

(2008) 03 P&H CK 0228

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 59327-M of 2006 (O and M) , Criminal Miscellaneous No. 56591 -M of 2006 (O and M) , Criminal Miscellaneous No. 59325-M of 2006 (O and M) , Criminal Miscellaneous No. 59967-M of 2006 (O and M) , Criminal Miscellaneous No. 59969-M

Jarnail Singh	APPELLANT
vs	
State of Punjab	RESPONDENT

Date of Decision: March 13, 2008

Acts Referred:

- Punjab Excise Act, 1914 - Section 14, 61

Citation: (2008) 3 RCR(Criminal) 749

Hon'ble Judges: Rajesh Bindal, J

Bench: Single Bench

Advocate: A.S. Khurana, Ms. Rahish, Pahwa Dudeja, Ms. Upasna Gupta and Mr. P.K. Longia, for the Appellant; Anter Singh Brar, DAG, for the Respondent

Final Decision: Dismissed

Judgement

Rajesh Bindal, J.

This order will dispose of a bunch of petitions, namely, Criminal Misc. Nos.56591 -M. 59325-M, 59327-M, 59967-M, 59969-M, 59971 -M, 59973-M, 59975-M, 59977-M, 59979-M, 65940-M, 72085-M, 74003-M. 78656-M and 78671-M of 2006 involving identical question of law with similar facts. The facts are being noticed from Criminal Misc. No. 59327-M of 2006.

2. The challenge in the present petition is to the order dated 26.09.2005 passed by the learned Sub Divisional Judicial Magistrate. Samrala in Criminal Case No. 182/2 arising out of FIR No. 72 dated 20.05.2005 registered at Police Station Machhiwara u/s 61/1/14 of the Punjab Excise Act. 1914 (for short, "the 1914 Act").
3. The facts as stated in the petition are that FIR No. 72 was registered against the petitioner on 20.05.2005 under Sections 61 1/14 of the 1914 Act at Police Station

Machhiwara with the allegation that 8 bottles of Desi Lal Kila liquor were recovered from the petitioner. The petitioner was arrested and released on bail. Police after investigation presented challan before the learned Illaqa Magistrate. On 25.10.2005, charge u/s 61/1/14 of the 1914 Act was framed against the petitioner and the case was fixed for prosecution evidence on 03.08.2006. On this date, the learned Sub Divisional Judicial Magistrate directed for the return of the challan to the Public Prosecutor in view of the amendment carried out in the 1914 Act vide Punjab Act No. 10 of 2003. The petitioner/accused was directed to appear before the Assistant Excise and Taxation Commissioner, Ludhiana (3) on 29.08.2006 for further proceedings. It is this order passed by the Court below which is being impugned in the present petition-

4. Assailing the order, Learned Counsel for the petitioner submitted that in the present case, the recovery was made by the police. The investigation was also conducted by them and, thereafter, the challan was presented u/s 173 Cr.P.C. before the competent Court and the prosecution of the petitioner started. Accordingly, now at this stage, the impugned order passed by the learned Court below directing the return of challan and ordering the prosecution of the petitioner u/s 61-A of the 1914 Act is totally without jurisdiction. Prior to the amendment made vide Punjab Act No. 10 of 2003, only the Courts could try the offences u/s 61 of the 1914 Act whereas after the amendment even the officers of the Department of Excise and Taxation have also been conferred the power. The power u/s 61 -A of the 1914 Act could be exercised if the detention and a recovery of the liquor is by the excise officials and not where the recovery has been made by the police.

5. Learned Counsel for the State also could not raise any substantive argument to controvert the plea raised by Learned Counsel for the petitioner. According to him, parallel powers have been conferred on both the authorities and in case the police authorities make the recovery of the liquor, the challan is to be presented in the Court whereas in case the power is exercised by the officers of the Excise Department proceeding u/s 61 -A of the 1914 Act would be competent. He referred to the provisions of Punjab Excise Powers and Appeal Orders, 1956 whereby the police officers of the rank of Head Constable and superior in rank thereto have been given powers of an Excise Officer of the First Class. According to him, in terms of this provision even a Head Constable and police officials above the rank of Head Constable could very well exercise the powers of the Excise Officer and check violation of Section 61 or 61-A of the 1914 Act. It is further submitted that in the present case, Head Constable Gurmail Singh of Police Station Machhiwala had recovered 8 bottles of liquor from the petitioner. Accordingly, the impugned order passed by the learned Court below transferring the proceedings to the Assistant Excise and Taxation Commissioner is valid.

