

**In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
And
The Hon'ble Mr. Justice Supratim Bhattacharya**

**FMA No. 1329 of 2024
With
IA No: CAN 1 of 2025
With
COT No. 75 of 2024**

**M/s Kultali Food Marketing Private Limited
Vs.
Shyama Self Help Group and others**

For the appellant	:	Mr. Saptansu Basu, Sr. Adv., Mr. Ram Anand Agarwala, Ms. Nibedita Pal, Mr. Ramesh Dhara Mr. Ananda Gopal Mukherjee, Ms. Sonam Roy,
For the respondent	:	Mr. Debabrata Saha Ray, Sr. Adv., Mr. Pingal Bhattacharya, Mr. Subhankar Das, Mr. Neil Basu, Mr. Sankha Biswas, Mr. Avidipta Paul, Ms. Oindrila Sarkar
For the State	:	Mr. Susovan Sengupta, Sr. Govt. Adv., Mr. Sanatan Panja
Heard on	:	01.09.2025, 04.11.2025 06.11.2025 & 18.11.2025
Hearing concluded on	:	18.11.2025
Judgment on	:	02.12.2025

Sabyasachi Bhattacharyya, J.:-

1. The genesis of the present *lis* is a Vacancy Notification (for short, “VN”) dated July 17, 2019 issued by the District Controller, Food and Supplies Department in respect of appointment of Modified Rationing Distributor (MR Distributor) at Jamtalahat, Kultali, District - South 24 Parganas. The appellant and the respondent no.1/cross-objector are contenders for such distributorship. The matter has a checkered history; however, the entire background narrative need not be set forth, being irrelevant in the present context. The facts relevant for the present adjudication are as follows:
2. A VN for the said distributorship at Jamtalahat was issued first on December 31, 2009, under the West Bengal Public Distribution System, (Maintenance and Control) Order, 2003, pursuant to an order dated July 9, 2004 of this Court. The said notification was challenged, having not been widely published, in a writ petition, which was allowed by directing the authorities to issue a public notification in the Official Gazette and two daily newspapers. Such order of the learned Single Judge was affirmed by a Division Bench in appeal.
3. A Gazette Notification was accordingly published on June 21, 2011. The present appellant was found a suitable candidate therein.
4. One Barun Ghosh, another contender for the distributorship, made a representation against an enquiry report of the Sub-Divisional Controller, Food and Supplies, Baruipur, South 24 Parganas, upon which the Director, DDP&S directed the District Controller to re-enquire the matter. On re-enquiry, the name of the said Barun Ghosh was recommended as a suitable candidate.

5. The appellant challenged the order of the Director, by way of a writ petition bearing WP No. 132 (W) of 2012, which was allowed on August 14, 2013, quashing the report and directing the District Controller to consider the report of the Sub-Divisional Controller and to send his recommendation to the Director, with liberty to the Director to make a fresh enquiry, if not satisfied.
6. Since the 2003 Control Order had been repealed by the 2013 Control Order in the meantime, the said vacancy itself was cancelled by the State and the Sub-Divisional Controller was directed, by a communication dated January 31, 2014, to initiate a fresh proposal under the 2013 Control Order.
7. The appellant preferred WP No. 10608 (W) of 2014 against the said direction, in which affidavits were directed on June 9, 2014, without passing any interim order.
8. The said Barun Ghosh preferred an appeal bearing MAT No. 1150 of 2014 against the said order, which was dismissed on July 16, 2014, granting liberty to challenge subsequent steps taken by the authorities by filing appropriate application in the pending writ petition.
9. The District Controller next published an advertisement *vide* memo dated July 13, 2015, inviting applications for filling up of the vacancy of distributorship “near the office of the BDO” under Kultali Block, thereby shifting the location from Jamtalahat.
10. Barun Ghosh now preferred another writ petition bearing WP No. 17744 (W) of 2015 challenging such advertisement, as well as assailed the communication dated January 31, 2014 in a separate writ petition bearing WP No. 21333, (W) of 2015.

