*Before Hon'ble V. K. Bali, J.*

M/S LADDA LIQUORS & OTHERS,—*Petitioners.*

*versus*

CHANDIGARH ADMINISTRATION & ANOTHER,—*Respondents.*

C.W.P. No. 11860 of 1991

12th November, 1991

*Punjab General Sales Tax Act*, 1948—*Ss.* 5 & 6—*Schedule A & B*—*Punjab Excise Act*, 1914—*Contract Act*, 1872—*Auction bid*—*Acceptance of the bid*—*Effect of such acceptance*—*Liability to pay sales tax*—*Exemption from such liability*—*Power to grant such exemption.*

*Held*, that the bids given by the petitioners at the auction were offers made to the respondents and on acceptance of the said bids, a contract between the bidders and the respondents did come into existence and, therefore, it shall have to be held that it was a case of concluded contract.

(Para 12)

*Further held*, that even though there was a binding contract between the parties and the respondents had made it amply clear to the petitioner-licensees that no sales tax will be charged yet such a clause of the contract cannot be possibly enforced.

(Para 13)

*Further held*, that exemption from payment of tax can be granted by the legislature and there is no provision of the Act empowering the Government to exempt any assessee from payment of tax.

(Para 12)

*Further held*, that the Constitution has laid down an elaborate procedure for the legislature to act thereunder and in its own sphere the legislature is supreme under the Constitution. In so far as enacting laws or deleting existing laws is concerned it is in the exclusive domain of the legislature and no directions in this behalf can be issued to the legislature by the Court.

(Para 18)

Mohan Jain, Advocate, *for the Petitioner.*

H. L. Sibal, Sr. Advocate and S. C. Sibal, Sr. Advocate, with Deepak Sibal, Ms. Rupinder Sodhi and Randeep Singh Rai, Advocates, *for the Respondents.*

JUDGMENT

*V. K. Bali, J.*

(1) This order will dispose of two sets of petitions filed on behalf of liquor L-I and liquor L-II licencees. C.W.P. 11860, 13857 and 15133 of 1991 have been filed by L-I licencees while C.W.P. 11390, 13856 and 15132 of 1991 have been filed by liquor L-II licencees. The prayer in both the sets of petitions is to quash Annexure P1 which is an order issued by the Deputy Excise & Taxation Commissioner, Union Territory Chandigarh, dated 9th May, 1991,—*vide* which all the L-I licencees of Union Territory, Chandigarh have been directed to charge sale tax on sale of IMFL/Beer to the retailers, failing which the said licencees shall be responsible for deposit of sales tax on the sale made by them. Inasmuch as by virtue of orders aforesaid, L-II licencees, in turn too have to pay the sales tax which would be charged by L-I licencees from them, they also being aggrieved of the said order have come up to challenge the same very order. The facts of the case, in so far as the same are relevant to dispose of these writ petitions, may first be noticed.

(2) The petitioners referred to above are having L-I or L-II licencee. The case of the petitioners is that they are governed by the announcements made at the time of auction and that the said announcements are to govern respective rights and liabilities of the parties, be it the case of wholesale or retail sale of liquor to the public in the Union Territory of Chandigarh. It is made out by the petitioners that at the time of auction of liquor vends in the Union Territory of Chandigarh all the terms and conditions, as also taxes to be paid by the licencees, were announced by the respondents. Copies of such announcements made by the Excise & Taxation Commissioner, Union Territory, Chandigarh, dated 19th March, 1991, were made available to every person who was interested in obtaining the liquor vend in the Union Territory of Chandigarh. The announcements made on 19th March, 1991, were applicable for the year, 1991-92 and as per clause 44 of the said announcements, there was not to be any sales tax on the sale of IMFL (Indian made foreign liquor) and beer. Clause 44 of the announcements is reproduced :—

"There shall be no sales tax on the sale of IMFL and Beer."

(3) A copy of the aforesaid announcement has been placed on the record of this case as Annexure P2. Even though there was such an announcement, respondent No. 2 issued letter Annexure P1 dated

9th May, 1991, by which a direction was given to all L-I licencees (wholesale dealers of Indian made foreign liquor) in the Union Territory, Chandigarh to charge sale tax on sale of IMFL and beer. Inasmuch as order Annexure P1 was in sharp contest with and in violation of the announcements made at the time of auction of liquor vends in the Union Territory of Chandigarh, the petitioners contacted the Deputy Excise & Taxation Commissioner, as also the Excise and Taxation Commissioner, Union Territory, Chandigarh and made a representation on 30th June, 1991. When the representation of the petitioners did not yield the desired relief, a notice was given by L-II licencees to respondent No. 2 whereby it was made clear that as per clause 44, they were not to be charged any sales tax and, therefore, authorities concerned be directed not to charge sales tax on sale of IMFL/Beer and to withdraw letter dated 9th May, 1991 within three days from the date of receipt of the notice. Petitioners brought this cause before this court, obviously when even the notice given by them was also not given any serious consideration and, in fact, was ignored. In order to substantiate their plea that the respondents had taken a conscious decision to give concession of sale tax for the year 1991-92, it is pleaded that perusal of relevant clause of announcements made at the time of auction of liquor vends in the year 1988-89, 1989-90 and 1990-91 clearly stipulates that there shall be sales tax on sale of IMFL and Beer. On the facts detailed above, case of the petitioners is that bids given by them constitute offer and upon acceptance of the same a binding contract came into being between the parties. The conditions of auction became the terms of the contract and it is on those terms that the licences were granted to the successful bidders in Form L14-A of the rules. Having, thus, accepted the bids which were in the nature of offer, the respondents cannot be permitted to wriggle out of this concluded contract between the parties and, therefore, order Annexure P1 is illegal, untenable, without jurisdiction, without application of mind and against the announcements made by the Excise & Taxation Commissioner, as also against the principles of natural justice. Petitioners further challenge authority of respondent No. 2 to issue Annexure P1 on the ground that the same is contrary to the conditions of announcement, seriously affecting their rights.

