

R.J. Singh Ahluwalia vs The State Of Delhi on 7 September, 1970

Equivalent citations: AIR1971SC1552, (1970)3SCC451, AIR 1971 SUPREME COURT 1552, 1970 U J (SC) 885 1971 SC CRI R 310, 1971 SC CRI R 310

Author: I.D. Dua

Bench: I.D.Dua, S.M. Sikri

JUDGMENT

I.D. Dua, J.

1. The sole point requiring determination by this Court in this appeal by special leave is whether the appellant's prosecution was sanctioned by the competent authority. In the High Court also this was the only question canvassed on behalf of-the appellant. The facts necessary for appreciating the point raised briefly stated are these:

The Deputy Secretary to the Government of India, Ministry of Defence, Department of Defence Supplies issued a circular in which it was emphasised that the applications from the entrepreneurs for the additional quota of electronic equipment must be submitted at the latest by December 31, 1966. Shri Anand Singh Bawa, Director of the Northern India Plywood (P) Ltd., Marshall House, Hanuman Road, New Delhi went to the Co-ordination Department of DGTD, Udyog Bhawan, New Delhi for the purpose of submitting two applications; one in his own name and the other in the name of his father. They were desirous of setting up projects for the manufacture of electronic and radio components. He reached that office on December 31, 1966 after 4 p. m. and presented his applications to the appellant who was working as Assistant in Co-ordination III of the DGTD at Udyog Bhawan, New Delhi, the appellant's duty being to attach pro formas to applications and send them on to the Electrical Directorate after obtaining the signatures of the Section Officer, Co-ordination Branch. The appellant demanded Rs. 1,000 as illegal gratification for entertaining those applications. Shri Anand Singh Bawa told the appellant that he had no money with him at that time and that the appellants should contact him on Monday the 2nd January, 1967 to collect the amount. Shri Bawa also gave to the appellant his telephone number. In the meantime Shri Bawa approached the Special Police Establishment and informed Shri V. N. Nogi, Deputy Superintendent of Police about the appellant's demand of bribe. A trap was then organised and pursuant thereto the appellant was caught soon after receiving Rs. 1,000 in currency notes. The appellant

was as a result challaned under Section 5(2) of the Prevention of Corruption Act and under Section 161, I.P.C. The Special Judge trying the appellant convicted him under both the sections and imposed a sentence of rigorous imprisonment for four years and fine of Rs. 2,000 under Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act and three years' rigorous imprisonment under Section 161, I.P.C. Both the sentences were, however, to run concurrently. Appeal to the High Court was dismissed by a learned single Judge. In the High Court challenge to the validity of the sanction was based on the invalidity of its authentication. It was not disputed that the appellant was remove-able by the President of India.

2. The sanction (Ex. PL) which has been held to be valid by the High Court was signed by Shri K. Raja Ram, Deputy Secretary to the Government of India and was granted on August 25, 1967 by the Ministry of Industrial Development and Company Affairs (Department of Industrial Development). We consider it proper to reproduce this sanction at this stage:

No. 2 (D/67-V Government of India Ministry of Industrial Development & Company Affairs (Department of Industrial Development) New Delhi, the 25th August, 1967.

ORDER:

Whereas it is alleged that Shri R. J. Singh Ahluwalia, while working as a public servant in the capacity of Assistant in Co-ordination Section (CDIII). D. G. T. D., Udyog Bhawan, New Delhi on 31-12-1966 demanded an illegal gratification of Rs. 1,000/- from Shri A. S. Bawa, Director, Northern India Plywood Pvt. Ltd., Marshall House, Hanuman Road, New Delhi for showing him favour in the acceptance of his own application No. NIP/2681/66 as well as application No. DSB/2682/66 of the firm of his father M/s. D. S. Bawa & Co.. for setting up projects for the manufacture of Electronic and Radio Components;

And whereas it is alleged that in pursuance of this demand the said Shri R. J. Singh Ahluwalia, Assistant, phoned to Shri Bawa at about 12-15 p. m. at his office on 2-1-67 and repeated his demand of Rs. 1,000/- by way of illegal gratification and whereas Shri R. J. Singh Ahluwalia visited Shri A. S. Bawa in his office at Marshall House, Hanuman Road on 2-1-67 at about 5.30 p. m. and obtained Rs. 1,000/- by way of illegal gratification from the said Shri Bawa, as a motive or reward for having registered the above mentioned two applications for necessary action.

And whereas the said acts of Shri R. J. Singh Ahluwalia constitute offences under Section 161, I.P.C. and Section 5 (2) of Prevention of Corruption Act r/w Section 5(1)(d) of Prevention of Corruption Act II of 1947.

And whereas I, after fully and carefully examining the material before me in regard to the abovementioned facts and the circumstances of the case consider that the said Shri R. J. Singh Ahluwalia should be prosecuted in the court of law for the said

offences.

Now, therefore, I being the authority competent to remove the said R. J. Singh Ahluwalia from office do hereby accord sanction Under Section 6(1)(c) of the Prevention of Corruption Act for the prosecution of the said Shri R. J. Singh Ahluwalia for the said offence and any other offences punishable under other provisions of law in respect of the acts aforesaid and for the taking of cognisance of the said offences by a court of competent jurisdiction.

By order and in the name of the President.

Sd/K. Raja Ram 25/8/67 (K. Raja Ram) Deputy Secretary to the Government of India.

3. The appellant's learned Counsel asked for permission to raise a new point in challenge of this sanction. This new point sought to attack the sanction on two-fold ground. In the first instance he contended that this sanction was granted for prosecution under Section 6(1)(c) of the Prevention of Corruption Act and not under Section 6(1)(a). Secondly, it was contended that in the case of the appellant it was only the Home Department of the Government of India which could sanction the prosecution. This argument was founded on the Gazette Notification No. S. G. 2494 dated 3-8-1965 which amended the Government of India (Allocation of Business) Rules 1961 pursuant to the powers conferred on the President by Clause (3) of Article 77 of the Constitution. This ground of challenge had, of course, not been raised in either of the two courts below but since it went to the root of the case, being a jurisdictional point we considered it just and proper to allow it to be raised. We accordingly adjourned the hearing on July 21, 1970 to enable the counsel for the State to obtain instructions on this point and to inquire whether the Home Ministry had sanctioned the appellant's prosecution. On August 5, 1970, the next date of hearing, Shri Sachthey stated at the Bar that the Home Ministry had not sanctioned the appellant's prosecution and it was conceded before us that in the absence of such sanction the prosecution must fail. In view of what has just been stated the appeal cannot but succeed and allowing the same we set aside the appellant's conviction and sentence. The appellant is stated to be on bail. His bail bond is to be deemed to be cancelled.