

HIGH COURT OF KARNATAKA**Bench: Chief Justice and Justice KVAJ****Date of Decision: 22nd June 2024**

Case No.: WA NO. 919/2024

APPELLATE JURISDICTION**APPEAL UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT,
1961****APPELLANT: STATE OF KARNATAKAAppellant****VERSUS****RESPONDENTS: BENGALURU TURF CLUB LIMITED AND OTHERS
.....Respondents****Legislation:**

Karnataka High Court Act, 1961 – Section 4

Mysore Race Course Licensing Act, 1952

Mysore Race Course Licensing Rules, 1952

Code of Criminal Procedure, 1973 – Section 482

Indian Penal Code, 1860 – Sections 34, 120B, 406, 409, 420

Karnataka Police Act, 1963 – Sections 78(1)(a)(i), 78(2)

Subject: Appeal addressing the challenge to the interim order permitting the Bengaluru Turf Club to conduct horse racing and betting activities despite pending criminal proceedings and the rejection of their license applications by the State authorities.

Headnotes:

Administrative Law – Discretionary Power – Licensing Authority – Appellant challenged interim order permitting racing and betting activities by the Bengaluru Turf Club despite rejection of their license applications – Court held that licensing authority exercised proper discretion based on pending criminal cases against Club’s office bearers and allegations of illegal activities – Interim order allowing activities set aside – Emphasis on statutory provisions granting discretionary power to authorities in issuing licenses [Paras 5-6].

Criminal Law – Pending Criminal Proceedings – Impact on Licensing – Office bearers of the Bengaluru Turf Club facing criminal charges for betting-related offenses – Court found sufficient grounds in pending criminal cases to justify refusal of license – Rejection upheld as a valid exercise of administrative discretion [Paras 5.3-5.6].

Interim Relief – Nature and Scope – Court observed that interim order by Single Judge effectively granted final relief by allowing racing activities – Such interim orders not permissible as they render main relief sought in the petition redundant – Order granting interim relief stayed [Paras 8-10].

Decision – Appeal Allowed – Held – Interim order by learned Single Judge stayed – Respondent-Club prohibited from conducting racing and betting activities during pendency of main petition – Matter to be decided on merits in final hearing [Para 10].

Referred Cases:

- Shyam Sel and Power Ltd. Vs. Shyam Steel Industries Ltd. (2023) 1 SCC 634
- Shah Babulal Khimji vs. Jayaben D. Kania (1981) 4 SCC 8
- Meena Chaudhary v. Commissioner of Delhi Police and others (2015) 2 SCC 156
- State of Orissa v. Madal Gopal Rungta (1951 SCC 1024)
- State of U.P. and others v. Ram Sukhi Devi (2005) 9 SCC 733

Representing Advocates:

Advocate General Mr. K.Shashikiran Shetty, assisted by Additional Advocate General Smt. Prathima Honapura, Government Advocate Mr. S.S. Mahendra, and High Court Government Pleader Smt. Anukanksha Kalkeri for appellant-State.

Senior Advocate Mr. S.S. Naganand with Senior Advocate Mr. Sriranga, assisted by Advocates Smt. Sumana Naganand and Mr. Arihant R.Sungal for respondent No.1.

Advocate Smt. Vijetha R. Naik, assisted by Mr. K.B. Monesh Kumar, for respondent No.2 appearing on caveat.

Senior Advocate Mr. K.N. Phanindra, assisted by Advocates Ms. Krutika Raghavan, Mr. Sameeksh Patil, and Mr. Abijit J for caveator respondent No.3.

Senior Advocate Mr. D.R. Ravishankar assisted by Smt. Siri R, for respondent Nos.7 to 17 also on caveat.

ORDER

Preferred by the State of Karnataka-original respondent No.1, this appeal under Section 4 of the Karnataka High Court Act, 1961, addresses challenge to order dated 18th June 2024 passed by learned Single Judge in Writ Petition No.13503 of 2024 and connected writ petitions.

