

Supreme Court of India

Govind Parameswar Nair And Others vs Municipal Corporation Of Greater ... on 10 July, 1996

Bench: Kuldip Singh, M.M. Punchhi, N.P. Singh, M.K. Mukherjee, S. Saghir Ahmad

CASE NO. :

Appeal (civil) 1650 of 1980

PETITIONER:

Govind Parameswar Nair and Others

RESPONDENT:

Municipal Corporation of Greater Bombay and Others

DATE OF JUDGMENT: 10/07/1996

BENCH:

KULDIP SINGH & M.M. PUNCHHI & N.P. SINGH & M.K. MUKHERJEE & S. SAGHIR AHMAD

JUDGMENT:

JUDGMENT 2001(9) SCC 166 = 1996(5) SCALE SP12 The Order of the Court was as follows :

This appeal is directed against the judgment of the Bombay High Court upholding the constitutional validity of sub-sections (2), (3) and (4) of Section 217 of the Bombay Municipal Corporation Act, 1888 as amended by the Maharashtra Municipal Corporation Amendment Act, 1975.

A three-Judge Bench of this Court in *Shyam Kishore v. Municipal Corp'n. of Delhi* has upheld the constitutional validity of Section 170(6) of the Delhi Municipal Corporation Act, 1957, which is almost in similar terms as Section 217 of the Maharashtra Act. Mr. P. H. Parekh, learned counsel for the appellant, therefore, does not press the attack on the ground of vires.

Mr. Parekh has, however, contended that Section 217 of the Maharashtra Act be given the same interpretation as was given by this Court to Section 170(b) of the Delhi Act. Mr. Nariman, learned counsel appearing for the Corporation has invited our attention to the impugned judgment of the High Court whereunder the expression "entertained" in Section 217(2) of the Maharashtra Act has been interpreted in the following words :

"Our section, however, uses three different expressions, namely, 'filed' or 'brought', 'entertained' and 'heard and decided'. These three expressions must, therefore, necessarily refer to three different stages and the stage to which the word 'entertained' refers must be the stage when the appeal is first taken up for consideration. According to the procedure followed by the Chief Judge, after a memorandum of appeal is filed notices are issued to the municipal corporation, the corporation filed its written statement and after the other preliminaries are completed the appeal is heard and decided. It would, therefore, be the stage when the Chief Judge for the first time gives directions in the matter to the parties."

It is thus obvious that the stage, at which the appeal is "entertained" is much after the appearance of the parties, filing of the written statement and completion of other preliminaries. It is the stage

when, thereafter, the Judge for the first time gives directions to the parties.

The interpretation given by the High Court, quoted above, is substantially in accord with the interpretation given by this Court to Section 170(b) of the Delhi Act. We, therefore, affirm the same.

The civil appeal is disposed of in the above terms. No costs.