(4) Cause pleaded by the petitioners has been hotly contested and in the written statement filed on behalf of the respondents it has been pleaded that L-I licencees are governed by the provisions contained in the Punjab Excise Act, 1914 and the rules made thereunder by the State Government (hereinafter to be referred as the

Act and the rules, respectively) and not by the announcements made at the time of auction and in so far as the question of sales tax is concerned, the petitioners are governed by the provisions of Punjab General Sales Tax Act, 1948 (hereinafter to be referred as the Act of 1948). It is further pleaded that the announcement made at the time of auction regarding sales tax had no approval of the Administration of the Union Territory Chandigarh and, therefore, no effect could be given to the same. In so far as the question of taking conscious decision so as to incorporate clause 44 of the announcements regarding concession of sales tax, it is stated that no decision was taken in the manner as alleged by the petitioners and that the said clause came into being inadvertently; that the licence holders dealing in retail sale of liquor cannot refuse to pay sales tax on IMFL/Beer unless item No. 24 in Schedule A appended to the Act of 1948 is deleted by issuance of notification by the State Government and that the clause giving concession of sales tax announced at the time of auction of bids was in the nature of a proposal only but inasmuch as the policy decision with regard to 1991-92 was not approved and no notification was issued by the State Government deleting Item No. 24 from Schedule A of the Act of 1948 as applicable to the Union Territory of Chandigarh, the respondents were justified in issuing order Annexure P1. It is further pleaded that the proposal contained in clause 44 could not be possibly enforced in writ under Article 226/227 of the Constitution of India, inasmuch as the same was at the most a supposed contractual obligation. It is further pleaded that inasmuch as the entire burden of sales tax is ultimately to fall on consumers, the petitioners could not legitimately urge that any financial loss has been sustained by them. With the permission of the court, the petitioners also filed replication to the written statement filed on behalf of the respondents and besides taking some preliminary objections it has been pleaded therein that inasmuch as by incorporating clause 44 both L-I and L-II licencees have been restrained from collecting sales tax it shall cause them untold misery and hardship if they have to contribute from their own pockets or their own funds and that the stand taken by the respondents in the written statement is contradictory inasmuch as on the one hand it has been pleaded that clause 44 has been inserted inadvertently, on the other hand it has been mentioned that even though the policy decision was not to charge sales tax yet the same shall not make any difference for the reason that the same was not approved by the Administrator, Union Territory Chandigarh. It has been further pleaded that the question of approval or non-approval is the sole problem of the Administration

and the same cannot affect rights of a third person who enters into a contract on representation of the Administration. Some case law has also been pleaded in the replication to contend that if under some incentive scheme, concession with regard to sale tax is given, it is not open to the authorities and the State to contend at a later stage that the scheme itself is *ultra vires* or against the statutory provisions and an estoppel is, therefore, pleaded against the State. It is further pleaded that the reason for inserting clause 44 was to get more revenue on the auction of liquor vends and, in fact, the Administration on its solemn promise so as not to charge sale tax did extract a huge revenue. The difference of the amount on which vends were auctioned in the earlier years and the one in question were cited as an example to demonstrate that the Administration did collect far more revenue in consequence of its policy so as not to charge sale tax and having done so it shall not be open to the Administration to contend that it was because of inadvertance or against the statute.

(5) During the course of arguments, Mr. Jain appearing for the petitioners made a statement on instructions of his clients that in reality the proposal so as not to charge sales tax for the year 1991-92 on the sale of IMFL/Beer was taken to its logical end by getting a positive approval from the Administration and, in fact, even a draft notification was issued. This statement of Mr. Jain was seriously disputed by Mr. Sibal, Senior Advocate, appearing for the respondents. However, in order to find out truth in the assertion made by Mr. Jain, the files containing proposal for exemption of sale tax on IMFL/Beer for the year 1991-92 were summoned from the Administration and before the contentions of the counsel for the parties are noticed in detail, it shall be useful to find out as to how the proposal for exemption of sale tax on liquor came into being and as to how the same was dealt with. The Excise and Taxation Officer while proposing excise policy for the year 1991-92.—*vide* his note dated 18th February, 1991, under the heading "Duty on Indian made Foreign liquor" mentioned as follows :—

> "At present, in the Union Territory of Chandigarh, duty at the rate of Rs. 20 per PL is being charged on Indian made foreign liquor. Rate of duty on IMFL in Punjab is Rs. 33 per PL and it is likely to be reduced substantially. In Punjab, major portion of the excise revenue is derived from country liquor and L-2 (foreign liquor) vends are given at throw-away prices. Whereas Chandigarh is a

urban oriented geographical unit and main trade is that of foreign liquor. Even major portion of the revenue comes from foreign liquor. In view of urban orientation and public taste for whisky, throughout there have been gaps in duty structure of Punjab and Chandigarh. To maintain the revenue at the present level, this gap in the excise duty should also be maintained. If rate of duty is raised, it will lead to heavy loss of revenue in the shape of licence fee and excise duty collections. To achieve the allocated Budget targets. it is proposed that we should continue with the prevalent rate of duty, i.e., Rs. 20 per PL and to maintain the proper gap, *Indian made foreign liquor and Beer may be exempted from levy of sales-tax.* (Emphasis supplied)."

(6) When the aforesaid proposal was examined by Assistant Excise and Taxation Commissioner on 21st February. 1991, it was observed by him in his note that "in order to compete Punjab and Haryana licensees. provide quality liquor and to secure excise revenue, it is recommended that the excise duty on IMFL and Beer may be inclusive of sales tax." While so observing, the said officer also mentioned that the proposed policy may be approved at the earliest possible so that necessary arrangements for auction may be made. The matter thereafter went to the Deputy Excise and Taxation Commissioner who agreed to the proposal made by the Assistant Excise and Taxation Commissioner that the sale tax should be merged with excise duty on IMFL and Beer. The matter was then dealt with by the Excise and Taxation Commissioner,—*vide* his note dated 7th March, 1991, relevant portion of which is reproduced below :—

"F.S. may kindly peruse the proposed excise policy for the year 1991-92.....U.T. Chandigarh is surrounded by the States of Punjab and Haryana. Therefore, the excise policy has to be framed after closely considering the aspect of excise policies of these two States..... This year we propose to decrease the number of country liquor vends.....In respect of IMFL. some changes have been proposed in respect of duty to be charged on IMFL and Beer..... ....."

(7) The Finance Secretary in her note dated 12th March, 1991. said that the proposed draft excise policy for the year 1991-92 as

initiated by officers of the Department had the basic objective to provide quality liquor at a reasonable price to the consumers in the city and to discourage unhealthy competition between the country liquor and Indian Made Foreign liquor, as also that the policy as framed by the officers was the same as for the year 1990-91 with a few changes/modifications relevant on the subject are as follows :—

"(i) The annual quota for the year 1991-92 for country liquor is proposed to be merged with the additional quota of 90-91 and fixed at 11.55 lacs PL as against 7.59 lacs PL of country liquor and 40 per cent of the basic quota in the shape of Rum/Gin/Whisky of 60 degree in the previous year. This is being proposed in order that the incidence of country liquor is reduced and the loss as a result of sale of country liquor is off-set by the profit from the sale of IMFL i.e. 60 degree Rum/Gin/Whisky. This would make the country liquor somewhat attractive during auction.