6. Before the respective contentions of the parties is considered, it would be relevant to refer to and consider import of relevant provisions of the 1914 Act and

the amendments carried out therein from time to time. Section 61 of the 1914 Act as existing prior to the amendment made vide Punjab Act No. 10 of 2003, after the amendment by Punjab Act No. 10 of 2003, till the amendment vide Punjab Act No. 10 of 2004 with effect from 6.4.2004 and newly inserted Section 61 -A in the 1914 Act by Punjab Act No. 10 of 2003. with effect from 02.05.2003 and the further substituted vide Punjab Act No. 10 of 2004 with effect from 06.04.2004 are extracted below for reference:-

Section 61 of the 1914 Act as was existing prior to amendment by Punjab Act No. 10 of 2003

61. Penalty for unlawful import, export, transport, manufacture, possession etc.-(i) Whoever, in contravention of any section of this Act or of any rule, notification issued or given thereunder or order made or of any license, permit or pass granted under this Act-

- (a) imports, exports, transports, manufactures, collects, or possesses any intoxicant; or
- (b) constructs or works any distillery or brewery; or
- (c) uses, keeps or has in his possession any materials, still, utensil, implements or apparatus whatsoever for the purpose of manufacturing any intoxicant other than tari; shall be punishable for every such offence with imprisonment for a term which may extends to three years and with fine upto twenty-five thousand rupees.

Provided that in the case of an offence relating to the possession of:

- (i) a working still for the manufacture of any intoxicant, such imprisonment shall not be less than one year and such fine shall not be less than five thousand rupees;
- (ii) Lahan, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees;
- (iii) country liquor manufacture otherwise than in a licensed distillery in Punjab, in a quantity not exceeding ten bottles each bottle containing 750 Milliliters. such imprisonment shall not be less than three months and such fine shall not be less than five hundred rupees, and in a quantity exceeding ten bottles of the aforesaid capacity, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees;
- (iv) foreign liquor other than-
 - (a) manufactured in a licensed distillery or brewery in India; or
 - (b) imported into India on which custom duty is leviable under the Indian Tariff Act, 1934. or the Customs Act, 1962.

(c) such imprisonment shall not be less than six months and such fine shall not be less than two thousand rupees.

(v) foreign liquor manufactured in a distillery or brewery in India, in quantity exceeding ten bottles on which the excise duty or any other levy payable under this Act, has not been paid, such imprisonment shall not be less than six months and such fine shall not be less than two thousand rupees.

(2) Penalty for unlawful import, export, transport, manufacture, possession, sale etc.

- Whoever in contravention of any section other than Sections 29 and 30 of this Act or of any rule, notification issued or given there under or order made or of any license, permit or pass granted under this Act-(a) sells any intoxicants ; or

(b) cultivates the hemp plant; or

(c) removes any intoxicant from any distillery, brewery or warehouse established or licensed under this Act; or

(d) bottles any liquor for the purposes of sale: or

(e) taps or draws tari form any tari producing tree, shall be punishable with imprisonment for a term which may extend to [two years and line which may extend two thousand rupees].

Section 61 of (he 1914 Act as was existing after amendment by Punjab Act No. 10 of 2003

61. Penalty for offences triable by a court.-(1) Whoever in contravention of any section of this Act. or of any rule, notification issued or given thereunder or order made. or of any license, permit or pass granted under this Act:-

(a) manufactures or collects any intoxicant; or

(aa) imports, exports, transports or possesses any intoxicant other than liquor; or

(b) constructs or works any distillery or brewery; or

(c) uses, keeps or has in his possession any materials, still, utensil, implements or apparatus whatsoever for the purpose of manufacturing any intoxicant other than tari. shall be punishable for every such offence with imprisonment for a term which may extend to three years and with line up to twenty live thousand rupees Provided that in the case of an offence relating to the possession of .-

(i) a working still for the manufacture of any intoxicant, such imprisonment shall not be less than one year and such fine shall not be less than five thousand rupees;