1.1 Learned Single Judge proceeded to issue the following operative directions in paragraph 23, reproduced hereunder,

“(i) The Impugned Orders produced in W.P.13503/2024 as Annexure-BN bearing No.HD 241 SST 2024 dated 06.06.2024 passed by the Additional Chief Secretary, Home Department and Annexure-BP bearing No.FD 08 CRC 2022 dated 06.06.2024 passed by the Respondent No.1 are hereby stayed until further orders;

(ii) Pending decision in the petitions, by way of an interim arrangement and subject to the final outcome of the petitions, petitioners in all the writ petitions are permitted to conduct and carry on all on-course and off-course racing and betting activities of the Bangalore Turf Club, subject to the same terms and conditions of the licences issued in March, 2024 by the respondents-State and also subject to complying with the provisions of the Mysore Race Course Licensing Act, 1952 and Mysore Race Course Licensing Rules, 1952.

(iii) Respondents-State are also directed to permit the petitioners to conduct and carry on all such oncourse and off-course racing and betting activities of the Bangalore Turf Club without any hindrance, interruption or impediment;

(iv) Liberty is reserved in favour of the Respondents-State to monitor, supervise and regulate the racing and betting activities of the petitioners by taking necessary steps in this regard.”

2. Heard learned Advocate General Mr. K.Shashikiran Shetty, assisted by learned Additional Advocate General Smt. Prathima Honapura, learned Government Advocate Mr. S.S. Mahendra and learned High Court Government Pleader Smt. Anukanksha Kalkeri for the appellant-State, learned Senior Advocate Mr. S.S. Naganand with learned Senior Advocate Mr. Sriranga, assisted by learned Advocates Smt. Sumana Naganand and Mr. Arihant R.Sungal for respondent No.1, learned Advocate Smt. Vijetha R. Naik, assisted by Mr. K.B. Monesh Kumar, for respondent No.2 appearing on caveat, learned Senior Advocate Mr. K.N. Phanindra, assisted by Advocates Ms. Krutika Raghavan, Mr. Sameeksh Patil and Mr. Abijit J for caveator respondent No.3 and learned Senior Advocate Mr. D.R. Ravishankar assisted by Smt. Siri R, for respondent Nos.7 to 17 also on caveat, at length on the aspect of admission of the Appeal as well as the grant or otherwise of stay of the impugned order.

2.1 Disposing of at the outset, the contention raised, though not much seriously, that the Court may not entertain this appeal in view that the order of the learned Single Judge impugned is an interim order and that the main petition is pending. The submission would have been ordinarily true, however, it is

trite principle emanating from the decision of the Supreme Court in **Shyam Sel and Power Ltd. vs. Shyam Steel Industries Ltd. [(2023) 1 SCC 634]**, where the order has the trappings of finality, it would classify to be the judgment to be amenable to the appeal.

2.2 The Supreme Court in **Shyam Sel and Power Ltd. (supra)**, discussed the concept as to when an order can be construed as judgment under Clause 15 of the Letters Patent Appeal of Calcutta High Court, to observe thus,

“3.4.2 It could thus be seen that though this Court has held that the term ‘judgment’ used in Letters Patent could not be given a narrower meaning as is given to the term ‘judgment’ used in CPC and that it should receive a much wider and more liberal interpretation, however, at the same time, each and every order passed by the trial judge could not be construed to be a ‘judgment’ inasmuch as there will be no end to the number of orders which would be appealable under the Letters Patent. It has been held that the word ‘judgment’ has undoubtedly a concept of finality in a broader and not in a narrower sense. It has been held that where an order vitally affects a valuable right of the defendants, it will undoubtedly be treated as a ‘judgment’ within the meaning of Letters Patent so as to be appealable to a larger Bench.”