Another reason is that the people of Chandigarh prefer IMFL to country liquor. The quota of IMFL is more as compared to the quota granted in the year 1990-91.

(ii) It is proposed to give incentive quota in the shape of Rum/Gin and Whisky of 60 degree in three slabs of 4 per cent each if the incidence exceeds Rs. 33, Rs. 34 and Rs. 35 respectively. The maximum incentive quota is proposed to the extent of 12 per cent.

(iii) The rate of duty in Punjab on IMFL has been reduced from Rs. 33 per PL to Rs. 26 in 1991-92 whereas we have maintained duty as Rs. 20 per PL in 1991-92 also. This gap between Punjab and U.T. has been deliberately kept because Chandigarh is a non-producing area whereas Punjab and Haryana have their own distilleries. The import of liquor in Chandigarh is subjected to the payment of export fee, freight and tax etc. These levies make liquor costly in Chandigarh. Besides the cost of country liquor in Chandigarh is almost double of what is available in Punjab and Haryana. By keeping the cost of IMFL lower we are able to offset the loss incurred in the trade of country liquor.

(iv) Duty on beer in 1990-91 was Rs. 2 per bottle of 650 mls. of all types of beer. This has not been a happy experience. It is, therefore, proposed to reduce the rate of duty on beer from Rs. 2 to Re. 1 per bottle. This would encourage more lifting of beer as the people of Chandigarh are fond of drinking beer.

(v) License fee and Renewal fee of L-1 (wholesale IMFL) has been proposed to be increased from Rs. 1.00 lac to Rs. 1.25 lacs in the year 1991-92. for L-12 (Club Bars) from Rs. 7,500 to Rs. 10,000 and for L-II and L-15 (Bottling) from Rs. 2.000 to Rs. 5,000. The other license fee remain the same.

(vi) x x x x x

(vii) x x x x

(viii) x x x x

to

(xiv) x x x x"

(8) A perusal of the changes/modifications as have been reproduced above would go to show that even though the officers of the Excise Department had proposed a major change in the policy for the sale of liquor by either totally exemption the sale tax or merging it with excise duty, yet the Finance Secretary did not notice the same as in the incorporated changes/modifications referred to above there is no mention with regard to exemption of sale tax on the sale of IMFL. On 15th March, 1991, there was a meeting between the Advisor to the Administrator, Finance Secretary, Excise and Taxation Commissoiner, Deputy Excise and Taxation Commissioner and Assistant Excise and Taxation Commissioner, and after discussion the excise policy for the year 1991-92 based upon the existing excise policy as proposed by the department with changes/modifications as referred to above was approved. Even though the excise policy for the year 1991-92 had been discussed threadbare and in the meeting, reference of which has been given above, a decision was taken to stick to the excise policy for the year 1990-91 with modifications that have been referred to above, yet on verbal orders of Excise and Taxation Commissioner, the case regarding abolition of sale tax was again submitted for perusal to the Advisory to Administrator by Assistant Excise and Taxation Commissioner on

8th April, 1991. The note made by the Assistant Excise and Taxation Commissioner runs as follows :—

"As per verbal orders of worthy ETC, the case regarding abolition of sales tax is submitted for the perusal of worthy Advisory to Administrator.

In the year 1990-91, excise duty on IMFL in Union Territory Chandigarh was Rs. 20 per PL along with subsidiary excise duty at the rate of Re. 1 per PL. In the State of Punjab, the rate of duty on Indian Made Foreign Liquor was Rs. 33 per PL. The State of Punjab reduced this duty from Rs. 33 to 26 per PL. In Punjab, maior portion of the excise revenue is derived from country liquor and L-2 (foreign liquor) vends are given at throwaway prices. Whereas Chandigarh is a urban oriented geographical unit and main trade is that of Indian Made Foreign Liquor. Even major portion of the revenue comes from foreign liquor. To maintain the revenue, the gap in excise duty has to be maintained. Since Punjab had substantially reduced the excise duty from Rs. 33 to 26 per PL, so to safeguard the revenue, it was proposed to abolish sales tax on IMFL and Beer instead of reducing the duty on IMFL any further, on page 7 by ETO (Excise), on page 16 by AETC (Excise) and DETC (Excise in the excise policy submitted to the senior officers.

The sales-tax on IMFL was abolished on the pattern of State of Haryana where excise duty is levied on IMFL and Beer and there is no sales tax. Wide publicity was given regarding the abolition of sales tax through press and announcements read out to the prospective bidders before the start of the auction on 20th March, 1991.

In the year 1990-91 sales tax on IMFL was approximately to the tune of Rs. 1.31 crores. The sales tax was levied at the first stage and L-1 licensees start collecting and using the amount of sales tax right from the first day till the close of the quarter. After the close of the quarter, they are entitled to retain the amount for a period of one month as return is to be filed after a period of 30 days from the close of the quarter. In this way, L-1 licensee uses the

amount of sales tax collected for a period of few months. Sometimes they make short payment of tax alongwith the return and sometimes they do not pay it altogether. It is difficult to know whether they have deposited the entire sales tax or not as the assessment is framed by the Assessing Authority under the Sales Tax Act of the State, normally after a period of two or three years. Duty is always paid in advance. Thus, the amount which used to be collected after 120 days now shall be paid in advance. Licensees will first pay the duty and then they will get the permits. So department shall be getting this money in advanace.

L.1 (wholesale) traders never wanted that sales tax should be abolished as they used to have this money for their business interest but now department will be able to collect this money in advance by this new measure adopted in the excise policy.

In the year 1990-91 total excise duty was Rs. 7.74 crores and sales tax was Rs. 1.31 crores total amount being to the tune of Rs. 9.05 crores. With the new measure (abolition of sales tax) consumption of IMFL will certainly go up and it is anticipated that excise duty will be collected more than 10.25 crores during this year against Rs. 9.05 crores, which will be about 11 per cent more as compared with 1990-91. So loss of sales tax will be compensated by more collection of excise duty.

