

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 8768/2008 and CM No.16842/2008

MAYAWATI

..... Petitioner

Through: Mr. Harish N. Salve, Sr.
Adv., Mr. S.C. Mishra, Sr.
Adv. with Mr. Shail Kumar
Dwivedi, Mr. Praveen
Chauhan, Dr. Rakesh Gupta,
Ms. Meenakshi Grover &
Mr. Shashwat Kumar, Advs.

versus

\$ CIT, DELHI (CENTRAL-I) & ORS..... Respondent

^

Through: Mr. R.D. Jolly, Sr. Standing
Counsel with Mr. Paras
Chaudhary & Ms. Rani, Advs.

Date of Hearing : January 07, 2009

%

Date of Decision : February 13, 2009

CORAM:

* HON'BLE MR. JUSTICE VIKRAMAJIT SEN

HON'BLE MR. JUSTICE RAJIV SHAKDHER

- | | |
|---|-----|
| 1. Whether reporters of local papers may be
allowed to see the Judgment? | Yes |
| 2. To be referred to the Reporter or not? | Yes |
| 3. Whether the Judgment should be reported
in the Digest? | Yes |

VIKRAMAJIT SEN, J.

1. This Writ Petition assails the legality of proceedings initiated by the Respondents under Section 147 of the Income Tax Act (IT Act for short) on the premise that the Assessing Officer (hereinafter AO) has reason to believe that income of the Petitioner, chargeable to tax, has escaped assessment. In such an event, Section 148 of the IT Act requires the AO to serve the

Petitioner with a Notice requiring her to furnish a Return of her income. It is mandated by Section 149 of the IT Act that this Notice must be issued within six years from the end of the relevant Assessment Year (which in this case is 2001-2002) since the income chargeable to tax, which has escaped assessment, amounts to or is likely to amount to Rupees one lakh or more for that year. The prayers in the Petition are for quashing (a) the Notice dated 25.3.2008 issued under Section 148 of the IT Act; (b) the Notices dated 25.6.2008 and 3.11.2008 issued under Section 142(1) of the IT Act; and (c) the Order dated 27.11.2008.

2. The factual sequence is short and uncontroverted. The AO had passed an Order on 24.3.2008 stating that he has reason to believe that the Petitioner had not declared full and true particulars of her income. On 25.3.2008, the CIT, Central Range-III, recorded the approval to this proposal for initiation of proceedings and issuance of notice under Section 148 of the IT Act. Accordingly, the AO has issued a Notice dated 25.3.2008 under Sections 147/148 of the IT Act to the Petitioner at her Delhi address, viz. C-1/11, Humayun Road, New Delhi – 110 003. Mr. Salve contends that, purely as a coincidence, the Petitioner had dispatched a letter dated 25.3.2008 to the Revenue, stating that since she has become the

Chief Minister of the Uttar Pradesh State Legislative Council, she had shifted her residence to Property No.3, Survey No.105, Nehru Road, Cantonment, Lucknow, Uttar Pradesh which should be taken as a record for service and of all correspondence in respect to income-tax proceedings. This letter was received in the Office of the Deputy Commissioner (Income Tax), Circle-II, New Delhi (the AO) on 31.3.2008.

3. It is not controverted that an Inspector of the Revenue endeavoured to serve this Notice on the Petitioner on 29.3.2008 at her Humayun Road, New Delhi residence, in the course of which he was informed that she had shifted her residence to 3, Nehru Road, Cantonment, Lucknow, Uttar Pradesh where the Notice should now be delivered. It was in these circumstances that the said Inspector dispatched the Notice dated 25.3.2008 by Speed Post on 29.3.2008 to the said Lucknow address furnished to him. The original records have been produced and we have perused the postal receipt which substantiates the Report of the Inspector. It appears that the Petitioner's letter dated 25.3.2008, informing the Respondent of her concealed income which has escaped assessment, requires action under Sections 147/148 of the IT Act.

