

**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

WRIT APPEAL NO.1439 OF 2016

JUDGMENT: (per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

We have heard the Learned Government Pleader for Prohibition & Excise for the appellant and the respondent appearing as party-in-person.

2. The respondent was granted a licence to vend IMFL in terms of the Abkari laws. The licence was for the period from 01.07.2014 to 30.06.2015. The statutory authority cancelled that licence. Such cancellation was confirmed in appeal by the Commissioner. The respondent-writ petitioner, therefore, moved this Court. The Leaned Single Judge found that the cancellation was bad in law. Accordingly, the cancellation order of the licencing authority and the Commissioner's order confirming it were set aside. This is in appeal at the instance of the State.

3. For one thing, the impugned judgement was handed down by the Learned Single Judge on 12.04.2017. Obviously, therefore, even if the licence period following the grant is taken into consideration, the petitioner's licence period would have ended on 30.06.2015. The Learned Single Judge has, however, examined the correctness of the cancellation. The quality of jurisdiction that is exercised while considering an application under Article 226 of the Constitution of India, cannot, ordinarily and necessarily, be equated to criminal jurisdiction or to other jurisdiction including civil jurisdiction where different issues may arise in relation to compensation or preventive gains, if such issues are raised.

Obviously, therefore, the decision of the Learned Single Judge would be considered in such jurisdictions, if such issues arise, only in accordance with the legal principles guiding and controlling those jurisdictions, in accordance with law.

4. At this distance of time, we do not find any justifiable ground to entertain the appeal at the instance of the State and interfere with the judgment of the Learned Single Judge which does not affect the State in any manner, since the respondent-writ petitioner would not be able to enjoy the benefit of any licence merely on the basis of the orders of the Learned Single Judge.

5. We find no legal infirmity in the judgment of the Learned Single Judge and the Writ Appeal fails and is, accordingly, dismissed.

6. The miscellaneous petitions pending, if any, shall stand closed. No costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

RAMESH RANGANATHAN, J

Date: 09.07.2018.
MRKR/CS