



THE  
**SUPREME COURT REPORTS**

*Containing Cases Determined by the Supreme Court of India*

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**SUBJECT-INDEX****ADMINISTRATIVE LAW:**

Government policy - State Largesse - Scheme framed by State for free distribution of Colour Television Sets (CCTVs) to eligible families in the State - Scheme challenged in writ petition - Whether the scheme was within the ambit of public purpose and if yes, was it violative of Art.14 of the Constitution - Held: The mandate of the Constitution provides various checks and balances before a Scheme can be implemented - Therefore, as long as a scheme comes within the realm of public purpose and monies withdrawn for implementation of the scheme by passing suitable Appropriation Bill, the Court has limited jurisdiction to interfere in such scheme - Judicial interference is permissible only when action of the government is unconstitutional or contrary to a statutory provision and not when such action is not wise or that the extent of expenditure is not for the good of the State - Scheme in question fell within the realm of fulfilling the Directive Principles of State Policy thereby falling within the scope of public purpose and was also in consonance with Art.14 of the Constitution - Constitution of India, 1950 - Art. 14 - Representation of the People Act, 1951 - s.123.

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**ARBITRATION AND CONCILIATION ACT, 1996:**

s.48(2)(b) - Foreign award - Enforcement of -

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Challenge to - Award passed by the Board of Appeal of the Grain and Feed Trade Association, London in respect of a transaction relating to 20,000 MT (+/- 5%) of Durum wheat, Indian Origin in favour of respondent-buyers - Appellant-sellers challenged the award passed by Board of Appeal in the High Court of Justice at London which found no ground or justification for setting aside the award - Enforceability of foreign award u/s.48 - Held: If a ground supported by the decisions of the foreign country concerned was not good enough for setting aside the award by the court competent to do so, a fortiori, such ground can hardly be a good ground for refusing enforcement of the award - Moreover, s.48 of the Act does not give an opportunity to have a 'second look' at the foreign award in the award - enforcement stage - Scope of inquiry u/ s.48 does not permit review of the foreign award on merits - Procedural defects in the course of foreign arbitration do not lead necessarily to excuse an award from enforcement on the ground of public policy - Even if it be assumed that the Board of Appeal made some errors, such errors would not bar the enforceability of the appeal awards passed by the Board of Appeal - While considering the enforceability of foreign awards, the court does not exercise appellate jurisdiction over the foreign award nor does it enquire as to whether, while rendering foreign award, some error has been committed - Under s.48(2)(b), enforcement of a foreign award can be refused only if such enforcement is found to be contrary to (1) fundamental policy of Indian law; or

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of India; or (3) justice or morality - On facts, objections raised by appellant not falling in any of these categories and, therefore, the foreign awards cannot be held to be contrary to public policy of India as contemplated u/s.48(2)(b) - Thus, awards can be enforced.

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Company was not covered under the Notification relaxing the provisions of ss. 19 and 29(1)(b).

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(1) ss. 302 and 307 r/w 149 - Murder - Attempt to murder - Unlawful assembly - Common object - Mob comprising several persons allegedly armed with guns and sharp-edged weapons started firing

and also launched assault - Two persons died - Held: 'B' rightly convicted by the courts below and sentenced to imprisonment for life - But prosecution failed to prove that five other appellants i.e. 'M', 'G', 'A', 'J' and 'R' were armed with guns when they came to the place of occurrence - Reasoning of the trial court that the said five appellants were not carrying guns but carrying arms which they used to cause sharp edged and blunt injuries to the deceased, not sustainable - All that prosecution evidence may prove is that the said five appellants were also present on the spot - But, being present on the spot, by itself may not in the peculiar facts and circumstances of the case be enough to implicate them u/s.149 - Commission of an overt act, is not an essential ingredient for attracting s.149 but given the exaggerations and embellishments in the prosecution story, the said five appellants cannot be held guilty of murder with the help of s.149 or even in regard to offence u/ s.307 r/w s.149 - Arms Act, 1959 - s.27.

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in the election manifesto cannot be read into s.123 for declaring it to be a corrupt practice - Promises in the election manifesto do not constitute as a corrupt practice under the prevailing law - However, reality cannot be ruled out that distribution of freebies of any kind, undoubtedly, influences all people - It shakes the root of free and fair elections to a large degree - Considering that there is no enactment that directly governs the contents of the election manifesto, the Election Commission is directed to frame guidelines for the same in consultation with all the recognized political parties - Generally political parties release their election manifesto before the announcement of election date, in that scenario, strictly speaking, the Election Commission will not have the authority to regulate any act done before announcement of the date - Nevertheless, an exception can be made in this regard as the purpose of election manifesto is directly associated with the election process - Election Commission directed to take up this task as early as possible owing to its utmost importance - Also, there is need for a separate legislation to be passed by the legislature in this regard for governing the political parties - Constitution of India, 1950 - Art. 324.

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#### SERVICE LAW:

Disciplinary inquiry - On the charges of misconduct - Punishment of dismissal from service - Appellate authority, Administrative tribunal as well as High

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Court confirming order of disciplinary authority - Held: There is nothing perverse about the finding as regards the charge of misconduct - But the punishment of dismissal from service for the kind of misconduct alleged, is disproportionate - However, the false accusation on the part of the delinquent against his superior officer of having used casteist abuses to humiliate him, the case does not call for leniency - Hence, in view of totality of the circumstances, order of dismissal substituted to order of reduction of rank, with direction that he would have benefit of continuity of service, but would not be entitled to arrears of pay or other financial benefits for the period between the date of dismissal and date of reinstatement on the lower post.

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