4. The relevant provisions of the IT Act are reproduced for facility of reference:-

147. If the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of [sections 148 to 153](#), assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recompute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in [sections 148 to 153](#) referred to as the relevant assessment year) :

Provided that where an assessment under sub-section (3) of [section 143](#) or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under [section 139](#) or in response to a notice issued under sub-section (1) of [section 142](#) or [section 148](#) or to disclose fully and truly all material facts necessary for his assessment, for that assessment year:

Provided further that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject-

matter of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.

Explanation 1.—Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

Explanation 2.—For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely :—

- (a) where no return of income has been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax;
- (b) where a return of income has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return ;
- (c) where an assessment has been made, but—
 - (i) income chargeable to tax has been underassessed ; or
 - (ii) such income has been assessed at too low a rate ; or
 - (iii) such income has been made the subject of excessive relief under this Act ; or

(iv) excessive loss or depreciation allowance or any other allowance under this Act has been computed.

148. (1) Before making the assessment, reassessment or recomputation under [section 147](#), the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period, as may be specified in the notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under [section 139](#):

Provided that in a case—

(a) where a return has been furnished during the period commencing on the 1st day of October, 1991 and ending on the 30th day of September, 2005 in response to a notice served under this section, and

(b) subsequently a notice has been served under sub-section (2) of [section 143](#) after the expiry of twelve months specified in the proviso to sub-section (2) of [section 143](#), as it stood immediately before the amendment of said sub-section by the Finance Act, 2002 (20 of 2002) but before the expiry of the time limit for making the assessment, re-assessment or recomputation as specified in sub-section (2) of [section](#)

153, every such notice referred to in this clause shall be deemed to be a valid notice:

Provided further that in a case—

(a) where a return has been furnished during the period commencing on the 1st day of October, 1991 and ending on the 30th day of September, 2005, in response to a notice served under this section, and

(b) subsequently a notice has been served under clause (ii) of sub-section (2) of [section 143](#) after the expiry of twelve months specified in the proviso to clause (ii) of sub-section (2) of [section 143](#), but before the expiry of the time limit for making the assessment, reassessment or recomputation as specified in sub-section (2) of [section 153](#), every such notice referred to in this clause shall be deemed to be a valid notice.

Explanation.—For the removal of doubts, it is hereby declared that nothing contained in the first proviso or the second proviso shall apply to any return which has been furnished on or after the 1st day of October, 2005 in response to a notice served under this section.

(2) The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.

149. (1) No notice under [section 148](#) shall be issued for the relevant assessment year,—

(a) if four years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

(b) if four years, but not more than six years, have elapsed from the end of the relevant assessment

year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year.

Explanation.—In determining income chargeable to tax which has escaped assessment for the purposes of this sub-section, the provisions of *Explanation 2* of [section 147](#) shall apply as they apply for the purposes of that section.

(2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of [section 151](#).

(3) If the person on whom a notice under [section 148](#) is to be served is a person treated as the agent of a non-resident under [section 163](#) and the assessment, reassessment or recomputation to be made in pursuance of the notice is to be made on him as the agent of such non-resident, the notice shall not be issued after the expiry of a period of two years from the end of the relevant assessment year.

5. On a plain reading of these Sections it is palpably plain that Section 148 of the IT Act enjoins that the AO must serve on the assessee a notice requiring him to furnish a Return of his income, in respect of which he/she is assessable under this Act during the previous year corresponding to the relevant assessment year. Firstly, the notice contemplated by this Section relates to the furnishing of a Return and not to the decision to initiate proceedings under Section 147 of the IT Act; secondly, the period of thirty days (omitted by the Finance Act, 1996) is with regard to the furnishing of the Return.