- 11.** A learned Single Judge of this Court disposed of both the writ petitions by a common order dated February 3, 2016, by setting aside the communication dated January 31, 2014, and directing the appropriate authority to take a fresh decision on the basis of the order passed by the Director in the earlier VN and not to take any further steps in respect of the VN dated July 13, 2015.
- 12.** The appellant preferred an appeal bearing MAT No. 201 of 2016 against the said order. The State also challenged the said order by preferring FMA No. 2272 of 2016. Both the appeals were disposed of by a Division Bench of this Court by a common judgement dated September 25, 2018, *inter alia*, setting aside the order of the learned Single Judge as well as the VN dated July 13, 2015 and directing the State Government to issue a fresh advertisement for filling up the vacancy of Jamtalahat Mouza, Kultali Police Station in accordance with the 2013 order, thereby shifting the location back to Jamtalahat.
- 13.** A Special Leave Petition, preferred against the said order of the Division Bench, was rejected on September 21, 2019. On the same date, the Division Bench modified its order by incorporating a minor correction as to the Mouza of the concerned location.
- 14.** In the interregnum, the State Government published a Notification dated December 18, 2018, making amendments to Clause 26 of the 2013 Control Order, in exercise of its power under Section 3 of the Essential Commodities Act, 1955, read with GSR 630 (E) dated August 31, 2001.
- 15.** The District Controller, pursuant to the order of the Division Bench, issued a VN dated February 20, 2019, under the 2013 Control Order, inviting

applications for appointment of MR Distributor at Jamtalahat, which was initially published in the Official Gazette on July 11, 2019, but subsequently re-published on July 17, 2019.

- 16.** The present appellant submitted its application on August 8, 2019 in terms of the said VN, which was challenged by the respondent no.1/cross-objector, by a writ petition bearing WPA No. 16220 of 2019. On an application being filed by the appellant for being added as a party to the writ petition, the same was allowed.
- 17.** Ultimately, the writ petition was disposed of by a learned Single Judge of this Court on February 23, 2024, *inter alia*, directing the state-respondents to modify the VN dated July 17, 2019 in conformity with the directions and observations made in the judgment of the Division Bench dated September 25, 2018, in terms of the relevant Government Order/Notification issued by the State, by modifying the same in line with the reduced financial solvency limit.
- 18.** Being aggrieved by the said order of the learned Single Judge, the present appeal has been preferred.
- 19.** Learned senior counsel appearing for the appellant argues that the learned Single Judge erred in law in deviating from the direction of the Division Bench dated September 25, 2018, by directing that the VN dated September 17, 2019 should be modified in line with the reduced financial solvency limit. It is contended that at the relevant point of time, when the impugned VN was published, the required solvency limit to participate in the tender process was Rs. 50 lakh bank balance as working capital. However, such threshold eligibility criterion was subsequently reduced by a Notification

dated May 11, 2022. So, it is submitted that since the writ petitioner/respondent no.1/cross-objector did not qualify on the count of the threshold limit of Rs. 50 lakh as working capital, the learned Single Judge acted without jurisdiction in directing such criterion itself to be reduced, thereby deviating from the judgment of the Division Bench.

- 20.** It is argued that the financial limit of Rs. 50 lakh was incorporated in the impugned VN dated July 17, 2019 on the basis of a Government Order dated July 21, 2014, which stipulated the financial criterion to be Rs. 50 lakh, which has not been challenged by the writ petitioner/respondent no.1. Thus, it is argued that the impugned order ought to be set aside.
- 21.** Learned Senior Government Advocate, appearing on behalf of the State, contends that the fresh VN dated July 17, 2019 is in conformity with the judgment and order dated September 25, 2018 passed by the Division Bench. It is contended that although fresh notifications have been issued in respect of other areas in the state of West Bengal in consonance with the subsequent Government notifications modifying the terms of the applicable Control Orders, the same could not be done in respect of Jamtalahat in view of the specific direction of the Division Bench to adhere to the 2013 Control Order in that regard.
- 22.** The State further argues that in the absence of any challenge to the Notification dated December 18, 2018, the writ petitioner/respondent no.1/cross-objector cannot now argue that the preference to women-run Self-Help Groups (SHG) ought to be re-imposed, since the said Notification took away such preference.

23. Learned Senior Government Advocate places reliance on *Edukanti Kistamma (dead) through LRs, and Others v. S. Venkatareddy (dead) through LRs, and Others*, reported at (2010) 1 SCC 756, where it was held that a challenge to a consequential order without challenging the basic order/statutory provision, on the basis of which the consequential order was passed, is not maintainable.
24. Learned senior counsel appearing for the respondent no.1/cross-objector, which has also filed a cross-objection against the order of the learned Single Judge, submits that, at the juncture when the Division Bench order was passed, the 2013 Control Order stipulated preference being given to women-run SHGs. Thus, such benefit ought to have been given in the impugned VN dated July 17, 2019.
25. Secondly, it is argued that the State had subsequently published 38 different VNs for other locations in the State with the threshold limit stipulated at Rs. 50 lakh. However, subsequently those were withdrawn and the benefit of the Rs. 25 lakh reduction in the required working capital was given in respect of those locations by re-issuance of fresh VNs. Thus, the respondent no.1/cross-objector seeks parity on the ground of such other fresh notifications inasmuch as relaxation in the threshold working capital is concerned.
26. The respondent no.1/cross-objector cites *Vaishnorani Mahila Bachat Gat v. State of Maharashtra and others*, reported at (2019) 15 SCC 718 for the proposition that by increasing the threshold financial capacity, only big players are left in the field, which is not in tune with the spirit of the law.

