

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

OWP No. 341/2012
CMP No. 468/2012

Date of decision: 16.05.2012

Kuldeep Saproo and ors. v. Union of India and ors.

CORAM:

MR. JUSTICE J.P. SINGH.

Appearing Counsel:

For Petitioner(s) : Mr. C.M.Koul, Advocate.

For Respondent(s) : Mr. Tashi Rabstan, CGSC.

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|-----|--|---|--------|
| i) | Whether approved for reporting
in Press/Journal/Media | : | Yes/No |
| ii) | Whether to be reported
in Digest/Journal | : | Yes/No |
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JUDGMENT

The Directorate General Doordarshan conveyed the Corporation's approval to petitioners' proposals requiring them to submit final Script of requisite number of their respective episodes within thirty days of the receipt of Communication dated June 08/09, 2011. Despite receipt of the requisite episodes, the Broadcasting Corporation did not proceed further in the matter to facilitate their telecast from DD Kashir.

Complaining of the Broadcasting Corporation of India's inaction on their submitted episodes for their telecast, besides projecting violation of their enforceable rights in reaping the benefits of their work which was approved by the Corporation, the petitioners have approached this Court

seeking directions against the Corporation and its functionaries to finalize the remaining process to facilitate telecast of the programmes on DD Kashir.

It is not disputed on behalf of the Corporation that after assessment of the presentations, the petitioners were awarded programme(s) in DD Kashir under the Commissioned category.

Responding to the petitioners' Complaint of respondents' inaction in the matter after acceptance of their presentations, it is stated by the Corporation that further process in the matter could not be initiated because of the interim orders of the Court issued in Writ Petitions OWP Nos. 1062/2011 and 1236/2011 and that proceeding further may lead to financial burden on the Corporation.

Heard learned counsel for the parties and considered their submissions.

The award of programme(s) to the petitioners for its telecast by the DD Kashir, having not been disputed by the Broadcasting Corporation of India, all that remains to be seen is as to whether or not there was any inaction on the part of the Corporation in taking further requisite action pursuant to the award of the Programme(s) to the petitioners and, if so, was there any justification for Corporation's maintaining status quo in the matter until conclusion of the proceedings in the Writ Petitions referred to herein above?

To deal with the issue, reference needs to be made to the subsisting interim order passed in the Writ Petitions. The order reads thus:-

“ Heard learned counsel for the parties.

To conclude hearing in the Writ Petitions, Records of proceedings of the Reconsideration Committee, which had considered the petitioners’ cases pursuant to the orders passed in OWP Nos. 1172/2009 and 270/2010 need to be perused.

Respondents are therefore directed to produce the records on the next date.

Meanwhile, it is directed that the interim order issued on 09.08.2011, whereby it was directed that “no allotment in DD Kashir shall be made”, shall defer until further orders from the Court and the allotment(s), if any, made by DD Kashir shall remain subject to the orders in the Writ Petitions.

Sd/-

Jammu
02.11.2011”

Perusal of the above referred interim order reveals that the earlier interim order of the Court whereby the Corporation was restrained from making any allotment(s) in DD Kashir, was put in abeyance until further orders by the Court in terms of its Order dated 02.11.2011 additionally providing that allotments, if any, made by DD Kashir, would remain subject to the orders in the Writ Petitions, meaning thereby that the impediment in DD Kashir’s making allotments was lifted by providing that the allotments, if any made, shall remain subject to the orders in the Writ Petitions.

With the lifting of the earlier restraint order against DD Kashir from making any allotments, there remains no impediment with the Corporation to proceed further in the matter pursuant to the acceptance of the petitioners’ presentations/proposals. The apprehension of the Corporation

that its going ahead with the process needed to be taken after the acceptance of the presentations/proposals and making of the allotments in favour of the petitioners would result in financial implications is, however, presumptive and in any case, not insurmountable.

Be that as it may, the Corporation's apprehension that its going ahead with the proposals of the petitioners may result in financial implications depending on the directions that the Court may pass in the pending Writ Petitions, could well be taken care of by the Corporation considering allowance of the benefits available to the petitioners on the acceptance of their proposals/presentations, on such terms and conditions, as the Corporation may consider it appropriate so to impose protecting its financial and other interests.

The inaction of the Corporation in not proceeding further in the matter after acceptance of the petitioners' proposals/presentations thereby maintaining status quo, which was lifted by the Court permitting the Corporation to proceed further in the matter, cannot, therefore, be justified. The respondents are, therefore, required to take further Course of action in view of the observations made hereinabove taking such security, undertaking or bank guarantee to protect its financial interests as it may consider appropriate so to do.

This Writ Petition is, therefore, allowed issuing directions to the Broadcasting Corporation of India and its functionaries to take requisite steps needed under Rules pursuant to the acceptance of the proposals/presentations of the petitioners, however, making the orders to be issued, steps taken and the benefits made available to the allottees, subject to the orders in the Writ Petitions and to such other further condition(s)/restriction(s) and filing of undertaking, security or bank guarantee, as the Corporation may consider it appropriate so to impose on the petitioners, to protect its financial and other interests in the event of any adverse orders against it by the Court.

(J.P. Singh)
Judge

Jammu:
16.05.2012
Vinod.