Country liquor trade was not viable for the past few years in Chandigarh. To make it healthy, from the year 1987-88 onwards, additional quota in the shape of IMFL 55 degree was granted to country liquor vends. This supply of IMFL on country liquor vends was exempted from the levy of sales tax. This exemption was helpful to the country liquor trade and it gave some life to this trade. This policy is being pursued since 1987-88 onwards.

So this abolition of sales tax will lead to much more lifting and which will result in overall increase in the revenue. Needless to mention here that the department has already collected Rs. 6 crore more revenue at the time of excise auctions, which is 24 per cent over the previous year."

(9) *Vide* note dated 18th April, 1991, the Advisor to Administrator ordered that the above note with regard to abolition of sales tax be linked with the main file on which liquor policy for the year 1991-92 was approved and discussed. The Finance Secretary,—*vide* her note dated 19th April, 1991, at that stage approved the proposal for abolition of sales tax on IMFL and put up the note to the Advisor to Administrator on the same day who in his note of the same date wrote that with a view to boost revenue by encouraging more sale of IMFL we may consider reduction of sales tax on IMFL on trial basis from existing 10 per cent to 5 per cent during 1991-92 and if the reduction in the sales tax helps increasing the oerall revenue of excise, then it may be considered later as to whether there should be a total reduction of sales tax on IMFL. The Advisor to Administrator therefore,—*vide* his note aforesaid proposed reduction of sales tax on IMFL from existing 10 per cent to 5 per cent during the year 1991-92 instead of total abolition of sales tax. The matter ultimately came up for final decision before the Administrator (Governor Punjab) on 29th April. 1991, who did not agree to the proposal. It is, however, relevant to mention that the auction had already taken place on 20th March. 1991, and admittedly, at the time of auction of bids, announcements as per clause 44 were made,—*vide* which there was to be no sales tax on sale of IMFL/ Beer. Even though it is only on 29th April. 1991. that the Administrator had taken the decision and ultimately disapproved the policy of sales tax, the officers of the Excise Department perhaps, in anticipation of the approval of the policy of exempting sales tax, proceeded in the matter and it is clear from another file that on 15th March, 1991, an Excise Inspector under the heading "Exemption from levy of sales tax on IMFL 75 degree and Beer" made a note that inasmuch as the excise policy for the year 1991-92 has been approved by the Administrator, Union Territory Chandigarh, and it has been decided that there will be no sales tax on the sale of IMFL 75 degree and Beer with effect from the next financial year. i.e., 1st April, 1991, a notification be issued for deleting Item No. 24, i.e., foreign liquor as defined in sub-paragraph (2) of paragraph 2 of Punjab Excise Liquor Definitions, 1954 from Schedule 'A' and this item be added in Schedule 'B' of the Punjab General Sales Tax Act, 1948. It may be mentioned here that the reference in the note with regard to approval by the Administrator, Union Territory Chandigarh, seems to be misconceived as admittedly it is only the Advisor to the Administrator who had approved it and not the Administrator himself. However. the matter came up before Legal Remembrancer on 22nd March, 1991, who said that inasmuch as

draft of notification has since been suitably amended the same may be considered by the Administrative Department. It is not made out from the file as to who did it but someone in the Department,—*vide* note dated 26th March, 1991, mentioned that since Legal Remembrancer had vetted the draft of the notification regarding notice to be issued in connection with the excise policy for the year 1991-92 exempting levy of sales tax on IMFL 75 degree and beer and the Administrator who is competent to do so has already approved the policy, the draft notification for the proposed amendment for inviting objections/suggestions from the general public as vetted by the Law Department, it was now for the officers to see whether approval of the Administrator Chandigarh may be again obtained by submitting this vetted notification to him. Again, the officer dealing with the matter,—*vide* note dated 26th March, 1991, was not correct to say that the matter with regard to exemption of sales tax has been since approved by the Administrator and it may be reiterated that the same was approved by the Advisor to Administrator. *Vide* note made by some official in the Finance Department on 24th April, 1991, it was mentioned that the Excise and Taxation Commissioner desired that a final notification may be issued as no suggestions/objections for abolishing the sales tax have been received. The note was marked to the Finance Secretary who, in her note of the same date, mentioned that inasmuch as the main proposal was still under consideration and had been submitted to the Advisor to Administrator for obtaining the approval of the Administrator the matter may be kept pending. On 4th June, 1991, the matter was again taken up and it was mentioned that no case has been received so far and the case may be put up before officers for further orders. The reference to the case "having been not received so far" appears to be with regard to approval of the Administrator which obviously having been given in the negative could not have possibly reached the Excise Department. However, on 19th June, 1991, there is another note by an official in the Finance Department which says that after ascertaining the position from the Excise and Taxation Department, the proposal still being under consideration between the Excise and Taxation Commissioner and the Finance Secretary, the matter may be kept pending till its final approval by the Administration, as desired by the Finance Secretary. Again,—*vide* note dated 7th August, 1991, of Superintendent Finance-IV it was mentioned that even though draft notification for amendment of the Punjab General Sales Tax Act was issued, yet no final notification was carried out as it was not approved by the Finance Secretary as per her observations and therefore, the matter still being under consideration the officers may seek necessary information. On the

said file, there are other notings also but so useful purpose would be served to make a mention of those as the same are not relevant for deciding the present case. However, on the file aforesaid, draft notification dated 30th March, 1990 is also tagged.

(10) From the facts as have been fully detailed it would, thus, transpire that the contention of Mr. Jain that the policy of exempt sales tax on IMFL and beer for the year 1991-92 was carried to its logical end by issuing a notification so as to amend the Punjab General Sales Tax Act is not wholly correct. Even though the Advisor to the Administrator had approved exemption of sales tax, the same did not find favour with the Administrator himself. The matter with regard to issuance of requisite notification so as to amend the Act and transpose the entry of IMFL from schedule 'A' to schedule 'B' was proceeded by getting the draft notification approved from the Legal Remembrancer in anticipation of the approval of the Administrator and yet it is clear from the files reference of which has been given above, that such a notification ultimately did not come into existence for the obvious reason that the said policy was not approved by the Administrator. It is although true that before the matter with regard to exemption of sales tax was finally decided, the respondents,—*vide* clause 44 of the announcements made at the auction bid, did convey unequivocally to the licencees that there shall be no sales tax on sale of IMFL/Beer for the year 1991-92. I shall deal with this aspect of the case later but the crucial question that calls for determination by this court is as to whether in view of the facts and circumstances fully detailed above, a binding contract came into being between the licencees and the respondents which can be enforced by this court under Article 226 of the Constitution of India. If the answer to the question is that the announcements made at the time of auction bids and acceptance thereof would mature into a binding contract, the next question that shall immediately come to fore is as to whether the respondent authorities can be directed to adher to the said terms of the contract even though the exemption of sales tax could be done only by deleting sales tax on IMFL/Beer by suitably amending section 6 of the Act of 1948. Mr. Jain has posed yet another question for examination and the same is as to whether the respondent-authorities are bound by their commitments on the principle of equitable estoppel as also as to whether the equity of the case necessitates the desired relief to the petitioners.