2.2.1 After referring to **Shah Babulal Khimji vs. Jayaben D. Kania [(1981) 4 SCC 8]**, it was held,

“3.4.3 “whether an order impugned would be a ‘judgment’ within the scope of Clause 15 of Letters Patent, would depend on facts and circumstances of each case. However, for such an order to be construed as a ‘judgment’, it must have the traits and trappings of finality. To come within the ambit of ‘judgment’, such an order must affect vital and valuable rights of the parties, which works serious injustice to the party concerned. Each and every order passed by the Court during the course of the trial, though may cause some inconvenience to one of the parties or, to some extent, some prejudice to one of the parties, cannot be treated as a ‘judgment’. If such is permitted, the floodgate of appeals would be open against the order of single Judge.”

- 2.3 Appreciating the order and the operative directions therein passed by learned Single Judge, in staying the orders of rejection of licence and consequently permitting the horse racing and betting events to take place, the order does have the trappings of finality. Even if it is the submission that the prayers in the petition is allowed in part, it would attract the concept of trapping of finality. In that view, the appeal is entertained and rival arguments were heard on the merits of the impugned order.
- 2.4 The question which surfaces is whether Bangalore Turf Club Ltd.-the original petitioner of writ petition No.13503 of 2024 could be permitted to conduct the event of on-course and off-course horse racing and betting, even as the application of the Club for grant of licence for the purpose under Section 4 of the Race Course Licensing Act, 1952, read with Mysore Race Course Licensing Rules, 1952 is presently rejected, and the challenge thereto has been pending in the writ petitions.
- 2.5 Learned Single Judge as per the impugned order, stayed both the orders dated 6th June 2024 passed by respondent No.2-Home Department and respondent No.1 Finance Department, rejecting the request for grant of licence put forward by the petitioner in its application, for horse racing and betting events respectively.
- 2.6 In the facts of the case, the appeal is admitted.

3. While proceeding to consider the question of grant or otherwise of the interim relief pressed on behalf of the appellant, the backdrop of facts and events would become relevant. Previously known as the Race Course Committee, later become Bangalore Race Club, it was renamed as Bangalore Turf Club Ltd. in the year 1966. The Bangalore Turf Club Ltd.-the original petitioner was granted land on lease basis by the State Government, which was for thirty years. The lease was terminated in August 1989, supplementary agreement was executed limiting the tenure of lease upto December 2009. The writ petition No.30663 of 2009 came to be filed by the Club before this High Court against the order of eviction from land. This Court directed vacation of land by order dated 23rd February 2010, against which order, the Club filed Special Leave Petition No.21157 of 2010 before

the Supreme Court in which on 7th September 2010, order directing the parties to maintain status-quo has been granted and the S.L.P. is pending.

3.1 It may be stated that the Bangalore Turf Club Ltd. used to seek permission and licence every time to conduct horse races and the related betting event called on-course and offcourse racing. The licence was granted to the Club in the year 2017, thereafter in March 2024 for three specific days. On 16th March 2024, petitioner addressed letter to respondent No.3 and on 21st March 2024, application was made for grant of licence for the months from April 2024 till August 2024. The respondent authorities did not respond and did not reply to the application. Therefore, the petition was filed.

3.2 It appears that in the writ petitions, the Court passed interim orders, pursuant to which, the Home Department and the Finance Department of the State Government passed two orders dated 6th June 2024 rejecting the application of the Bangalore Turf Club for conducting the racing activities and refusal to grant the betting licence respectively. The petitioners amended their petition incorporating the said subsequent events to question the orders dated 6th June 2024 rejecting the licence as above. It appears that the petitioners were further heard by learned Single Judge for interim relief, which culminated into the impugned order in which the directions as above came to be issued.

3.3 It is to be mentioned that against the Club-respondent No.1 herein, a First Information Report No.9 of 2024 at the High Grounds Police Station came to be registered on 12th January 2024 in respect of unauthorised betting activities and other illegal activities taking place within the premises of the Club and the Club was raided by the Central Crime Branch. The book-makers illegal activities were detected in the premises of the Club. Pursuant to the aforementioned FIR No.9 of 2024, the chargesheet has now been registered with the competent Court. It appears that in April 2024, such 26 bookies filed Criminal Petition No.795 of 2024, which was dismissed by this Court.