- 27.** Learned senior counsel for the respondent no.1/cross-objector also cites an unreported judgment of the Supreme Court in the matter of the *State of West Bengal v. Gitashree Dutta (Dey)* [Civil Appeal No. 4254 of 2022 in SLP (C) No. 30438 of 2019] where it was held that in view of the different provisions of the National Food Security Act 2013, there is a paradigm shift in addressing the problem of food security from the current welfare approach to a right-based approach. It was observed that the declaration of vacancies in the said case was not in conformity with the 2013 Act and, thus, cancellation of the said notification was necessary for implementation of the provisions of the said Act.
- 28.** Learned senior counsel appearing for the respondent no.1/cross-objector next cites *Krishna Kumar Khemka v. Grindlays Bank P.L.C. and others*, reported at (1990) 3 SCC 669 where it was observed, *inter alia*, that action taken in contravention of orders of court are liable to be set aside.
- 29.** On the other hand, in rejoinder, learned senior counsel appearing for the appellant places reliance on *Arun Kumar Aggarwal v. State of M.P.*, reported at (2014) 13 SCC 707 where it was held that *obiter dictum* is a mere observation or remark made by the court by way of aside while deciding the actual issue before it, which is not binding. It is contended that the Division Bench's observation to the effect that women's SHGs have been given preference in the 2013 Control Order was in the nature of *obiter dictum* and, as such, has no binding authoritative value.
- 30.** Learned senior counsel for the appellant next cites *Directorate of Education v. Educomp Datamatics Ltd.*, reported at (2004) 4 SCC 19, for the proposition that the scope of judicial review in respect of tenders is limited to arbitrary,

discriminatory or biased action. However, the terms of tender prescribing eligibility criteria are not open to interference merely because the court feels that some other terms would have been more preferable.

31. Upon hearing learned counsel for the parties, the court arrives at the following **CONCLUSIONS**:
32. The plinth of the matter is the Division Bench judgment dated September 25, 2018, as modified on September 21, 2019.
33. However, before examining the same, certain relevant provisions of the 2013 Control Order and subsequent modifications thereof are required to be looked into.
34. The 2013 Control Order was issued on August 8, 2013. Clause 26 (iii) thereof provided that preference would be given for MR distributorship to SHGs run by women.
35. Importantly, by a subsequent Notification/Government Order dated December 18, 2018, instead of the said sub-clauses (ii), (iii) and (iv) of Clause 26 of the 2013 Control Order, certain amendments were introduced, which took away the preference for women-run self-help groups.
36. Upon such modification, the eligible applicants were SHGs/registered cooperative societies/ semi-Government bodies/ individuals/group of individuals as an entity.
37. Therefore, while widening the scope of the list of eligible candidates, the special preference to SHGs run by women was taken away.
38. Prior thereto, by a Notification/Government Order dated July 21, 2014, the financial criterion of bank balance as working capital, to be eligible to participate for MR Distributorship, was stipulated as Rs. 50 lakh.

- 39.** The said amount was reduced to Rs. 25 lakh only on December 18, 2020.
- 40.** Thus, as on the date of the Division Bench judgment, that is, September 25, 2018, the Control Order of 2013, with extant modifications, contained two features – women’s self-help groups were given special preference by dint of the subsistence of the Notification dated August 8, 2013, and the threshold financial limit was stipulated at Rs. 50 lakh.
- 41.** However, when, in pursuance of the Division Bench order, the impugned VN dated July 17, 2019 was published, the preference to women SHGs had been withdrawn by a Notification dated December 18, 2018, published in the interregnum.
- 42.** Thus, as on the date of publication of the VN dated July 17, 2019, the position was that the threshold financial capacity was Rs. 50 lakh, while, although SHGs formed one of the categories of eligible candidates, the special preference given to SHGs run by women had been withdrawn.
- 43.** The proper context of the Division Bench judgment is now required to be considered in the above backdrop.
- 44.** The pivot of arguments and adjudication before the Division Bench, as recorded in the said judgment, was the change of location from Jamtalahat in respect of MR Distributorship to “near BDO Office, Kultali”. In the judgment itself, it was recorded that “the only pinching point is the issue of change of location of the distributorship”. It was further observed that the vacancy at Jamtalahat could not be filled up for a considerable period of time and accordingly, the need to fill up the vacancy was very clear. The Division Bench also held that without any plausible reason to shift the location of distributorship, the action of the State in shifting the location

