. S. Bhalla, registered at Sr. No. 87, the last date of payment of Rs. 1,000 was extended upto January 22, 1991, but the deposit was made by him in the post office on January 23, 1991. For S. P. S. Sandhu, registered at Sr. No. 85, the last date of payment of Rs. 1,000 was extended upto January 23, 1991, yet the demand note date was later on extended upto January 29, 1991. The case of the department is that priority was fixed on the basis of application forms distributed and the one which was distributed prior, in point of time, had smaller number embossed upon the same, than the one which was distributed later on. It is not at all understandable as to how this priority could possibly be fixed when so many people obviously obtained a number of application forms and applied for so many telephone connections on the same address. Further, now could the department fix priority on the basis of earlier distributed forms when, as per the scheme itself, the deposit of Rs. 1,000 was a pre-condition. It is demonstrated from the record of the case that the department had extended the date of a number of persons and they were allowed to make the initial deposit of Rs. 1,000 even after January 23, 1991. How could such people be given priority simply if they had obtained the forms earlier to those who had deposited the amount of Rs. 1,000 on the same date, i.e., January 14, 1991 or January 15, 1991.

(7) After hearing the learned counsel for the parties and perusing the record as well as after hearing the District Manager Tele-

phones, in person, I am of the considered view that even though the Tatkal Scheme as such may not invite any adverse comment, yet the way and the manner in which it has been worked has resulted into arbitrariness. Only a limited number of telephone connections were available. Admittedly, the applicants who visited the office on the opening day for obtaining the application forms were so many that it became impossible for the authorities to manage the queue. Even though it was known to the respondent-authorities that in all probability 'first come first served' basis would invite a lot of problems in controlling the rush and that everyone wanting to have a telephone in the Tatkal Scheme would rush to the office on the very first day so as to be ahead of others, yet no arrangements whatsoever were made to maintain order. It is only when the situation became impossible to handle that the respondent-authorities requisitioned the police. The virtue that might have been in standing in the queue, right in the early hours of morning, thus, became a curse. The discretion that vested with the authorities in implementing the Tatkal Scheme was so applied that the same has to be styled as abuse of discretion. The 'first come first served' basis for its proper implementation required that the application forms should be available at a number of places instead of in the office of respondents alone. Assuming that the application forms were available at many places in the town, yet if so many people were to get the application forms on the same day and also after filling in the forms submit them to the authorities on the same very day, it is not understandable how the scheme of 'first come first served' would have worked and precedence amongst those who submitted the forms on the same day fixed. The respondent-authorities during the course of arguments explained that priority amongst those who were to submit the forms on the same day was to be fixed on the basis of getting the forms earlier, which had a smaller number embossed on the forms, than the ones which were distributed later in point of time. In my considered view, this method was not permissible for the reason that the Tatkal Scheme (Annexure R1) clearly prescribes registration on the basis of application forms along with a payment of Rs. 1,000. The deposit of Rs. 1,000 was pre-condition for the registration of the application. The respondents could not possibly fix the precedence of the one who had been distributed the form prior in point of time, alone, if the said person had not after duly filling in the application form deposited the initial amount of Rs. 1,000. Thus, it shall be seen that if the 'first come first served' basis was to be adhered to, then not only a person

was to obtain an application form prior in point of time but he had also to fill in the same and hand it over to the respondent authorities with an initial deposit of Rs. 1,000 before others. Supposing, many people were to fill in the forms and hand over the same to the authorities, with an initial deposit of Rs. 1,000, the same day than also it would have been difficult for the respondent-authorities to fix the precedence. It shall be further seen from the scheme Annexure R1 that the applicants who had been already registered under the 'OYT' and 'NON-OYT' categories had a right to transfer their registration to the Tatkal Scheme on payment of difference of the amount of deposit of the two schemes. Yet this part of the scheme was not even mentioned in the advertisement (Annexure P1). Supposing, the same was to be mentioned, the respondents could not explain as to how their priority was to be fixed on the basis of 'first come first served'. Further, from the records of the case, the narration of which has been given in the earlier part of this judgment, it shall be seen that so many people applied at the same address and yet, in most of the cases, the priority was fixed in their cases one after the other. Obviously, all of them were not standing in the queue and it is, thus, clear that one person purchased number of application forms. Further, many people were given extension for making the initial deposit of Rs. 1,000, and yet their priority has also been fixed. From the totality of circumstances, as are obtainable from the facts and circumstances of this case, a finding has, thus, to be returned that the Latkal Scheme on the 'first come first served' basis could not possibly work. If that is so, a further finding has to be given that the discretion exercised by the respondent-authorities resulted into abuse of discretion.

(8) The only question that remains to be decided is as to whether this court, under the powers exercised by it under Article 226 of the Constitution of India, can strike down the procedure adopted by the authorities in working the Tatkal Scheme. In other words, it has to be found out as to whether this court can strike down the discretion vested either in the quasi-judicial or executive authority when the said discretion has resulted into discrimination and arbitrariness.