4. Learned Advocate General for the appellant raised the following submissions, to submit that learned Single Judge committed a serious error in granting stay against the order of rejection of licence,

- (i) The Club does not deposit the money collected in cash and does not raise invoices required under the betting tax.
 - (ii) It is found to have permitted non-bookmakers and their punters to conduct the unauthorised betting in the premises of the Club. Fourteen accused having facing Crime No.175 of 2019.
 - (iii) From the record, it was pointed out that approximately Rs.296 crores and more is the amount of tax evasion. On the date of raid, amount of Rs.3,45,00,000/- and more was the amount seized, which was outcome of the racing events conducted.
 - (iv) The GST amount collected from punters is not deposited by the Club and the payment of TDS is evaded.
 - (v) The Club allows yellow betting cards and pencil sheets to be used in the premises and allows the punters to collect the cash from the people without invoices and commits several illegalities.
 - (vi) No record of tax collection is maintained. The tax paid and the amount collected during the raid is a total mismatch.
 - (vii) Before passing the orders dated 6th June 2024, issued by the Finance Department and Home Department, the authorities like Police Department, GST Department, etc., were consulted. It was submitted that the events conducted by Club in ultimate analysis results into non-deposit of GST collected from punters and also evasion of TDS.
- 4.1 It was further submitted on behalf of the appellant that the FIR in relation to the offences and illegal activities was registered and now it has culminated into the chargesheet. It was highlighted that the accused persons include the Chairman and other office bearers of the Club and that they filed petition under Section 482 of the Code of Criminal Procedure to quash the FIR. The investigation is directed to be continued against them. It is submitted that Chairman in his statement concede that it is the responsibility of the Chairman to supervise and curb the illegalities committed in the racing and betting event and activities during the events.

- 4.1.1 Learned Advocate General next submitted that by staying the licence and permitting the carrying on of oncourse and off-course betting activities and the related events, learned Single Judge has granted the relief of final nature, and no relief for the petitioners would be left out in the petition, once the events are held. It was submitted that the respondents are thus ousted without opportunity of adjudication on merits. It was submitted that unless the directions are stayed, all contentions in the pending petition would be rendered infructuous.
- 4.2 On the other hand, learned Senior Counsels for the respondents-original petitioners, with one voice of vehemence submitted that the petitioner-Club has been permitted to hold the events of on-course and off-course horse racing since years by granting licences under the law. It was submitted that licence was granted in the recent past also and lastly in March, 2024. It was sought to be harped that the allegations of illegalities and irregularities are baseless. It was submitted that the Chairman and the office bearers who have been charged with the offences have cooperated with the investigation and that merely because they are facing the allegations under the various offences in relation to the betting and other related illegal activities at the Club, it could be no ground not to permit the horse racing. It was submitted that the licence contains regulatory conditions and that the authorities are empowered to supervise.
- 4.2.1 It was further submitted that after deliverance of the order by learned Single Judge on 18th June 2024, the Club has immediately proceeded to plan the event and if the same is not permitted, it would to deprive the source of livelihood to the horse racers and book-makers, who legitimately operate in the event.
- 4.2.2 As on behalf of the appellant-State, the issue of *locus standi* of the petitioners other than the Bangalore Turf Club was raised to content that the other petitions were not maintainable for want of *locus*, decision of the Supreme Court in **Jasbhai Motibhai Desia v. Roshan Kumar, Haji Bashir Ahmed and others [(1976) 1 SCC 671]**, was relied on by the respondents. In order to counter the submission about the commission of illegality and irregularity in the betting and horse racing during the event, learned Senior Advocate for

the respondents pressed into service the decision of the Supreme Court in **D.R. Lakshmanan vs. State of Tamilnadu [(1996) 2 SCC 226]**, by highlighting observations in paragraphs 24 to 31 thereof. Two other decisions, one of Supreme Court in **State of Kerala vs. C. Velukutty [(1966) 60 ITR 230]** as well as the decision of the Division Bench of this Court in **KSRTC vs. Karnataka State Transport Authority [ILR 1993 KAR 436]**.