“smacked of *mala fide* and bias” and that it appeared that the same had been done “with the sole intention to favour a candidate who did not have its godown within the advertised area”. It was further held that such action on the part of the State could not be supported and was liable to be set aside.

45. In such view of the matter, the advertisement and VN dated July 13, 2015 was set aside by the Division Bench, directing the appropriate authority of the State Government to initiate steps for issuance of a fresh advertisement for filling up the vacancy of Jamtalahat Mouza, Kultali P.S., in accordance with the provisions of the West Bengal Public Distribution System, (Maintenance and Control) Order, 2013.
46. Hence, the argument of the respondent no.1/cross-objector, that the Division Bench had directed the special preference for women-run SHGs to be retained, is entirely misplaced and not borne out by the judgment of the Division Bench itself. It is relevant to note here that the Division Bench, in the passing, observed that as per the 2013 Control Order, there was a provision for giving preference to SHGs, specially women SHGs, and that in view of the inclusion of the provision for giving such preference to certain groups, it implied that the zone of consideration of eligible candidates got widened and the State got an opportunity to select the best possible candidate for the purpose of distributorship. Accordingly, it was held that the decision of the State Government to invite fresh applications for grant of distributorship did not seem to be arbitrary or unreasonable.
47. Thus, a careful scrutiny shows that the reference in the judgment to the clause giving preference for women SHGs was merely a part of the reasoning, and not of the directions given by the Division Bench. Such

consideration was for the purpose of the logical deduction that the zone of consideration of eligible candidates got widened by inclusion of such groups.

- 48.** It is to be kept in mind that even by the modification of December 18, 2018 to the 2013 Control Order, SHGs had been retained as one of the categories of eligible candidates. Rather, the ambit of participation was widened by including various other sorts of individuals, entities, registered co-operative societies and other segments of the society.
- 49.** Thus, the logic of widening the zone of consideration of eligible candidates, which prompted the Division Bench to hold that the State action was not arbitrary, was also present in the modification of December 18, 2018. Rather, the special preference for women-run SHGs was replaced by retaining SHGs as one of the categories of eligible candidates, while including other categories of entities such as registered co-operative societies, individuals and entities, which, instead of hampering inclusivity, encouraged a wider participation in the selection process.
- 50.** As such, the special preference for women SHGs cannot be read into the mandate given by the Division Bench.
- 51.** The Division Bench direction was specific as to the fresh VN being published “in terms of the 2013 Control Order”. Since, as on the date of the VN, that is, July 17, 2019, a modification had taken place in the 2013 Control Order by the Notification/Government Order dated December 18, 2018, it is the prevalent position on the date of such VN which is to be considered as the yardstick for eligibility criteria in the said Notification.
- 52.** In fact, in its judgment, the Division Bench itself observed that when the vacancy was declared initially in the year 2003, the Control Order of 2003

was in force. The fact of the 2013 Control Order coming into effect in the interregnum on August 8, 2013 was taken note of and, as such, the Division Bench directed the fresh notification to be in terms of such subsequent Control Order. Hence, in principle, the Division Bench recognized the aspect of the matter that the then currently prevailing Control Order ought to be adhered to while issuing the VN.

- 53.** Moreover, the premise of the Division Bench Judgment was to set aside the change of location of distributorship from Jamtalahat and to restore the said location as the situs of the M.R. Distributorship. The other observations therein are merely *obiter*, as rightly contended by the appellant.
- 54.** Insofar as the argument of the respondent no.1/cross objector that the threshold financial capacity should be reduced to Rs. 25 lakh is concerned, the same cannot be accepted, since, going by the prevalent position as on the date of impugned VN, that is, July 17, 2019, Rs. 50 lakh was the financial threshold limit.
- 55.** Learned senior counsel for the respondent no.1 argues that, for other locations than Jamtalahat, 38 other VNs had been re-issued in terms of the currently prevailing Control Order, which stipulates Rs. 25 lakh as the minimum financial capacity. On the said ground, the respondent no. 1 seeks parity.
- 56.** However, the parity argument is not tenable in the eye of law, since a special niche was carved out insofar as the Jamtalahat Mouza is concerned, in view of the same coming within the purview of the specific direction of the Division Bench dated September 25, 2018. Thus, parity cannot be drawn between Jamtalahat and other locations, where the State has a leeway of

