

Vikas Traders Vs. State of Gujarat and ors.

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SooperKanoon Citation : sooperkanoon.com/743698

Court : Gujarat

Decided On : Feb-26-1993

Reported in : (1994)1GLR15

Judge : D.G. Karia, J.

Appellant : Vikas Traders

Respondent : State of Gujarat and ors.

Judgement :

D.G. Karia, J.

1. Rule Mr. M R. Raval, learned Assistant Government Pleader waives the service of Rule on behalf of the respondents. At the request of the parties, petition is heard today.

2. In this petition under Articles 226 and 227 of the Constitution of India, order/communication dated January 22, 1993 at Annexure 'A' is challenged. By the impugned order, the revisional authority refused to grant injunction to the petitioner without assigning any reason, while admitting the revision application.

3. The impugned communication of refusal of the injunction is laconic, stating in one line that the prayer for injunction is not accepted. No reason whatsoever is given for refusal of the injunction.

4. It is well settled that an order granting or refusing to grant stay in a quasi-judicial proceeding, such as a revision application, has to be made by the authority which is competent to entertain such proceedings. In case the competent authority is not inclined to grant interim relief pending final hearing of the revision application, it must indicate briefly the reason for not granting such interim relief. In the present case, there is laconic communication sent by a Section Officer of Food and Civil Supplies Department of the respondent-State, stating that the prayer for injunction by the petitioner has not been accepted. No reason whatsoever is assigned. This procedure is highly improper and irregular. A speaking order is necessary in facts of the case, to be passed.

5. The question of grant or refusal of interim relief in a quasi-judicial proceeding involves exercise of judicial discretion. Such judicial discretion like other judicial discretion has to be exercised with vigilance and circumspection according to justice, common sense and sound judgment. The discretion is to know through law what is just. In case, the judicial discretion is not exercised properly and the exercise of the discretion is capricious or perverse or ultra vires, it would be competent for the High Court to interfere in the exercise of its writ jurisdiction under Article 227 of the Constitution of India.

5.1. In the present case, the revisional authority has entertained the revision application. However the injunction is refused without assigning any reason whatsoever. It would, therefore, appear that there is non-application of mind on the part of concerned revisional authority while entertaining the application for injunction.

6. In this view of the matter, the petition requires to be allowed. The revisional authority is directed to entertain application for stay and injunction preferred by the petitioner on merits and in accordance with law. Rule is made absolute accordingly with costs.