(11) On the first question to whether it is a case of binding contract between the parties Mr. Jain, learned counsel for the

petitioners, has straightaway taken me through a decision of the Supreme Court of India report as *Har Shankar* v. *Deputy Excise and Taxation Commissioner* (1). The contention of Mr. Jain is that inasmuch as the aforesaid case is on identical facts and covers the matter in all respects, there is no necessity for him to go through various provisions ot fhe Contract Act. Facts of the aforesaid case would reveal that the petitioners of the said case who too were liquor vend licencees had challenged the conditions governing auctions on various grounds, like the Financial Commissioner had no power to frame rules so as to authorized the grant of liquor licences by holding auctions, that under section 34 of the Punjab Excise Act, 1914, the Financial Commissioner had no jurisdictiton to authorize the levy or collection of any amount and the like, were confronted with a formidable preliminary objection from the respondents of the said case that inasmuch as those who were interested in running the country liquor vends offered their bids voluntarily in the auctions held for grant of licences for the sale of country liquor under the conditions of auctition which were announced before the auctions were held and bidders had participated in the auction without demur and with fully knowledge of the commitments which the vends involved could not be permitted to wriggle out of the contractual obligations arising out of the acceptance of their bids. This objection raised by the respondents of the said case was met by Hon'ble Supreme Court and it was observed as such :—

> "Those interested in running the country liquor vends offered their bids voluntarily in the auctions held for granting licences for the sale of country liquor. The terms and conditions of auctions were announced before the auctions were held and the bidders participated in the auctions without a demur and with full knowledge of the commitments which the bids involved. The announcement of conditions governing the auctions were in the nature of an invitation to an offer to those who were interested in the sale of country liquor. The bids given in the auctions were offers made by prospective vendors to the Government. The Government's acceptance of those bids was the acceptance of willing offers made to it. On such acceptance, the contract between the bidders and the Government became concluded and a binding agreement

(1) A.I.R. 1975 S.C. 1121.

came into existence between them. The successful bidders were then granted licences evidencing the terms of contract between them and the Government, under which they became entitled to sell liquor. The licensees exploited the respective licences for a portion of the period of their currency, presumably in expectation of a profit. Commercial considerations may have revealed an error of judgment in the initial assessment of profitability of the adventure but that is a normal incident of all trading transactions. Those who contract with open eyes must accept the burdens of the contract along with its benefits."

(12) It is true from the reading of the observations made by the Hon'ble Supreme Court that the bids given by the petitioners at the auction were offers made to the respondents and on acceptance of the said bids, a contract between the bidders and the respondents did come into existence and, therefore, it shall have to be held that it was a case of concluded contract. Mr. Sibal, learned senior advocate, appearing for the respondents, without touching this aspect of the case has rather stressed the point that the matter with regard to exemption of sales tax being in the exclusive domain of the legislature, the same could be done only by the respondents by deleting the entry in question from schedule 'A' and inserting the same in schedule 'B' and inasmuch as this course was admittedly not adopted, even though a binding contract had come into being, the same could not be enforced as no court could ever give a direction to the Government to refrain from enforcing a provision of law. In order to appreciate the contention of Mr. Sibal, it shall be useful to reproduce relevant part of section 5 and section 6 as also the relevant entry 24 of schedule 'A' :—

"5(1) Subject to the provisions of this Act, there shall be levied on the taxable turnover of a dealer a tax at such rates not exceeding seven paise in a rupee as the State Government may by notification direct :

.....

Provided that a tax at such rate, not exceeding ten paise in a rupee, as may be so notified, may be levied on the sale of goods as specified in Schedule 'A' appended to this Act from such date as the Government may by notification

direct. The State Government after giving by notification not less than twenty days notice of its intention so to do may by like notification add to or delete from this Schedule, and thereupon this Schedule shall be deemed to have been amended accordingly :

Provided further that the rate of tax shall not exceed four paise in a rupee in respect of any declared goods.

Provided further that Government may by notification in the Official Gazette declare that in respect of any goods or class of goods the deal may pay such lump sum by way of composition of the tax payable under this Act, as the Government may notify, from time to time.

(1A) The State Government may by notification direct that in respect of such goods other than declared goods, and with effect from such date as may be specified in the notification, the tax under sub-section (1) shall be levied at the first stage of sale thereof. and on the issue of such notification the tax on such goods shall be levied accordingly :

Provided that no sale of such goods at a subsequent stage shall be exempted from tax under this Act unless the dealer effecting the sale at such subsequent stage furnishes to the assessing authority in the prescribed form and manner a certificate duly filled in and signed by the registered dealer, from whom the goods were purchased.

*Explanation* :—For the purpose of this sub-sectiton the first stage of sale in respect of any goods in relation to any class of dealers shall be such as may be specified by the State Government in the notification.

.....

....."

*Tax free goods*

"6. (1) No tax shall be payable on the sale of goods specified in the first column of Schedule B subject to the conditions and exceptions. if any. set out in the corresponding entry in the second column thereof and no dealer shall charge sales tax on the sale of goods which are declared tax free from time to time under this section.

(2) The State Government, after giving by notification not less than twenty days notice of its intention so to do, may by like notification add to or delete from Schedule B and thereupon Schedule 'B' shall be deemed to be amended accordingly."

"SCHEDULE A

(*See section* 5(1)

LIST OF GOODS

| S. N. | Description of Goods |
|---|---|
| 1 to 23 | x x x x x x x x x |

(24) Foreign Liquor as defined in sub-paragraph (2) of paragraph 2 of the Punjab Excise Liquor Definitions, 1954.