4.2.3 In furtherance of their submissions to contend that the rejection of the licence was rightly stayed by learned Single Judge, learned counsels for the respondents-original petitioners proceeded to rely on the decisions before the Apex Court, emphasising the principles about the limited nature of powers of judicial review by the Court over an administrative action. By relying on the decision in **P. Bheema Reddy v. State of Mysore [(1969) 1 SCC 68]** was pressed into service to submit that mandamus can be granted to issue a licence.

4.3 The crux of the collective submissions of all the counsels for the respondents-original petitioners to support the order of learned Single Judge, was that there is no good reason to prevent the petitioner-Turf Club to conduct the oncourse and off-course horse racing event which it has been organising continuously since years and that allegations of irregularities would be taken care of by the supervising and regulatory authorities.

5. It would be relevant to notice the statutory provisions under which the Club is granted licence to hold such events by the State Government. The activity of horse racing is prohibited unless the Licence under the law is obtained. The Karnataka Race Course Licensing Act, 1952 (hereinafter referred to as 'the Licensing Act') read with the Mysore Race Course Licensing Rules, 1952 (hereinafter referred to as the 'Licensing Rules'), govern the procedure, process, rights and obligations in this regard.

5.1 Noticing the applicable provisions, the 'Horse-race' is defined in Section 2(2) of the Licensing Act which 'means any race in which any horse, mare or gelding runs, or is made to run, in competition with any other horse, mare or gelding for any prize of whatsoever nature or kind, or for any bet or wager made or to be made in respect of any such horse, mare or gelding or the riders thereof, and at which more than twenty persons shall be present'. The

licensing for the event of horse racing become more imperative when the horse racing may be bet or wager and has such element in therein.

5.1.1 Licence is granted under Section 4 of the Act. As per Section 2(5), permit means a permit granted to a bookmaker under Section 4(4) of the Act. As per Section 3, unless the licence is in force, the horse racing on a race course is prohibited. Section 4 dealing with the licences for horse racing is reproduced hereinbelow:

“Section 4-Licences for horse-racing.- (1) The owner, lessee or occupier of any race course may apply to the Government or the officer authorised by the Government for a license for horse racing on such race course or for arranging for wagering or betting in such race course on a horse race run on some other race course either within the State or outside the State.

(2) The Government or the officer authorised by the Government may withhold such license or grant it subject to such conditions and for such period as they may think fit.

(3) In particular and without prejudice to the generally of the foregoing power, such conditions may provide for.-

- (a) the payment of a licence fee;
- (b) the maintenance of such accounts and furnishing of such returns as are required by the Betting Tax Act, 1932;
- (c) the amount of stakes which may be allotted for different kinds of horses;
- (d) the measures to be taken for the training of person to become Jockeys;
- (e) the measures to be taken to encourage Indian bred horses and Indian Jockeys;
- (f) the inclusion or association of such persons as the Government or the officer authorised by the Government may nominate as Stewards or members in the conduct and management of horse-racing;

- (g) the utilisation of the amount collected by the licensee in the conduct and management of horseracing;
- (h) such other matters connected with horseracing and the maintenance of the race course for which, in the opinion of the Government or the officer authorised by the Government, it is necessary or expedient to make provision in the licence.

(4) The Government or the officer authorised by the Government may, by such licence, authorize the licensee to grant, subject to such conditions as may be specified by the Government or the officer authorised by the Government in such licence, a permit to an book-maker for such period not exceeding the period of the licence granted to the licensee as the licensee may think fit.

(5) The Government or the officer authorised by the Government may, at any time, suspend, cancel, or modify any of the conditions specified in, any licence or permit.

(6) The grant, cancellation or modification of any license shall be published in the Karnataka Gazette.”