issuing fresh notifications in terms of the current requirements. Insofar as Jamtalahat is concerned, the State-authorities are bound by the specific direction of the Division Bench to the effect that the Control Order of 2013 has to be followed, since the said order has attained finality. At best, the position prevailing on the date of impugned VN could be taken as a parameter, on which ground as well, it was Rs. 50 lakh, and not the reduced amount of Rs.25 lakh, which was the prevalent parameter governing the VN.

57. As held in *Directorate of Education (supra)*¹, the writ court does not readily interfere with the terms of a tender prescribing eligibility criteria, unless the same is arbitrary, discriminatory or biased, merely because the court feels some other terms would have been more preferable.
58. Going by such standard, it is entirely the policy decision of the State Government as to what should be the eligibility criteria at any point of time and/or the classes of people who are eligible for MR Distributorship.
59. As discussed above, since we find that sufficient inclusivity and wide participation was encouraged by including all types of SHGs (run by women or otherwise) as well as registered co-operative societies, individuals and other entitles in the Notification dated December 18, 2018, whereby the 2013 Control Order was modified to an extent, we do not find such modification to be arbitrary or discriminatory in any manner. The impugned VN was only in consonance therewith.
60. Moreover, since none of the parties have, at any point of time, challenged the Notification/Government Order dated December 18, 2018, nor the Government Order dated July 21, 2014, whereby Rs. 50 lakh bank balance

1. *Directorate of Education v. Educomp Datamatics Ltd.*, reported at (2004) 4 SCC 19

was stipulated as the required working capital for participation in MR Distributorship tenders, there is no scope before the parties to resile from the same.

61. In the impugned order, the learned Single Judge, in fact, categorically observed that the dilution of preference given to women-run SHGs was not challenged. It was further observed that the preference to Self-Help Groups in Clause 26 of the 2013 Control Order was amended on December 18, 2018, prior to the VN dated July 17, 2019. The learned Single Judge further observed that the said amendment of December 18, 2018 shows that the zone was widened to include not only SHGs but also registered co-operative societies, semi-Government bodies, individuals and group of individuals. Thus, the tenor of the observations of the learned Single Judge clearly shows that the argument of re-introduction of preference for women-run SHGs, as advanced by the writ petitioner/respondent no.1, was not accepted. Rather, the learned Single Judge held that while the observation of the Division Bench in relation to women-run SHGs is relevant, the contention of the State as well as the added respondent of the amendment of the Control Order of 2013 also cannot be ignored. Hence, the learned Single Judge clearly observed that it is arguable whether the writ petitioner can now question the dilution of preference given to women-run SHGs after publication of the impugned VN dated July 17, 2019.

62. The reason which prompted the learned Single Judge to direct modification of the impugned VN was that uniformity should be ensured in all the notifications advertised by the State in respect of MR Distributorship across the State and that it is of utmost importance that the conditions/criteria

specified for participation and eligibility are kept uniform throughout the State, including in respect of financial solvency.

- 63.** The learned Single Judge's observation, that the modification should be made in line with the reduced financial solvency limit of the other notices across the State where the margin has been halved, with due respect, contradicted the earlier observation in the self-same judgment that in view of the writ petitioner having not challenged the Government Order dated July 21, 2014, whereby Rs. 50 lakh working capital was required as bank balance, which forms the foundation of the impugned VN, the petitioner's challenge to the latter may also not be sustainable. The learned Single Judge, in Paragraph No.13 of the impugned judgment, considered further that in the subsequent order dated December 22, 2020, whereby the solvency requirement was reduced from Rs. 50 lakh to Rs. 25 lakh, it was specified that the change shall not be applicable to the vacancies which have already been notified by the licensing authority.
- 64.** Thus, the Government Order reducing financial solvency from Rs. 50 lakh to Rs. 25 lakh, it was observed, would only be applicable to notifications issued after December 22, 2020 and, as such, the writ petitioner cannot claim the benefit of the said order.
- 65.** However, in the same breath, in the ordering portion, in Paragraph No.20 of the impugned judgment, the State was directed to modify the Vacancy Notification in line with the reduced solvency limit of other notices across the State where the margin has been halved.
- 66.** With respect, the above conclusion is contradictory to the reasoning of the impugned order itself and, as such, cannot but be struck down.