(ii) Lahan. such imprisonment shall not be less than six months and such line shall not be less than one thousand rupees;

(iii) country liquor manufactured otherwise than in a licensed distillery in Punjab, in a quantity not exceeding ten bottles, each bottle containing 750 Milliliters. such imprisonment shall not be less than three months and such fine shall not be less than five hundred rupees; and in a quantity exceeding ten bottles of the aforesaid capacity, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees;

(iv) foreign liquor other than-

(a) manufactured in a licensed distillery or brewery in India; or

(b) imported into Indian on which custom duty is leviable under the Indian Tariff Act 1934 or the Customs Act, 1962.

(c) such imprisonment shall not be less than six months and such fine shall not be less than two thousand rupees.

(v) foreign liquor manufactured in a distillery or brewery in India, in quantity exceeding ten bottles on which the excise duty or any other levy payable under this Act, has not been paid, such imprisonment shall not be less than six months and such fine shall not be less than two thousand rupees.

(2) Penalty for unlawful import, export, transport, manufacture, possession, sale etc. - Whoever in contravention of any section other than Sections 29 and 30 of this Act or of any rule, notification issued or given there under or order made or of any license, permit or pass granted under this Act-

(a) sells any intoxicants ; or

(b) cultivates the hemp plant; or

(c) removes any intoxicant from any distillery, brewery or warehouse established or licensed under this Act; or

(d) bottles any liquor for the purposes of sale; or

(e) taps or draws tari form any tari producing tree, shall be punishable with imprisonment for a term which may extend to [two years and fine which may extend two thousand rupees].

Section 61-A of the 1914 Act as inserted vide Punjab Amendment Act No. 10 of 2003

61-A. Penalty for offences not triable by a Court:- (I) Whosoever, in contravention of any provision of this Act, the rules framed thereunder, any notification issued or any order made or any license, permit or pass granted under this Act, imports, exports, transports, or possesses any liquor, shall alongwith liquor and means of transport, except the passenger buses, owned by the Central Government or the State Government or any of their undertaking, be detained by an Excise Officer, who shall make a report to the Assistant Excise and Taxation Commissioner, in-charge of the

district and to the Deputy Excise and Taxation Commissioner, in-charge of the Division, within a period of twenty-four hours of such detention. The Excise Officer shall forward such liquor and the means of transport alongwith the necessary documents to the Deputy Excise and Taxation Commissioner in-charge of the Division.

(2) On the receipt of the report referred to in sub-Section (1), the Deputy Excise and Taxation Commissioner in-charge of the Division, shall record the statements of the offender and the officers, concerned with the case, and release the offender.

(3) The Deputy Excise and Taxation Commissioner in-charge of the Division, may levy a penalty of rupees ten thousand after giving the offender a reasonable opportunity of being heard, in case the liquor detained is licit, on which excise duty and other levies have been paid in the State of Punjab.

(4) The Deputy Excise and Taxation Commissioner in-charge of the Division, may in addition to the confiscation of the liquor, levy a penalty of rupees fifty thousand on the offender and the owner of the means of transport after giving them an opportunity of being heard, in case the liquor detained is illicit and excise duty and other levies have not been paid thereon in the State of Punjab;

Provided that for every repeated offence, a penalty of rupees one lakh shall be imposed by the Deputy Excise and Taxation Commissioner in-charge of the Division.

(5) If the penalty referred to in sub-section (4), is not paid within a period of one week from the date of the order, then the Deputy Excise and Taxation Commissioner in-charge of the Division shall pass a speaking order for confiscation of the means of transport and the liquor after giving an opportunity of being heard to the offender and the owner of the means of transport. In case the owner of the liquor and the means of transport are not available, then the order for confiscation may be passed by the Deputy Excise and Taxation Commissioner in-charge of the Division by affording an opportunity of being heard to the offender, who has been caught with the goods. The confiscated liquor shall thereafter, be destroyed under the supervision of the Deputy Excise and Taxation Commissioner in-charge of the Division and an authenticated copy of the said order shall be supplied to the affected person free of cost.