5.1.2 As per Section 8, granting or refusing the licence is made discretionary, when the Section reads thus,

“The granting, refusing or cancellation of a license and the conditions subject to which a license or permit is granted shall be within the discretion of the Government or the officer authorised by the Government and shall not be liable to be called in question in any Court.”

5.1.3 Under Rule 3 of the Licensing Rules, an

application for licence for horse race can be made to the Home Department, whereas, under Rule 3A, the licence could be applied for arranging wagering or betting on a horse race to the Finance Department of the Government of Karnataka. The forms are prescribed in accordance with which the licence

can be granted. As per Rule 10, the Government is empowered to suspend or cancel the licence for breach or contravention of any of the conditions of licence, after notice and after inquiry. Rule 5 uses the word 'if satisfactory' in respect of desirability of granting licence which also indicates the discretion on the part of the Government.

5.2 Now reverting back to the sequence of facts and events, the weather which the petitioner-Club faced in view of the registration of FIR dated 12th January 2024 with regard to the unauthorised betting activities within the premises of the Club, became a rough weather when the Central Crime Branch, after investigation, filed preliminary chargesheet against in all 91 accused for the offences punishable under Sections 406, 409, 420, 120B read with Section 34 of the Indian Penal Code, 1860 and under Section 78(1)(a)(i) read with Section 78(2) of the Karnataka Police Act, 1963. The offences related to illegal activities of betting.

5.3 The petitioner-Club had made application for granting licence in the year 2017, since the same was not considered, writ petition was filed. However, subsequently the writ petition was withdrawn pursuant to interim order, the authorities considered the applications. The Club was thereafter granted licence in March 2024. It is to be noted that licence is granted for specific date/special period on which the petitioner may undertake the event of horse race and betting. The March 2024 licence was granted for 9th March, 15th March and 16th March. The applications now made by the petitioner-Club was to the period between April 2024 and August 2024, which however, came to be rejected by impugned order dated 6th June 2024, for the elaborate reasons recorded in the order.

5.3.1 While learned Single Judge has directed in paragraph 23(ii) to permit the on-course and off-course racing and betting referring to the licence issued to the Club in March 2024, there is a marked and material difference in the background situation obtained. The FIR was filed on 12th January 2024 registering case No.9 of 2024 with regard to the unauthorised betting activities. When the question of issuing licence arose after March 2024, which are the instant applications made by the Club and rejected, the investigation pursuant to the FIR was complete and chargesheet has already

been filed, the criminal petition No.795 of 2024 filed by 26 bookies was dismissed by this Court in April 2024.

5.3.2 What is conspicuous is that in the chargesheets filed and the criminal case pending, among the 91 accused persons, accused No.89 happens to be one Mr. Vijay Narasimha who is Betting Ring Manager, an employee of Bangalore Turf Club. Similarly, accused No.90 one Mr. Kiran M.K. is the CEO and Secretary, whereas accused No.91 Mr. Aravind Raghavan is the Chairman of the Club. The submission could be well countenanced that when the top office bearers of the Club themselves have been facing criminal prosecution and are the accused in the criminal case, it was be hardly safe to leave the supervision and the fate in their hands.

5.4 In making submissions about the different kind of illegalities, learned Advocate General could substantiate the same by figuring and co-relating the relevant facts and documents on record. The submissions could be well countenanced that when the event of on-course and offcourse horse racing and betting is potent in mongering illegal cash flow, evasion of taxes and other statutory liabilities, generation of illegal income and occurrence of all other kinds of behind-the-curtain activities related to the events, the licence was rightly refused to the Club, superadded by the fact that the office bearers of the Club themselves facing the criminal charges of involvement.

5.4.1 If it is the apprehension that the event is prone in promoting and peddling illegalities relating to cash receipts, benami transactions, bookie betting inside and outside the premises, the competent authority is entirely justified in rejecting the licence to hold the event. The situation presently obtained as stated above, is entirely different than the time when the licences were earlier granted, as criminal cases are pending now post-chargesheet.