6. In stark contrast, Section 149 of the IT Act speaks only of the issuance of a notice under the preceding Section within a prescribed period. Section 149 of the IT Act does not mandate that such a notice must also be served on the assessee within the prescribed period. Speaking for the Division Bench of this Court, I had occasion to observe in *CIT -vs- Shanker Lal Ved Prakash*, [2008] 300 ITR 0243 the decision in *CIT -vs- Jai Prakash Singh*, [1996] 219 ITR 0737 to the effect that failure to serve a notice under Section 143(2) would not render the assessment as null and void but only as irregular. The decision of the Rajasthan High Court in *CIT -vs- Gyan Prakash Gupta*, [1987] 165 ITR 0501 opining that an assessment order completed without service of notice under Section 143(2) is not void *ab initio* and cannot be annulled was noted. Furthermore, from a reading of that Judgment, it is evident that it had not been seriously contended that the notice under Section 149 of the IT Act must also be served within the period set-down in that Section since the discussion centred upon Section 27 of the General Clauses Act, 1897 which specifies that service of such a notice would be presumed to be legally proper as it would be deemed to have been delivered in the ordinary course at the correct address. It had, *inter alia*, been expressed that – “while there would be no justification for enlarging the period of

limitation prescribed by the statute itself, we should also not lose sight of the fact that disadvantage or discomfort of the assessee is only that he has to explain the correctness and veracity of the Return filed by him. A reasonable balance of burden of proof must also, therefore, be maintained. In the facts and circumstances of the present case, we are satisfied that because notice was dispatched on August 25, 1998 and was duly addressed and stamped, the Department has succeeded in proving its service before August 31, 1998. On the other hand, the assessee has failed to prove a statement that he received the notice only on 1.9.1998". Where a statute postulates the issuance of a notice and not its service, *a fortiori* the presumption of fiction of service must be drawn on the lines indicated in Section 27 of the General Clauses Act, 1897.

7. To dispel any possible doubt, it would be of advantage to refer to *R.K. Upadhyaya -vs- Shanabhai P. Patel*, [1987] 166 ITR 163 wherein it has been held that since the AO had issued a notice of reassessment under Section 147 by Registered Post on 31.3.1970, which notice was received by the assessee on 3.4.1970, nevertheless the notice was not barred by limitation and retained its legal efficacy. Their Lordships spoke thus:-

... A clear distinction has been made out between "the issue of notice" and "service of notice" under the 1961 Act. Section 149 prescribes the period of limitation. It

categorically prescribes that no notice under Section 148 shall be issued after the prescribed limitation has lapsed. Section 148(1) provides for service of notice as a condition precedent to making the order of assessment. Once a notice is issued within the period of limitation, jurisdiction becomes vested in the Income-tax Officer to proceed to reassess. The mandate of Section 148(1) is that reassessment shall not be made until there has been service. The requirement of issue of notice is satisfied when a notice is actually issued. In this case, admittedly, the notice was issued within the prescribed period of limitation as March 31, 1970, was the last day of that period. Service under the new Act is not a condition precedent to conferment of jurisdiction on the Income-tax Officer to deal with the matter but it is a condition precedent to the making of the order of assessment. The High Court, in our opinion, lost sight of the distinction and under a wrong basis felt bound by the judgment in *Banarsi Debi -vs- ITO* [1964] 53 ITR 100. As the Income-tax Officer had issued notice within limitation, the appeal is allowed and the order of the High Court is vacated. The Income-tax Officer shall now proceed to complete the assessment after complying with the requirement of law. Since there has been no appearance on behalf of the respondents, we make no orders for costs.