(6) The Deputy Excise and Taxation Commissioner in-charge of the Division, shall put to auction the confiscated means of transport within a period of thirty days from the date of the order of confiscation passed under sub-section (5). The amount received from auction after deducting the expenditure incurred on it, shall be adjusted towards the payment of penalty by the owner. The un-recovered amount of penalty, if any, shall be recoverable as arrears of land revenue."

Section 61 and 61-A of the 1914 Act as existing after amendment by Punjab Act No. 10 of 2004

61. Penalty for offences triable by a court (1) Whoever in the contravention of any section of this Act, or of any rule, notification issued or given thereunder or order made, or of any license, permit or pass granted under this Act:-

- (a) manufactures or collects any intoxicant; or
- (aa) imports, exports, transports or possesses any intoxicant other than liquor; or
- (b) constructs or works any distillery or brewery; or
- (c) uses, keeps or has in his possession any materials, still, utensil, implements or apparatus whatsoever for the purpose of manufacturing any intoxicant other than tari. shall be punishable for every such offence with imprisonment for a term which may extends to three years and with fine upto twenty live thousand rupees Provided that in the case of an offence relating to the possession of:-
 - (i) a working still for the manufacture of any intoxicant, such imprisonment shall not be less than one year and such fine shall not be less than live thousand rupees;
 - (ii) Lahan, such imprisonment shall not be less than six months and such fine Shall not be less than one thousand rupees;
 - (iii) country liquor manufactured otherwise than in a licensed distillery in Punjab, in a quantity not exceeding ten bottles, "each bottle containing 750 milliliters, such imprisonment shall not be less than three months and such fine shall not be less than five hundred rupees; and in a quantity exceeding ten bottles of the aforesaid capacity, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees;
 - (iv) foreign liquor other than-
 - (a) manufactured in a licensed distillery or brewery in India; or
 - (b) imported into Indian on which custom duty is leviable under the Indian Tariff Act 1934 or the Customs Act, 1962.
 - (c) such imprisonment shall not be less than six months and such fine shall not be less than two thousand rupees.
- (v) Matter (sic) excise duty or any other levy payable under this Act, has not been paid, such imprisonment shall not be less than six months and such fine shall not be less than two thousand rupees.]

(2) Penalty for unlawful import, export, transport, manufacture, possession, sale etc.- Whoever in contravention of any section other than Section 29 and 30 of this Act or of any rule, notification issued or given there under or order made or of any license, permit or pass granted under this Act-(a) sells any intoxicants; or

- (b) cultivates the hemp plant; or

(c) removes any intoxicant from any distillery, brewery or warehouse established or licensed under this Act; or

(d) bottles any liquor for the purposes of sale; or

(e) taps or draws tari from, any tari producing tree, shall be punishable with imprisonment for a term which may extend to [two years and fine which may extend two thousand rupees],

61-A. Penalty for offences not triable by a Court:- (1) Whosoever, in contravention of any provision of this Act, the rules framed thereunder, any notification issued or any order made or any license, permit or pass granted under this Act, imports, exports, transports, or possesses any liquor, shall alongwith liquor and means of transport, except the passenger buses, owned by the Central Government or the State Government or any of their undertaking, be detained by an Excise Officer, who shall make a report to the Assistant Excise and Taxation Commissioner, in-charge of the district within a period of twenty-four hours of such detention. The Excise Officer shall forward such liquor and the means of transport alongwith the necessary documents to the Assistant Excise and Taxation Commissioner in-charge of the district.

(2) On the receipt of the report referred to in sub-section (I), the Assistant Excise and Taxation Commissioner in-charge of the district. shall record the statements of the offender and the officers, concerned with the case, and release the offender.

(3) The Assistant Excise and Taxation Commissioner in-charge of the district, may impose the following penalties after providing the offender a reasonable opportunity of being heard in case a liquor detained in licit, cm which the excise duty and other levies have been paid in the State of Punjab, namely:-

(a) rupees five thousand in case of detection of such liquor upto two cases i.e. 18 bulk liters; and

(b) rupees ten thousand in case of detection of such liquor exceeding more than two cases i.e. 18 bulk liters.