Perusal of the charging section 5 reproduced above and entry 24 in Schedule 'A' would, thus, make it abundantly clear that the sale of liquor is exigible to sales tax. Even if there is a binding contract between the parties not to charge the sales tax, the petitioners can succeed only if under law they can ask this court to issue a direction to delete the said entry from schedule 'A' but such a course unfortunately is not open to them. The matter is covered against the petitioners by a binding decision of the Supreme Court reported as *Narinder Chand Hem Raj* v. *Lt. Governor, Administrator, Union Territory* (2). Hon'ble Supreme Court while dealing with the same point under identical facts observed as follows :—

"Till August 31, 1966, Indian made foreign liquor was in Schedule B. But on that date the Government of Punjab in exercise of its powers conferred under proviso to Section 5 deleted Indian made foreign liquor from Schedule 'B' and included the same in Schedule 'A' to that Act. Thus, the sale of the said liquor became exigible to sales tax. This was the law in force in Punjab when reorganisation took place. Hence Simla and other

(2) A.I.R. 1971 S.C. 2399.

areas which were formerly parts of the State of undivided Punjab continued to be governed by that law even after reorganisation. Our attention has not been drawn to any provision in that Act empowering the Government to exempt any assessee from payment of tax. Therefore, it is clear that the appellant was liable to pay the tax imposed under the law. What the appellant really wants is a mandate from the court to the competent authority to delete the concerned entry from Schedule 'A' and include the same in Schedule 'B'. We shall not go into the question whether the Government of Himachal Pradesh on its own authority was competent to make the alteration in question or not. We shall assume for our present purpose that it had such a power. The power to impose a tax is undoubtedly a legislatitve power. That power can be exercised by the legislature directly or subject to certain conditions. the legislature may delegate that power to some other authority. But the exercise of that power, whether by the legislature or by its delegate is an exercise of a legislative power. The fact that the power was delegated to the executive does not convert that power into an executive or administrative power. No court can issue a mandate to a legislature to enact a particular law. Similarly no court can direct a sub-ordinate legislative body to enact or not to enact a law which it may be competent to enact. The relief as framed by the appellant in his writ petition does not bring out the real issue calling for determination. In reality he wants this Court to direct the Government to delete the entry in question from Schedule 'A' and include the same in Schedule 'B'. Article 265 of the Constitution lays down that no tax can be levied and collected except by authoriy of law. Hence the levy of a tax can only be done by the authority of law and not by any executive order. Unless the executive is specifically empowered by law to give any exemption, it cannot say that it will not enforce the law as against a particular person. No court can give a direction to a Government to refrain from enforcing a provision of law. Under these circumstances, we must hold that the relief asked for by the appellant cannot be granted."

(13) In view of the observations of the Supreme Court, it has therefore, necessary to be "held that even though there was a binding contract between the parties and the respondents had made it

amply clear to the petitioner-licensees that no sales tax will be charged yet such a clause of the contract cannot be possibly enforced." Whereas the first question posed is answer in favour of the petitioners by holding that there was a binding contract between the parties, yet the other part of the question, i.e., as to whether the said contract can be enforced, as also the consequential question has to be answered in negative.

(14) Faced with this situation, Mr. Jain wants this Court to apply the principle of equitable estoppel by contending that the petitioners had altered their position by relying on the promise extended to them at the time of auction bids that there shall be no sales tax on IMFL/Beer. They suffered by the promise aforesaid by acting on the promise inasmuch as the auction bids were concluded on very high rates and it will be inequitable to allow the promisor to go back from his promise. All the ingredients of equitable estoppel are, thus, fully attracted to the facts and circumstances of the present case, contends the counsel. For the aforesaid contention, he relies upon *The Union of India* v. *M/s Anglo Afghan Agencies* (3), *Century Spinning and Manufacturing Co. Ltd.* v. *The Ulhasnagar Municipal Council* (4). *Motilal Padampat Sugar Mills Co. Ltd.* v. *The State of Uttar Pradesh* (5), *Pournami Oil Mills* v. *State of Kerala* (6), *State of Bihar* v. *Usha Martin Industries Ltd.* (7). *Assistant Commissioner of Commercial Taxes (Asstt.), Dharwar* v. *Dharmendra Trading Co.* (8), *Shree Durga Oil Mills* v. *Sales Tax Officer* (9), and *Surendra Prasad Misra* v. *Oil and Natural Gas Commission* (10). Before the contention of Mr. Jain is gone into in its finer details it may be observed here that there is no provision in the Act of 1948 which might empower the Government to exempt any assessee from payment of sales tax. This factual position as canvassed by Mr. Sibal has not been controverted at all by Mr. Jain. Even the Hon'ble Supreme Court of India in *Narinder Chand Hem Raj case* (supra) has observed that their attention has not been drawn to any provision of the Act empowering the Government to exempt any assessee from payment of tax. With

(3) A.I.R. 1968 S.C. 718.
(4) A.I.R. 1971 S.C. 1021.
(5) A.I.R. 1979 S.C. 621.
(6) A.I.R. 1986 (Suppl) S.C.C. 728.
(7) S.C. 65 (1987) S.T.C. 430.
(8) A.I.R. 188 S.C. 1247.
(9) 74 (1989) S.T.C. 10 (Orissa).
(10) A.I.R. 1987 Cal. 1.

the aforesaid background, if the facts of cases that have been cited by Mr. Jain are examined, it will be made out that even though the petitioners might have suffered financial losses and on that count alone there may be some equity in their favour but the principle of equitable estoppel canvassed by them is not attracted to the facts of the present case. The facts of the case *Anglo Afghan Agencies* (supra) reveal that in the exercise of powers conferred on the Government under section 3 of the Imports and Exports Act, 1947, the Central Government issued the Imports (Control) Order, 1955, as also other orders setting out the policy governing the grant of import and export licences. The Government also evolved an import trading policy to facilitate the mechanism of the Act. In 1962, the Government also promulgated Export Promotion Scheme providing incentives to exporters of woollen and textile goods. It provided for the grant to an exporter, certificates to import raw materials of a total amount equal to 100 per cent of the F.O.B. value of the exports. The scheme aforesaid was also extended to exports of woollen textiles and goods to Afghanistan. When the Commissioner, without holding an enquiry, reduced the import quota of some other exporters on the basis of some private enquiry, one such exporter moved the High Court for the issuance of a writ demanding directions to be issued against the Government to abide by the terms of the scheme. The plea of the Government was that the scheme contained only administrative instructions and, therefore, the Government was competent to change the same depending upon exigencies of situation. Hon'ble Supreme Court, on the aforesaid facts, came to the conclusion that the scheme was not changed because of any exigency of situation and the import quota of some of the exporters was reduced on the basis of some private enquiry. It is under these facts and circumstances that it was held that the Government was bound by the representation that it made regarding the quota to which the exporters were entitled to under the scheme. The case *Anglo Afghan Agencies* was also cited in the case *Narinder Chand Hem Raj* (supra) and the same was distinguished by observing that under the facts of the said case as have been reproduced earlier, the Government was bound by the representation that it had made regarding the quota to which exporters were entitled to under the scheme but the ratio of the decision could not have any bearing on the point under consideration. It was again observed that in the said case there was no question of issuing any direction to make a law or abrogate an existing law,