(9) When Parliament grants power to authorities, it inevitably also gives them discretion. The authority has to decide for itself whether to act or not to act, and how it wishes to act. If this discretion is not exercised, the authority has not a power but a duty. Many of the most difficult problems of judicial control are concerned with questions where power stops and duty begins. Even if the

authority had undoubted powers to do something, there may be duties as to how it is to be done. The doctrine of *ultra vires* is not only confined to cases of plain excess of power but it also governs abuse of power, as where something is done for the wrong reasons, or by the wrong procedure, in law, the consequences are the same. What is abuse of discretion has been dealt with by Griffith and Street in Principles of Administrative Law, 1952 Edition, detailed hereinafter :—

“The Courts have for a long time claimed the right to interfere with the exercise of an administrative discretion. They used to us justification for quashing the purported exercise of discretion in comprehensive but vague and ambiguous language.”

Characteristics of this dictum in the picturesque language of Lord Halsbury have been defined as such :

“When it is said that something is to be done within the discretion of the authorities.....that something is to be done according to the rules of reason and justice; not according to private opinion according to law and not humour. It is to be, not arbitrary, vague, fanciful, but legal and regular.”

From the observations that have been quoted above, it would be apparent that when an executive authority is required to act in its discretion, it should do so in good faith and fairly and not in an arbitrary manner. Unchecked power is alien to rule of law. The courts would always have judicial control over the arbitrary acts of an executive authority.

(10) For the reasons stated above, the procedure for operating the Tatkal Scheme on the basis of ‘first come first served’, on peculiar facts and circumstances of this case, has not only resulted into discrimination alone but also arbitrariness, thus offending Article 14 of the Constitution of India. The respondent-authorities followed a wrong procedure by completing ignoring the relevant considerations and, therefore, the advertisement inviting the applications under the Tatkal Scheme and giving telephone connections to those who applied in consequence of the said advertisement (Annexure P1) has necessarily to be quashed and is, therefore, quashed.

(11) Before I conclude this judgment, it would be relevant to mention that the parties to this litigation were put suggestions as to how, in the facts and circumstances of this case, the Tatkal Scheme can be best implemented. The learned counsel for the petitioners, as also the District Manager Telephones, agreed that if guidelines mentioned hereinafter are adopted, the scheme would work in a proper, efficient and just manner :—

- (i) Application forms should be available with all nationalised banks, as also the office of the Telephone Department so that there is no difficulty in obtaining the same.
- (ii) Submission of application forms and payment of Rs. 1,000 should be permissible not only with the department but in any of the post offices in the town.
- (iii) No extension of time should at all be given for depositing the initial amount of Rs. 1,000.
- (iv) Advertisement should be complete in all respects. It also must mention that those who had applied under 'Ordinary' or 'OYT' category can have the option of conversion into Tatkal Scheme.
- (v) A priority list should be prepared by draw of lots out of all the applications that might be received during the week so fixed and priority of all the applicants should be fixed at the said draw of lots.
- (vi) At the draw of lots, those who are entitled to telephone connections commensurate with the availability of telephones under the Tatkal Scheme at that time should get the telephone and those who have not been able to get it, their priority should also be fixed and carried forward. However, if they wish to withdraw the amount, the priority fixed should be cancelled. Those who could not be provided the telephone in the first draw of lots should necessarily be considered first according to the priority already fixed.
- (vii) Old applicants who are already registered in the OYT or NON-OYT category should not lose their priority in the said category if they have not been able to get the telephone in the draw of lots.

(12) Accordingly, the respondent-authorities are directed to re-advertise the scheme keeping in view the principles which have been elaborated above and strictly accord precedence for allotted telephone connections in accordance with the said principles. In the result, the writ petitions are allowed in the manner indicated above. However, in view of the peculiar facts of these cases, the parties are left to bear their own costs.

R.N.R.

Before : G. R. Majithia, J.

JASWANT SINGH AND ANOTHER,—Appellant

versus

AJIT SINGH AND OTHERS,—Respondents

Regular Second Appeal No. 968 of 1978

24th October, 1991.

Code of Civil Procedure, 1908 (V of 1908)—O. 22, rl. 4 sub rls. 3 to 6 as amended by the Punjab and Haryana High Court—Death of respondent during pendency of appeal—Legal representative not brought on record—Effect of—Whether appeal stands abated.

Held, that the resultant effect of the Punjab amendment is that the suit does not abate as against the deceased-defendant if his/her legal representatives are not brought on record within time prescribed and the judgment rendered will be deemed to have been pronounced as if it was rendered before the death took place meaning thereby the death of the defendant does not effect the validity of the judgment in any manner.

(Para 4)

Application under section 151 C.P.C. praying that, filing of certified copy of Annexure P/1 may kindly be dispensed with.

CIVIL MISC. NO. 2822-C of 1991:—

Application under section 151 of the Code of Civil Procedure, praying that, dispossession of the applicants/appellants from the suit land be stayed during the pendency of the Civil Misc. Application.

CIVIL MISC. NO. 2823-C of 1991:—

Application under sub-rule (5) of rule 4 of Order 22 of Code of Civil Procedure read with Section 151 C.P.C. praying that, in the