

\$~17, 18, 20 to 23

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 84/2015

SOUTH DELHI MUNICIPAL CORPORATION Appellant
Represented by: Ms.Mini Pushkarna, St.Counsel
with Ms.Yoothica Pallavi, Adv.
versus

IFCI LTD Respondent
Represented by: Mr.Dinkar Singh, Advocate

AND

+ LPA 85/2015

SOUTH DELHI MUNICIPAL CORORATION Appellant
Represented by: Ms.Mini Pushkarna, St.Counsel
with Ms.Yoothica Pallavi, Adv.
versus

M/S SHOPPERS STOP LTD Respondent
Represented by:

AND

+ LPA 87/2015

SOUTH DELHI MUNICIPAL CORPORATION Appellant
Represented by: Ms.Mini Pushkarna, St.Counsel
with Ms.Yoothica Pallavi, Adv.
versus

M/S SANSKRITI JEWELS PVT LTD Respondent
Represented by: None

AND

+ LPA 88/2015

SOUTH DELHI MUNICIPAL CORPORATION Appellant
Represented by: Ms.Mini Pushkarna, St.Counsel
with Ms.Yoothica Pallavi, Adv.

LPA Nos.84, 85, 87 to 90 of 2015

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versus

M/S FRANKFINN AVIATION
SERVICES PVT LTD

..... Respondent

Represented by: None

AND

+ LPA 89/2015

NORTH DELHI MUNICIPAL CORPORATION

..... Appellant

Represented by: Ms.Mini Pushkarna, St.Counsel
with Ms.Yoothica Pallavi, Adv.

versus

M/S VIDEOCON INDUSTRIES LTD

..... Respondent

Represented by: None

AND

+ LPA 90/2015

SOUTH DELHI MUNICIPAL CORPORATION

..... Appellant

Represented by: Ms.Mini Pushkarna, St.Counsel
with Ms.Yoothica Pallavi, Adv.

versus

FORTIS HEALTHCARE LIMITED

..... Respondent

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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20.02.2015

CM No.2859/2015 in LPA 84/2015
CM No.2863/2015 in LPA 85/2015
CM No.2874/2015 in LPA 87/2015
CM No.2880/2015 in LPA 88/2015
CM No.2884/2015 in LPA 89/2015
CM No.2889/2015 in LPA 90/2015

For the reasons stated in the applications, the delay in re-filing the appeals is condoned.

The applications are disposed of.

CM Nos.2860-61/2015 in LPA 84/2015
CM Nos.2864-65/2015 in LPA 85/2015
CM Nos.2875-76/2015 in LPA 87/2015
CM Nos.2881-82/2015 in LPA 88/2015
CM Nos.2885-86/2015 in LPA 89/2015
CM Nos.2890-91/2015 in LPA 90/2015

Allowed.

LPA Nos.84/2015, 85/2015, 87/2015, 88/2015, 89/2015 & 90/2015

1. LPA No.78/2015 which laid a challenge to the substantive decision dated November 18, 2014 in W.P.(C) No.4436/2010, which has been followed in various writ petitions filed by the respondent in the appeal was dismissed by this Bench on February 18, 2015 giving reasons as under:-

"1. Having heard learned counsel for the appellant and the respondents we dismiss the appeal in limine for the reason we concur with the core reasoning of the learned Single Judge that at best the approval granted by the Supreme Court for a policy to regulate advertisements by the Supreme Court did not empower the appellant to issue an executive instruction levying penalty.

2. It is trite that the three statutory Municipal Corporations in Delhi function under the Delhi Municipal Corporation Act, 1957 and thus exercise delegated powers.

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3. Though not referred to by the learned Single Judge, Section 99 of the DMC Act, 1957 contemplates the constitution of a municipal fund in which all funds and moneys realized by the Corporations in Delhi are credited which would include fines which are levied under the Act or under any rule, regulation or bye-law made thereunder, vide clause (f) of sub-Section 1 of Section 99.

4. It is case of the appellant in appeal that under the policy fines were being imposed. The appellant concedes that such a fine is neither contemplated by the Act nor under any rule, regulation or bye-law made by the Corporation or the Central Government.

5. While granting approval to the policy placed before the Supreme Court regulating advertisements, it may be true that the appellants brought to the notice of the Supreme Court that it would be levying a fine. Whereas it may be further true that the Supreme Court considered the policy placed before it, but we do not find the Supreme Court accorded its seal of approval to start levying the fine. We borrow the expression used by the Supreme Court in its order dated October 12, 2007. It is to be found in paragraph 3. The expression used is : 'MCD would be at liberty to go ahead with the policy and the persons who feels aggrieved...'.

6. The go ahead signal by the Supreme Court only meant that the Supreme Court was satisfied with the proposed measures adopted to be taken. It did not mean that the three corporations could start levying the fines by issuing an executive order. The reason is that fines can be levied by the Corporation either under the DMC Act, 1957 or under any rule, regulation or bye-laws made under the Act. The appellant concedes that no provision under the Act empowers it to levy the fines. The appellant concedes that there is neither a rule nor a regulation nor a bye-law empowering it to do so.

7. The order of the Supreme Court would therefore have to be understood to mean that the three statutory Corporations could

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have framed either bye-laws or rules or regulations or could have called upon the Central Government to promulgate rules or regulations in said regard.

8. It is trite that under a delegated legislation the delegatee can exercise only such powers as are delegated to it and if there is a manner prescribed for exercise of the delegated power; strictly in accordance therewith.

9. We do not deal with the issues whether the levy was a regulatory fee or not because the positive stand taken before us in appeal is that the levy was by way of a fine.

10. The appeal is accordingly dismissed in limine advising the appellant to give effect to its policy by either framing bye-laws or a rule or a regulation in said regard.

11. No costs".

2. For the reasons recorded in the decision dated February 18, 2015 dismissing the LPA No.78/2015 the instant appeals are also dismissed.

CM No.2858/2015 in LPA 84/2015

CM No.2862/2015 in LPA 85/2015

CM No.2873/2015 in LPA 87/2015

CM No.2879/2015 in LPA 88/2015

CM No.2883/2015 in LPA 89/2015

CM No.2888/2015 in LPA 90/2015

Dismissed as infructuous.

CAV 172/2015 in LPA 87/2015

Dismissed as infructuous.

FEBRUARY 20, 2015/pg
LPA Nos.84, 85, 87 to 90 of 2015


PRADEEP NANDRAJOG, J.


PRATIBHA RANI, J.

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