(15) Coming now to the judgment in case *Century Spinning and Manufacturing Co. Ltd.* (supra), it shall be seen that the petitioners of the said case had set up a factory in 1956 within the limits of village Shahad on a site purchased from the State of Bombay and in an area known as 'industrial area'. No octroi duty was then payable in respect of goods imported by the company into the 'industrial area' for use in the manufacture of its products. On October 30, 1959, the Government of Maharashtra issued a notification announcing its intention to constitute a municipality for certain villages including the 'industrial area'. The company and other manufacturers who had set up their plants and factories objected to the proposed constitution of municipal area and on September 20, 1960, the State of Maharashtra published a notification constituting with effect from April 1, 1960, the municipality including the area in which the 'industrial area' was included. Representations were made by the company for excluding the 'industrial area' from municipal district area and on 27th April, 1962, the Government of Maharashtra proclaimed that the 'industrial area' by excluded from the municipal jurisdiction. The District Municipality then made a representation to the Government of Maharashtra that the proclamation of April 27, 1962, be withdrawn by the Government. The Municipality agreed to exempt the existing factories which were in the 'industrial area' from payment of octroi for a period of seven years from the date of levy of octroi and for exempting new industrial units from payment of octroi for a similar period from the date of establishment. The Government of Maharashtara acceded to the request of the municipality to retain the 'industrial area' within the local limits of municipality. On August 24, 1963, the District Municipality passed a resolution to implement the agreement wherein it was resolved that the municipality agrees to give a concession to the existing factories by exempting them from payment of octroi for a period of seven years from the date of levy of octroi tax and by exemption new factories from payment of octroi tax for a period of seven years from the date of their establishment. However, on 31st October, 1963, the Government of Maharashtara issued a notification withdrawing the proclamation dated April 27, 1962, and the Industrial Area became a part of the Municipal District. Relying upon the assurance and undertaking given by the municipality, the petitioner company of the said case claimed that it had extended its activities and commenced manufacturing new products by setting up additional plant which it would not have done but for the concessions as also assurances given and the agreement arrived at on 21st May, 1963. The petition filed by the company was dismissed *in*

*limine* by the High Court and on appeal, the Hon'ble Supreme Court of India set aside the said order and remanded the case by observing that "*public bodies are as much bound as private individuals to carry out representations of facts and promises made by them, relying on which other persons have altered their position to their prejudice.*

*The obligation arising against an individual out of his representation amounting to a promise may be enforced* ex contractu *by a person who acts upon the promise : when the law requires that a contract enforceable at law against a public body shall be in certain form or be executed in the manner prescribed by statute, the obligation if the contract be not in that form may be enforced against it in appropriate cases in equity.*"

(Emphasis supplied)

The point as to whether there could be a mandate issued to the State to enact a law or abrogate a provision of law did not even remotely come for discussion before the court in the said case. The ratio of the said case cannot, thus, be pressed into service for the proposition involved in the present case. Facts of *Motilal Padampat Sugar Mills Ltd. case* (supra) would go to show that there was a news-item on 10th October, 1968, in which it was stated that the State of Uttar Pradesh had decided to give exemption from sales tax for a period of three years under section 4A of the U.P. Sales Tax Act to all new industrial units in the State with a view to enabling them to come on firm footing in developing stage. The said news-item was based on a statement made by the then Secretary in the Industries Department of the Government. The petitioner of the said case on the basis of the announcement addressed a letter to the Director of Industries stating that in view of the sales tax exemption announced by the Government, it intended to set up a hydro-generation plant for manufacture of vanaspati and sought for confirmation that the said industrial unit, which it proposed to set up, would be given sales tax exemption for a period of three years from the date it commences production. The Director of Industries replied the aforesaid letter by confirming that there will be no sales tax for a period of three years on the finished products of the proposed vanaspati factory from the date it gets power connection for commencing production. The petitioner of the said case again addressed a letter dated 22nd January, 1969, to the Chief Secretary to Government. In response thereto, it was unequivocally stated that the proposed vanaspati factory will be entitled to exemption from the U.P. Sales Tax Act for a period of

three years from the date of its going into production and that this will apply to all vanaspati sold during that period in Uttar Pradesh. On the aforesaid facts, it was held that a categorical representation was made by the respondents on behalf of the Government that the proposed vanaspati factory would be entitled to exemption from sales tax in respect of sale of vananspati effected in Uttar Pradesh for a period of three years. The petitioner had relied upon the aforesaid representation of the Government, borrowed moneys from various financial institutions, purchased plant and machinery from Messrs. De Smet (India) Pvt. Ltd., Bombay, and set up a vananspati factory at Kanpur. On the aforesaid facts, therefore, it was held that the doctrine of promissory estoppel was clearly attracted and the Government was bound to carry out its representation and exemt the petitioner from sales tax in respect of sales of vanaspati effected by it in Uttar Pradesh for a period of three years. While discussing various aspects of equitable estoppel, the Hon'ble Supreme Court clearly laid down that promissory estoppel could not be applied in teeth of an obligation or liability imposed by law as also that promissory estoppel cannot be invoked to compel the Government or even a private party to do an act prohibited by law. It further held that there could not be any promissory estoppel against the exercise of legislative power. The legislature can never be precluded from exercising its legislative action by resort to the doctrine of promissory estoppel. It may be observed that the exemption from sales tax for a period of three years was announced as per provisions contained in section 4A of the U.P. Sales Tax Act and, therefore, there was power under the statute itself to exempt sales tax. As observed in the earlier part of this judgment, there is no provision in the Act of 1948 that may empower anyone to exempt sales tax on liquor. Admittedly, the only method to achieve exemption of sales tax is by deleting the relevant entry from schedule 'A' and inserting the same in schedule 'B'. The case *M.P. Sugar Mills Co. Ltd.* (supra) also, thus, does not come to the rescue of the petitioners.