8. On the strength of this pronouncement similar results have been reached in *CIT -vs- Lallubhai Jogibhai*, [211] 1995 ITR 769 (High Court of Bombay ; *Dharampal Singh Rao -vs-*

Income Tax Officer, (2004) 191 CTR (All) 158). Reference would be relevant to three decisions of Division Benches of this Court, viz. *CIT -vs- Lunar Diamonds Ltd.*, [2006] 281 ITR 1(Delhi), *CIT -vs- Vardhman Estates (P) Ltd.*, [2006] 287 ITR 368 (Delhi) and *CIT -vs- Bhan Textiles (P) Ltd.*, [2006] 287 ITR 370. In the context of Section 143(2) of the IT Act it has been held that the words “issuance of notice” and “service of notice” are not synonymous and interchangeable and accordingly, the notice under this Section would lose all its legal efficacy if it had not been actually served on the assessee within the scheduled and stipulated time. In this dialectic, *a fortiori*, since the word ‘served’ is conspicuous by its absence in Section 149, and the Legislature has deliberately used the word “issued”, actual service within the period of four or six years specified in the Section, would not be critical. In fairness to Mr. Salve, his argument was that whilst it was not mandatory for the impugned Notice to have been actually served on the Petitioner before 31.3.2008, it could not have been left abandoned on the file. We are not convinced a bit by the argument of Mr. Jolly that the notice could be served at any time before the commencement of the proceedings under Section 142(1) of the IT Act. In the facts of the present case, after the first service in March/April, 2008, no further steps to issue the notice under

Section 147 of the IT Act to the Petitioner were initiated, although notices under Section 142(1) appear to have been dispatched. The stand of the Revenue is short and simple, viz., that the Petitioner must be deemed to have been served with the Notice dated March 25, 2008.

9. Mr. Salve, learned Senior Counsel appearing for the Petitioner, has sought strong support from the decision of a Division Bench of this Court of which my esteemed brother, Rajiv Shakhddher, J. was a member, in **Haryana Acrylic Manufacturing Company -vs- The Commissioner of Income-Tax IV**, decided on 3.11.2008. Various issues had arisen in that case, none of which, in our opinion, are of any relevance to the determination of the questions which fall for determination by us. In **Haryana Acrylic** it had, *inter alia*, been opined that for Section 147 to become operational it is essential that it should be alleged that escapement of income is a consequence of the assessee having failed to fully and truly disclose all material facts necessary for the comprehensive completion of the assessment. What had transpired in that case was that whilst the initiation of the proceedings by the AO for approval of the Commissioner of Income Tax mentioned the failure on the part of the Assessee to disclose fully and truly all material facts relating to the alleged accommodation entries, the “reasons”

disclosed to the Assessee on its request merely mentioned those accommodation entries as being the foundation for the belief that income to the extent of Rupees 5,00,000/- had escaped assessment. The distinction between these two situations has been perspicuously emphasised and adumbrated. The finding was that a reason to believe, without the essential concomitant of it being a result of the failure of the assessee to fully and truly disclose all material facts, would render the reassessment under Sections 147/148 unsustainable. In order to overcome this difficulty, it has been argued on behalf of the Revenue that since the AO had duly recorded the failure on the part of the assessee to fully and truly disclose all material facts this notation should be acted upon and the reasons conveyed to the assessee which were predicated on the Commissioner's noting, should be ignored. The contention of the Revenue was that the assessee had been made aware of the opinion of the AO in the Counter Affidavit of the Revenue filed on 5.11.2007. It was in that context that it was observed in **Haryana Acrylic** that six years had elapsed by that time. *GKN Driveshafts (India) Limited -vs- Income Tax Officer*, (2003) 1 SCC 72 was applied to emphasise the fact that the reasons should have been furnished within a reasonable time. It was clarified that "where the notice has been issued within the said period of six years, but the

reasons have not been furnished within that period, in our view, any proceedings pursuant thereto would be hit by the bar of limitation inasmuch as the issuance of the notice and the communication and furnishing of reasons go hand-in-hand. The expression “within a reasonable period of time” as used by the Supreme Court in GKN Driveshafts (supra) cannot be stretched to such an extent that it extends even beyond the six years stipulated in Section 149”. The factual matrix in **Haryana Acrylic** is inapplicable to the sequence of events before us and, therefore, reliance by Mr. Salve to that decision is inapposite.