- 67.** Even otherwise, although the State had initially notified VNs in respect of 38 other locations giving preference to women-run SHGs and stipulating the financial limit at Rs.50 lakh, contrary to the then prevalent modifications to the 2013 Control Order, all the said 38 VNs were subsequently recalled and re-issued in terms of the current conditions, which incidentally, had removed the preference for women-run SHGs and reduced the pecuniary limit to Rs. 25 lakhs.
- 68.** Whereas such action could and had to be taken, in all fairness, for the other locations (in respect of which there was no court order) in consonance with the then-prevailing Government Orders, the State was bound by the Division Bench judgment dated September 25, 2018 in respect of the Jamtalahat location, in respect of which the Division Bench categorically directed that a fresh VN has to be issued *in accordance with the West Bengal Public Distribution System (Maintenance and Control) Order, 2013* (emphasis supplied).
- 69.** Thus, this Court is of the opinion that the State was justified on both counts, namely in not reflecting any preference for women-run SHGs in the VN dated July 17, 2019 in view of such preference having been taken away by the Government Order dated December 18, 2018, and secondly, in stipulating the minimum bank balance as working capital limit at Rs.50 lakh in consonance with the then-prevalent Government Order dated July 21, 2014, none of which Government Orders have been challenged by the writ petitioner/respondent no. 1.

- 70.** The reliance of the respondent no.1/cross objector on *Vaishnorani Mahila Bachat Gat (supra)*², is misplaced, since the Hon'ble Supreme Court was discussing in the said matter the general principles in ensuring a level playing field so that big players cannot have a monopoly over public distribution systems.
- 71.** In the present case, since there are specific Government Orders and notifications holding the field, there is no scope for such general proposition of law to be applied, particularly since the position of the Control Order of 2013, as it stood on July 17, 2019, encouraged wide participation, as held by the learned Single Judge in the impugned order itself.
- 72.** Insofar as *State of West Bengal v. Gitashree Dutta (Dey) (supra)*³ is concerned, it was held therein that participation in the selection process or being selected as a candidate does not vest any candidate with a right to direct the authorities to give him appointment.
- 73.** It was further held that cancellation of the notification-in-question there was necessary for implementation of the provisions of the 2013 Act, which has no direct bearing on the present case.
- 74.** In *Krishna Kumar Khemka (supra)*⁴, the Supreme Court was dealing with surrender of a lease under the Transfer of Property Act, which has no bearing whatsoever in the present context. Rather, *Edukanti Kistamma (supra)*⁵, cited by the appellant, is appropriate in the context, since the writ petitioner/respondent no.1, having not challenged the consequential

2. *Vaishnorani Mahila Bachat Gat v. State of Maharashtra and others*, reported at (2019) 15 SCC 718

3. *State of West Bengal v. Gitashree Dutta (Dey)* [Civil Appeal No. 4254 of 2022 in SLP (C) No. 30438 of 2019]

4. *Krishna Kumar Khemka v. Grindlays Bank P.L.C. and others*, reported at (1990) 3 SCC 669

5. *Edukanti Kistamma (dead) through LRs, and Others v. S. Venkatarreddy (dead) through LRs, and Others*, reported at (2010) 1 SCC 756

Government Order dated July 21, 2014, whereby Rs. 50 lakh was introduced as the threshold financial capacity, and the Notification dated December 18, 2018, whereby the preference to women-run SHGs was taken away and wider categories of participation was encouraged, cannot now seek a reopening of the VN dated July 17, 2019, which was published in consonance with the said, then-prevalent, modifications to the 2013 Control Order, in terms of the judgment of the Division Bench dated September 25, 2018.

- 75.** In view of the above discussions, FMA No. 1329 of 2024 is allowed on contest, thereby setting aside the impugned judgment dated February 23, 2024 passed in WPA No. 16220 of 2019 and directing the State-Authorities to proceed on the basis of the Vacancy Notification dated July 17, 2019, from the stage which it had reached at the time of passing of the impugned judgment.
- 76.** COT No. 75 of 2024 is, accordingly, dismissed on contest.
- 77.** CAN 1 of 2024, filed in connection with the appeal, stands accordingly disposed of.
- 78.** There will be on order as to costs.
- 79.** Urgent certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)