(16) Coming now to the *Pournami Oils Mills case* (supra) suffice it to say that the observations made by Hon'ble Supreme Court in the said case in fact, run counter to the contentions raised by Mr. Jain. Reading of the judgment in the said case reveals that the exemption of sales tax came by virtue of section 10 of the Kerala General Sales Tax Act which conferred power upon the Government to grant exemption and reduction in the rate of tax. It was clearly observed in para 5 of the judgment that "it may not be possible to

contend with plausibility that in the absence of an enabling provision in the statute, the State Government would not have the power to give up a part of the tax due to the State and there can be no estoppel against the statute." It has been further observed in the very para that the said question does not arise because under section 10, the State Government had the power to grant exemption from tax. In so far as *Usha Martin Industries Ltd. case* (supra) is concerned, it was conceded between the parties of the said case that it is covered by the law laid down in *Pournami Oil Mills Ltd. case* (supra). For the reason that *Pournami Oil Mills Ltd.* case does not extend any help to the petitioners, the case *Usha Martin Industries Ltd.* would also not lend any assistance to the petitioners.

(17) Coming now to the facts of *Dharmendra Trading Co. case* (supra), suffice it to say that the submission of the counsel for the appellant department therein that the concessions granted by order dated 30th June, 1969, were of no legal effect as there was no statutory provision under which such a concession could be granted was found to be factually incorrect. Section 8-A expressly empowered the State Government to grant exemptions and reductions and inasmuch as the refund was covered under section 8-A it could not be said that the concessions granted in the said case were against the statute. However, as mentioned earlier, the facts of the present case go to show that there is absolutely no provision in the Act of 1948 empowering anybody to grant exemption of sales tax. The judgment in this case cited by counsel for the petitioners too is of no avail to his clients. The case *Surendra Prasad Misra* cited by the counsel has altogether different facts having absolutely no bearing on the facts of the present case. The contractor doing work for the Oil & Natural Gas Commission (respondent) raised a dispute which was referred to arbitrator. By reason of certain unforeseen circumstances, the arbitrator resigned and a high-powered committee was appointed to go into the matter and recommend a settlement. Simultaneously, objections were invited from the party in regard to the *personum* of the high-powered committee within 48 hours. The high-powered committee was directed to obtain all papers and documents from the arbitrator so as to enable the committee to reach a correct finding. The said committee did, in fact, hold a diverse meeting and recommended settlement of the dispute to the extent of Rs. 7,11,583 as against the claim of Rs. 10 lacs by the contractor. Inasmuch as a definite step had been taken by the respondent Commission to arrive at a finality in regard to the dispute and the contractor had accepted the same only to see an end to the

long drawn dispute on the assurance of the Commission to the contractor that the high powered committee would do the needful in the matter it was held inequitable to permit the Commission to contend otherwise. Reliance of Mr. Jain on the case *Shree Durga Oil Mills* (supra) is also of no help to the petitioners for the reason that under section 6 of the Orissa Sales Tax Act, the State Government had power to exempt sales tax subject to some conditions and exceptions.

(18) After going through all the judgments cited at the bar I am of the considered view that the Constitution has laid down an elaborate procedure for the legislature to act thereunder and in its own sphere the legislature is supreme under the Constitution. In so far as enacting laws or deleting existing laws is concerned it is in the exclusive domain of the legislature and no directions in this behalf can be issued to the legislature by the court. What I have said above is amply made out from three decisions of Hon'ble Supreme Court that have been cited at the Bar, inclusive of *Narinder Chand Hem Raj* (supra). The other two judgments that need reference are *Asif Hameed* v. *State of Jammu and Kashmir* (11) and *Supreme Court Employees Welfare Association* v. *Union of India* (12). In *case Asif Hameed* (supra) *Narinder Chand Hem Raj case* (supra) was considered and approved. For all what has been stated above, the petitioners are unable to seek any assistance from the doctrine of equitable estoppel.

(19) The last submission of Mr. Jain is that when it is a case of delegation of power, the situation would be different and it would not be necessary for issuing any notification so as to delete item of liquor from schedule 'A'. In support of his aforesaid contention, he relied upon *Shashi Kant Vohra and others* v. *State of Haryana and another* (13) and *The Chief Commissioner, U.T. Chandigarh* v. *Sushil Flour, Dal & Oil Mills* (14). I am not at all impressed by the contentions raised by Mr. Jain. The petition is totally silent with regard to delegation of power. Besides, if the exemption of sales tax could be granted only by an act of legislature by deleting the entry of liquor from Schedule 'A', how could the

(11) A.I.R. 1989 S.C. 1899.
(12) A.I.R. 1990 S.C. 334.
(13) 82 (1991) S.T.C. 148.
(14) 52 (1983) S.T.C. 72.

desired exemption be achieved by a delegate without even going through the requisite procedure. The judgments, reference of which has been given above, have no bearing on the facts of the present case.

(20) In so far as the equity of the case is cnocerned, it is true that the officers of the department dealing with the matter were absolutely clear with regard to the position of law and knew it too well that it is only by deleting entry of liquor from schedule 'A' that the sales tax could be exempted. Yet the matter was proceeded with and before even the approval of the Administrator could be obtained, the announcements were made at the time of auction. *Prima facie,* there seems to be substance in the contention of Mr. Jain that it is only because of exemption of sales tax annuounced at the time of auction that the bids culminated on an amount of Rs. 23.60 crores when in the year immediately preceding the same was Rs. 17.62 crores, thus, evidencing an increase of 34.15 per cent. The way and the manner in which this matter has been dealt with, thus, needs to be adversely commented upon. No one really cared about the adverse effect that it might have upon successful bidders at the time of auction and the announcements with regard to exemption of sales tax were made admittedly at a time when the matter has not been approved by the Administrator. Unfortunately however, nothing can be done in the matter inasmuch as when the law is so well settled, equity takes the back seat. The petitioners may have their remedy elsewhere but in the present proceedings no relief can be given to them.

(21) For the reasons aforesaid, these petitions fail and are, thus, dismissed. There shall, however, be no order as to costs.

*S.C.K.*

*Before Hon'ble G. S. Singhvi & M. L. Koul, JJ.*

MOHINDER LAL SANDHU,—*Petitioner.*

*versus*

CHIEF SECRETARY TO GOVERNMENT PUNJAB & OTHERS, —*Respondents.*

C.W.P. No. 4794 of 1993

*Constitution of India, 1950—Arts. 226/227—Extension of term—Power of Government to extend terms of head of department*