10. An important question is whether a noticee can insist that service must be effected upon him/her only at a specified address. It would be recalled that the Notice dated 25.3.2008 had been personally taken to C-1/11, Humayun Road, New Delhi where the Inspector was told to dispatch it to Property No.3, Survey No.105, Nehru Road, Cantonment, Lucknow, Uttar Pradesh. There is no averment in the Petition to the effect that on 29.3.2008 the Petitioner was not in Delhi or that she would have gained knowledge of the contents of the Notice unless it had been served upon her in Lucknow. In today’s day and age reaching even the remotest parts of the globe is possible within a day. Even if the Petitioner was not in Delhi on 29.3.2008, she could have been informed almost instantaneously of the service

of the notice even if she was in Lucknow. It is, therefore, a moot question that the Petitioner must be deemed to have been served in New Delhi on 29.3.2008 itself since those were the premises allotted to her by the Government of India in her status as a Member of Parliament. We do not have to give a definitive answer on this issue since it is the position of the Revenue that the Petitioner must be deemed to have been served in Lucknow on 2.4.2008. According to the Revenue, the Notice dated 25.3.2008 was dispatched to C-1/11, Humayun Road, New Delhi – 110 003 by Speed Post on 29.3.2008. We have perused the envelope and the postal receipt bears this statement to be correct. The Court cannot but presume that the Postman had visited Property No.3, Survey No.105, Nehru Road, Cantonment, Lucknow, Uttar Pradesh and was thereupon redirected to serve the Notice at 5, Kalidas Marg, Lucknow, Uttar Pradesh. The Postman's endorsements translated from Hindi reads thus:-

“Stated that the notice was not received at the official residence of the Chief Minister, 5, Kalidas Marg and was told to deliver it at the earlier written address, that is, Property No.3, Survey No.105, Nehru Road, Cantonment, Lucknow, Uttar Pradesh.

2.4.2008”

11. It is evident, therefore, that the Petitioner declined to accept the notice – firstly at C-1/11, Humayun Road, New Delhi – 110 003, secondly at Property No.3, Survey No.105, Nehru Road, Cantonment, Lucknow, Uttar Pradesh and thirdly at 5, Kalidas Marg, Lucknow, Uttar Pradesh. All three addresses belonged to the Petitioner at the relevant time.

12. Wherever service of a notice is essential or critical, experience shows that it is a most difficult task to achieve. It is for this reason that Section 27 of the General Clauses Act creates a statutory presumption to the effect that if a letter is properly addressed, it must be deemed to have been served. Section 27 reads as follows:-

27. Meaning of service by post – Where any Central Act or Regulation made after the commencement of this Act authorises or requires any document to be served by post, whether the expression ‘serve’ or either of the expressions ‘give’ or ‘send’ or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

13. In this regard, the observations made in *Har Charan Singh -vs- Shiv Rani*, AIR 1981 SC 1284 call for reproduction:

7. Section 27 of the General Clauses Act, 1897 deals with the topic— “Meaning of service by post” and says that where any Central Act or Regulation authorises or requires any document to be served by post, then unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting it by registered post, a letter containing the document, and unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post. The section thus raises a presumption of due service or proper service if the document sought to be served is sent by properly addressing, prepaying and posting by registered post to the addressee and such presumption is raised irrespective of whether any acknowledgment due is received from the addressee or not. It is obvious that when the section raises the presumption that the service shall be deemed to have been effected it means the addressee to whom the communication is sent must be taken to have known the contents of the document sought to be served upon him without anything more. Similar presumption is raised under illustration (f) to Section 114 of the Indian Evidence Act whereunder it is stated that the Court may presume that the common course of business has been followed in a particular case, that is to say, when a letter is sent by post by pre-paying and properly addressing it the same has been received by the addressee. Undoubtedly, the presumptions both under Section 27 of the General Clauses Act as well as under Section 114 of the Evidence Act are rebuttable