5.5 Under the statutory Licensing provisions in the Act and the Rules, the licence granting authority has the discretion to grant or refuse the licence. As would be seen immediately from the provision of Section 4 of the Act, whenever the licence is granted to run the horse race either within or outside the State, the authorities are competent to prescribe conditions and have powers to cancel the licence. Section 8 is unequivocal to say that granting and refusing of licence is in the discretionary realm of the authorities.

Therefore, the Licensing Rules also contemplates the satisfaction on the part of the competent authority before issuance of licence.

5.5.1 All the above are *prima facie* reading of the relevant Section and Rules for their application, the interpretation of which may be threshed out finally at the time of hearing of the petitions.

5.6 In light of above, the acid test in this case therefore, would be to judge as to whether the discretion exercised by the competent authority in refusing the licence under Section 4 of the Act, is guided by valid considerations.

5.6.1 The aspects mentioned in the impugned order rejecting the licence raise serious concern about the legitimacy for holding the horse racing event and were *prima facie* good grounds for deciding about the interim relief, it is stated that the book-makers operate within the premises for betting activities. However, from the chargesheet, it forthcame that private persons who did not hold the licence operated as licence book-makers by deceiving the punters and certain persons standing outside assisting the bookmakers in conducting the illegal betting. The order recited that the management of the Club, though aware, remained inactive, and failed to perform supervisory role.

5.6.2 Paragraphs 'm' and 'n' of the order dated 6th June 2024, may be relevant to reproduce,

“m. That, the allegations made in the FIR and the Preliminary Charge sheet are grave. They suggest that the bookmakers and BTC hatched a criminal conspiracy and, with a dishonest intention, created false documents to evade taxes without generating proper GST invoices/bills. They received the money in cash, and the entire money so collected was not deposited to the bank account, and the same was also not declared. These allegations paint a picture of a systematic and deliberate attempt to evade taxes and to engage in illegal activities;

n. That, further investigation is pending concerning the exact role played by the BTC and its officials in relation to Section 120B of IPC-Criminal Conspiracy, Section 406 of IPC-Criminal Breach of Trust, and Section 420 of IPC-Cheating. Further investigation is also required to trace the money trail in connection with this case, and to collect

further evidence in the matter relating to the illegal betting and monetary transactions that have happened on the BTC premises.”

5.6.3 The order dated 6th June 2024 passed by the Finance Department refusing the licence to conduct the betting on horse races, also observed that when the licence to conduct horse racing in the Bangalore Turf Club premises was refused, licence to conduct betting on horse races cannot be granted. The order so passed in a way was a sequetor.

5.7.1 Learned Single Judge rested upon irrelevant consideration in his reasoning to stay the licence and permit the horse racing event to take place. Observing thus in paragraph 18 *inter alia* that since the event has come to a hold, it would result into ailment and disease to the race horses,

“18. It is necessary to state that I have arrived at the aforesaid findings based on a *prima facie* scrutiny of the material on record and upon consideration of the rival contentions for the purpose of the interim prayers sought for by the petitioners; in this context, it is relevant to note that by virtue of the impugned orders, the entire racing and betting activities of the petitioners, which was hitherto being carried on continuously and uninterruptedly for decades, has now come to a complete standstill and a grinding halt thereby resulting in irreparably injury and hardship not only to the petitioners but also the race horses themselves who are lying idle without their regular racing activity, which would cause ailments, diseases etc., to the race horses which is sufficient to indicate that the balance of convenience is in favour of the petitioners.”

5.7.2 In observing the factor that the Club will not be granted any more licence to safeguard the activity, learned Single Judge overlooked the aspect that the betting activity could be carried on both by the licensed bookies and nonlicensed bookies, clandestinely, they may be carried on within the premises or outside the premises and the bookies may even operate outside the City. The criminal cases pending against the accused persons could not have been overlooked since they relate to the very kind of illegalities. Learned Single Judge erred in observing that in the facts of the case, extraordinary jurisdiction was required to be invoked and that it was

exceptional to grant the interim stay and permitting the horse racing and to hold the event.

