

**IN THE HIGH COURT OF HIMACHAL PRADESH,  
SHIMLA.**

**CWP No. 3889/2009**

**Decided on: 31.10.2009**

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**Billing Para Gliding Association Bir. ...Petitioner.**

**Versus**

**State of Himachal Pradesh and others. ... Respondents.**

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**Coram:**

**Hon'ble Mr. Justice R.B. Misra, Acting Chief Justice.**

**Hon'ble Mr. Justice Rajiv Sharma, Judge.**

**Whether approved for reporting?<sup>1</sup> Yes.**

**For the petitioner : Mr. Ajay Sharma, Advocate.**

**For the Respondents: Mr. R.K. Bawa, Advocate General with  
Mr. J.K. Verma, Dy. A.G. for the respondents.**

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The petitioner is a society registered under the Societies Registration Act, 1860. The petitioner has sought quashing of letter dated 22.10.2009 i.e. Annexure P-5. In sequel to communication dated 19.10.2009 addressed to the Joint Director (Tourism) by the petitioner-society, the Director (Tourism) has sought the following information from the President of the petitioner-society:

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<sup>1</sup> Whether reporters of the local papers may be allowed to see the judgment?

- i) Whether the Billing Paragliding Association stands registered and whether the association has followed the conditions laid down under the relevant section of H.P. Tourism Development and Registration Act, 2002 and the rules made thereunder. You are further informed that this is a high risk sport and is regulated under the various rules and regulations before any individual or association is allowed to conduct the same.**
- ii) A copy of the permissions, if any, given by the Aero Club of India which is mandatory, may also be supplied.**

The Director has specifically informed the President of the petitioner-society that in the absence of the requisite statutory permissions the activity of organizing “Aero sports” event was illegal. The Director (Tourism) and Civil Aviation, Himachal Pradesh has informed the President of the petitioner-society that it was not eligible to conduct the event unless the registration and approval from the Department of Tourism and Civil Aviation, Himachal Pradesh under the Himachal Pradesh Tourism Development and Registration Act, 2002 is obtained.

Mr. Ajay Sharma, Advocate has vehemently argued that it is not necessary for the petitioner-society to get itself registered under the Himachal Pradesh Tourism Development and Registration Act, 2002 (hereinafter referred to as ‘the Act’ for brevity sake) and the Rules framed thereunder. He then contended that the activities carried out by the petitioner-society do not fall within the expression “operator”. He lastly relied upon Article 19 (c) of the Constitution of India.

Mr. R.K. Bawa, learned Advocate General has vehemently argued that it is mandatory for the association/society to get itself registered under the relevant Act and the Rules framed thereunder. He then contended that the petitioner-society has already been informed vide communication dated 22.10.2009 and 28.10.2009 to get itself registered.

We have heard the learned counsel for the parties and have gone through the pleadings carefully.

The Legislative Assembly of the Himachal Pradesh has enacted the Act called “ the Himachal Pradesh Tourism Development and Registration Act, 2002”. Section 3 defines the terms “adventure sports”, “adventure sports operator”, “tourism unit” and “tourism unit operator”. Section 25 of the Act postulates that every person intending to operate a tourism unit shall before operating the unit, apply for registration to the prescribed authority in the prescribed manner. Section 27 provides for registration of the adventure sports operator. Section 46 provides for imposition of penalty. Section 64 empowers the State Government to frame the rules.

The State Government has framed the rules called “the Himachal Pradesh Aero Sports Rules, 2004” (hereinafter referred to as “the Rules” for brevity sake). The Rules define terms like “operator”, “operation” and “site”. The procedure for application for registration of “Aero sports” is stipulated under rule 3. The registration and qualifications of operator for aero sports is provided under rule 4. The registration and qualifications of the Pilot/Guide/Instructor/Tandem Pilot is provided under rule 5.

Chapter-III of the Rules deals with safety measures. Rule 15 confines the sites where the aero sport activities can be carried out. “Bir” is also one of the identified area as per rule 15 in District Kangra.

The expression “aero craft” is specifically mentioned in sub rule (h) of rule 2 to mean para glider, hang glider, hot air balloon, etc. The adventure sports, includes recreation on land, air, water area, air, including air sports. These organizers/operators have to get themselves registered under section 25 and 27 of the Act. There are penal provisions in case the sports activities are carried out without permission. There is a detailed procedure provided the manner in which the applications for aero sports operation are to be submitted for registration.

Petitioner-society was called upon by the Managing Director of respondent No.2 to do the needful by getting the unit registered. This information was supplied to the petitioner-society on 22/28.10.2009. The petitioner-society as of today is not registered to carry out aero sports i.e. para gliding etc. It is open to the State Government to impose reasonable restrictions in larger public interest. There is always element of danger in the activities like aero sports and water rafting etc. It is the duty cast upon the State Government to ensure that the institutions/organizations/operators who have to organize these events take necessary permission to register their units and thereafter to carry out the activities strictly as per the Act and Rules framed thereunder. In view of this, it cannot be said that the petitioner-society has absolute right to hold the event of para gliding. There is no merit in the submission of Mr. Ajay

Sharma that the petitioner is 'organizer' not 'operator'. A bare perusal of term "operator" as defined in the Rules shall include the expression "organizer" as well. The operator has a wider meaning and the intention of the legislation is that a person, who operates/organizes any aero sports event must get his unit registered and thereafter organize the event as per the Act and Rules.

We are of the considered view that as per dictionary/ definition clauses of the Act and Rules, the activities carried out by the petitioner-society falls within the expression of "adventure sports", "adventure sports operator" and "tourism unit".

Accordingly, in view of the observations made hereinabove, there is no merit in the writ petition and the same is dismissed in limine. No costs.

**(R.B. Misra),  
Acting Chief Justice**

**(Rajiv Sharma),  
Judge**

31.10. 2009.

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