but in the absence of proof to the contrary the presumption of proper service or effective service on the addressee would arise. In the instant case, additionally, there was positive evidence of the postman to the effect that the registered envelope was actually tendered by him to the appellant on November 10, 1966 but the appellant refused to accept. In other words, there was due service effected upon the appellant by refusal. In such circumstances, we are clearly of the view, that the High Court was right in coming to the conclusion that the appellant must be imputed with the knowledge of the contents of the notice which he refused to accept. It is impossible to accept the contention that when factually there was refusal to accept the notice on the part of the appellant he could not be visited with the knowledge of the contents of the registered notice because, in our view, the presumption raised under Section 27 of the General Clauses Act as well as under Section 114 of the Indian Evidence Act is one of proper or effective service which must mean service of everything that is contained in the notice. It is impossible to countenance the suggestion that before knowledge of the contents of the notice could be imputed the sealed envelope must be opened and read by the addressee or when the addressee happens to be an illiterate person the contents should be read over to him by the postman or someone else. Such things do not occur when the addressee is determined to decline to accept the sealed envelope. It would, therefore, be reasonable to hold that when service is effected by refusal of a postal

communication the addressee must be imputed with the knowledge of the contents thereof and, in our view, this follows upon the presumptions that are raised under Section 27 of the General Clauses Act, 1897 and Section 114 of the Indian Evidence Act.

14. In *C.C. Alavi Haji -vs- Palapetty Muhammed*, (2007) 6 SCC 555 their Lordships' attention had been engaged on service of a notice under the Negotiable Instruments Act, 1881. It was observed thus:-

14. Section 27 gives rise to a presumption that service of notice has been effected when it is sent to the correct address by registered post. In view of the said presumption, when stating that a notice has been sent by registered post to the address of the drawer, it is unnecessary to further aver in the complaint that in spite of the return of the notice unserved, it is deemed to have been served or that the addressee is deemed to have knowledge of the notice. Unless and until the contrary is proved by the addressee, service of notice is deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of business. This Court has already held that when a notice is sent by registered post and is returned with a postal endorsement "refused" or "not available in the house" or "house locked" or "shop closed" or "addressee not in station", due service has to be presumed. (Vide *Jagdish Singh v. Natthu Singh*, (1992) 1 SCC 647 ; *State of M.P. v. Hiralal* , (1996) 7 SCC 523 and *V. Raja Kumari v. P. Subbarama Naidu*,

(2004) 8 SCC 774.) It is, therefore, manifest that in view of the presumption available under Section 27 of the Act, it is not necessary to aver in the complaint under Section 138 of the Act that service of notice was evaded by the accused or that the accused had a role to play in the return of the notice unserved.

15. In *Jagdish Singh -vs- Natthu Singh*, AIR 1992 SC 1604 the Apex Court affirmed the conclusion of the High Court that the notice must be presumed to have been served on the addressee by virtue of the provisions of Section 27 of the General Clauses Act despite the fact that they were “not actually served on the appellant as they had come back unserved upon the alleged refusal by the appellant to accept them”. Again, in *V. Raja Kumari -vs- P. Subbarama Naidu*, AIR 2005 SC 109 it has been held that the principle incorporated in Section 27 of the General Clauses Act can profitably be imported in a case where the sender has dispatched the notice by post with the correct address written on it. Then it can be deemed to have been served on the sendee unless he proves that it is not really served and that he was responsible for such non-service. Any other interpretation can lead to a very tenuous position as the drawer of the cheque who is liable to pay the amount would resort to the strategy of subterfuge by successfully avoiding the notice.

16. It is in view of this analysis that we have arrived at the firm conclusion that the Petitioner has failed to disclose any grounds justifying the exercise of extraordinary jurisdiction vested in this Court by virtue of Article 226 of the Constitution of India.

17. Writ Petition is dismissed. There shall, however, be no order as to costs.

(VIKRAMAJIT SEN)
JUDGE

February 13, 2009
tp

(RAJIV SHAKDHER)
JUDGE