5.7.3 The management cannot claim impunity and cannot claim to be absolved for the activities done during the event by the bookies and their assistants. Sub-section (4) of Section 4 provides that licensee can be and is authorised to issue permit to the book-maker to operate. Learned Single Judge in holding that the activities carried on by the bookies have no nexus to the aspect of refusal or grant of licence, even if they are illegal and subjected to pending criminal proceedings, committed a manifest error in reasoning and in exercising his discretion in favour of the petitioners,

“(xi) A perusal of the impugned orders will indicate that the respondents have refused grant license in favour of BTC on the ground that illegal activities are being carried on by the bookmakers against whom criminal proceedings have been initiated; in this context, it is relevant to state that the Licensing Act and Rules do not provide for any nexus or connection between grant/issuance of licenses and the alleged illegal activities of the book makers and criminal cases pending against them and consequently, the said circumstances could not have been made the basis for refusal to grant/issue license in favour of the petitioners.”

6. From clear *prima facie* reading of the provisions of the Act and the Rules, it has to be observed that on one hand there is no right to get licence for horse racing as such, unless the conditions are satisfied, and on the other hand, the grant or refusal of the licence lies in the discretionary realm of the authorities. For the above highlighted aspects and circumstances about the pendency of criminal cases against the office bearers of the Club, the all potentiality for the event degenerating into the illegal activities and the grounds mentioned in the impugned order which are cogent, it cannot be said that *prima facie*, in refusing the grant of licence, the competent authority did not exercise its discretion properly.

6.1 The discretion to refuse the licence could be said to be an exercise, on all *prima facie* considerations, reasonably and on the basis of relevant and germane factors and considerations. Learned Single Judge was not justified in substituting its own discretion to hold otherwise. When the discretion was

properly exercised by the authority, there was no *prima facie* case for the petitioners to seek any interim relief of the kind and nature granted by learned Single Judge. The aspect of balance of convenience and the hardship tilted against the petitioners in absence of any *prima facie* case.

7. The writ court commits a jurisdictional error, when proceeds to interfere with judicious exercise of discretion by the administrative authority which has passed the order on relevant considerations. Restoring the due and better part of discretion by the Appellate Court is also a jurisdictional exercise necessary to be adverted to, in order to set right such error and infirmity.

8. Besides, the interim directions passed by learned Single Judge in the impugned order partakes granting of final relief. In **Meena Chaudhary v. Commissioner of Delhi Police and others [(2015) 2 SCC 156]**, the prayer in the interim relief application was the core issue to be determined in the main appeals. The Supreme Court stated that grant of said relief at the interim juncture would render the main appeal redundant and held that the relief could not be granted at such stage. Similar principle was reiterated by the Supreme Court in **State of Orissa v. Madal Gopal Rungta [1951 SCC 1024]**, to observe that interim relief cannot be granted which may become main relief. In **State of U.P. and others v. Ram Sukhi Devi [(2005) 9 SCC 733]**, the Apex Court deprecated the practice of granting interim orders which practically give principal relief sought in the petition.

9. As the main writ petition is pending, all the observations herein shall be treated in the context of impugned order of learned Single Judge only.

10. For all the aforesaid reasons and discussion, a strong *prima facie* case is made by the appellant-State. The order of learned Single Judge is hereby suspended and stayed. The respondent-original petitioner-Club is prohibited from conducting the on-course and off-course horse racing and betting event during the pendency of the petition to be subject to outcome of the petition.

11. The question of *locus standi* of petitioners other than Bangalore Turf Club, who are the Race Course Owners Association, Horse Trainers, and

Punters and Jockey's Association is kept open to be decided at the time of final hearing of the petition.

The appeal shall be listed for final hearing on 13th August 2024.

© All Rights Reserved @ LAWYER E NEWS

*Disclaimer: Always compare with the original copy of judgment from the official website.