

2023 LiveLaw (SC) 578

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

B.R. GAVAI; J., VIKRAM NATH; J., SANJAY KAROL; J.

JULY 27, 2023

MISCELLANEOUS APPLICATION No. OF 2023 @ DIARY NO(S). 29714/2023 IN W.P.(C) NO. 456/2022

DR. JAYA THAKUR versus UNION OF INDIA & ORS.

The Supreme Court extended the term of the Director of the Directorate of Enforcement (ED) till September 15 in "larger public interest". No further application would be entertained for grant of extension. The respondent will cease to be the director of ED with effect of midnight of 15th/16th September 2023. (Para 15 -18)

Counsel for parties Mr. Tushar Mehta, Solicitor General Mr. S.V. Raju, A.S.G. Mr. Mukesh Kumar Maroria, AOR Mr. Kanu Agarwal, Adv. Mr. Adit Khorana, Adv. Mr. Udai Khanna, Adv. Mr. Mayank Pandey, Adv. Mr. Zoheb Hussain, Adv. Dr. Abhishek Manu Singhvi, Sr. Adv. Mr. Muhammad Ali Khan, Adv. Mr. Omar Hoda, Adv. Ms. Ashima Chauhan, Adv. Mr. Uday Bhatia, Adv. Mr. Anup G. Choudhary, Sr. Adv. Mrs. June Choudhary, Sr. Adv. Mr. Shashank Ratnoo, Adv. Mr. Ramkaran, Adv. Pratishtha Majumdar, Adv. Mr. Varinder Kumar Sharma, AOR Mr. Brajesh Pandey, Adv. Mr. Prashant Bhushan, Adv. Ms. Vanshaja Shukla, AOR Mr. Ravi Raghunath, AOR

ORDER

1. Vide our judgment and order dated 11th July 2023, we have held that extension granted to Respondent No.2 vide orders dated 17th November 2021 and 17th November 2022 to be invalid, being in breach of the judgment and order of this Court in the case of **Common Cause (A Registered Society) v. Union of India & Ors¹**.
2. However, taking into consideration the requirement of smooth transition and further the concern expressed by the Union of India with regard to Financial Action Task Force (FATF) review, we had permitted Respondent No.2 in the Writ Petition to continue till 31st July 2023.
3. A Miscellaneous Application has been filed by the Union of India seeking directions for permitting Respondent No.2 to continue to be in office up to 15th October 2023.
4. We have heard Shri Tushar Mehta, learned Solicitor General of India and Shri S.V. Raju, learned Additional Solicitor General, on behalf of Union of India. We have also heard Dr. Abhishek Manu Singhvi and Shri Anup G. Choudhary, learned senior counsel, and Shri Prashant Bhushan, learned counsel, for the original writ petitioner(s).
5. Shri Mehta submitted that the FATF is an ongoing process and since Respondent No.2 is heading the department for the last several years, in order to maintain continuity for the FATF review, it is necessary that he should be permitted to continue till 15th October 2023. He submits that the ongoing process requires various exchange of communications, consultations etc.
6. Shri Mehta further submitted that the country's credit rating is dependent upon the outcome of the said FATF review. He submitted that the FATF review has a direct relation with the image of the country at international level.
7. Shri S.V. Raju, learned Additional Solicitor General of India, supplemented the arguments of the learned Solicitor General. He submitted that money laundering and terror financing are one of the most relevant parameters of the FATF review. He, therefore, submits that since money laundering and terror financing is directly dealt with by

¹ 2021 SCC OnLine SC 687

Directorate of Enforcement (“ED” for short), it is necessary that Respondent No.2 be permitted to continue for the period mentioned in the application.

8. The application is vehemently opposed by Dr. Abhishek Manu Singhvi and Shri Anup G. Choudhary, learned senior counsel, and Shri Prashant Bhushan, learned counsel.

9. It is submitted that the grounds which are sought to be raised in the present application were very much available when the Writ Petitions were heard by this Court. It is, therefore, submitted that the present application is nothing else but an attempt to review the judgment of this Court under the garb of seeking an extension.

10. Dr. Singhvi further submits that the main authority to deal with FATF review is the Secretary, Department of Revenue and, therefore, the application as made is misconceived.

11. Shri Choudhary, learned senior counsel, submits that there are various bodies which are involved in the FATF review. It is submitted that ED is only one of such bodies, which is concerned with the FATF review.

12. It is, therefore, submitted that the application deserves to be rejected.

13. In the ordinary circumstances, we would not have entertained such an application.

14. Having held that the extension granted to Respondent No.2, vide orders dated 17th November 2021 and 17th November 2022 were invalid in law, this Court by Judgment and Order dated 11th July 2023 had permitted Respondent No.2 to continue till 31st July, 2023, in order to ensure smooth transition.

15. We find that though in the ordinary circumstances, such an application should not be entertained, however, taking into consideration the larger national interest, we are inclined to permit Respondent No.2 to continue for some more period.

16. We, therefore, permit Respondent No.2 to continue as the Director of Enforcement till 15th September 2023.

17. We clarify that no application for grant of further extension to Respondent No.2 would be entertained.

18. We further clarify that Respondent No.2 shall cease to be the Director of Enforcement with effect from the midnight of 15th-16th September 2023.

19. The application is disposed of in the aforesaid terms.