(4) The Assistant Excise and Taxation Commissioner in-charge of the district, may confiscate the illicit liquor and may also impose the following penalties after providing the offender a reasonable opportunity of being heard in case the liquor detained is illicit, on which the excise duty and other levies have not been paid in the State of Punjab, namely:-

(a) rupees twenty live thousand in case of detection of such liquor up to live cases i.e. 45 bulk liters:

(b) rupees fifty thousand in case of detection of such liquor exceeding live cases i.e. 45 bulk liters, but not exceeding fifty cases i.e. 450 bulk liters; and

(c) rupees on lakh in case of detection of such liquor exceeding fifty cases i.e. 450 bulk liters.

(5) If the penalty referred to in sub-section (4). is not paid within a period of one week from the date of the order, then. The Assistant Excise and Taxation Commissioner in-charge of the district shall pass a speaking order for confiscation of the means of transport and the liquor after giving an opportunity of being heard to the offender and the owner of the means of transport. In case the owner of the liquor and the means of transport are not available, then the order for confiscation may be passed by the Assistant Excise and Taxation Commissioner in-charge of the district by affording an opportunity of being heard to the offender, who has been caught with the goods. The confiscated liquor shall thereafter, be destroyed under the supervision of the Assistant Excise and Taxation Commissioner in-charge of the district and an authenticated copy of the said order shall be supplied to the affected person free of cost.

(6) The Assistant Excise and Taxation Commissioner in-charge of the district, shall put to auction the confiscated means of transport within a period of thirty days from the date of the order of confiscation passed under sub-section (5). The amount received from auction after deducting the expenditure incurred on it, shall be adjusted towards the payment of penalty by the owner. The un-recovered amount of penalty, If any, shall be recoverable as arrears of land revenue.

Section 61 of the 1914 Act, as was existing prior to the amendment vide Punjab Act No. 10 of 2003, provided for prosecution in all the cases of illegal import, export, transport, manufacture, collection or possession of any intoxicants. An intoxicant, in term of definition thereof as contained in Section 3(12a) of the 1914 Act includes liquor. The punishment provided is of imprisonment for different terms and fine.

After amendment carried out vide Punjab Act No. 10 of 2003 whereby Section 61 of the 1914 Act was amended and a new Section 61 -A was added, the scheme of the 1914 Act had undergone a change After the amendment, a distinction was made with regard to the penalties for offences triable by a Court and penalties for offences not triable by a Court. In terms of Section 61(1)(aa) with effect from 02.05.2003. any import, export transport or possession of any intoxicant other than liquor in contravention of any provision of the 1914 Act, rules! notification or order made thereunder or of any licence, permit or pass granted under the Act was punishable with imprisonment for a term as prescribed. Whereas the newly added Section 61A after the amendment carried out vide Punjab Act No. 10 of 2003, with effect from 02.05.2003. provided that whoever in contravention of any provisions of the 1914 Act or rules or notification or order or any licence, permit or pass granted under the Act Inter-alia imports, exports, transports or possess any liquor, shall along with liquor and means of transport be detained by an Excise Officer. The procedure to be followed after its detention by the Excise Officer has further been provided in the Section.

The provisions of Section 61-A of the 1914 Act further provide for levy of penalty for licit liquor on which excise duty and other levies have been paid to the State Government and illicit liquor on which excise duty and other revenues have not been paid to the State Government. Though provisions of Section 61-A of the 1914 Act were subsequently substituted by Punjab Act No. 10 of 2004 with effect from 06.04.2004, however, the scope of this Section remained same as far as the issue under consideration in the present case is concerned, namely, (hat the section applied inter alia for unauthorised import, export or transport of liquor. The change was that the powers earlier were conferred on Deputy Excise and Taxation Commissioner which after the amendment were conferred on Assistant Excise and Taxation Commissioner. Certain changes were made in the amount of penalty to be levied etc.

In view of the above discussion, it can safely be summed up that Section 61 of the 1914 Act is for the offences where (he power is to be exercised by (he Court, whereas u/s 61A of (he 1914 Act, the authority is with Assistant Excise and Taxation Commissioner. There is no dispute that the provisions of Section 61 of the 1914 Act are applicable for any intoxicant other than liquor whereas the provisions of Section 61 -A of the 1914 Act are applicable for liquor. In the present case admittedly recovery from all the petitioners is of liquor and that too after the amended provisions of Section 61 and newly inserted provisions of Section 61A of the 1914 Act had come into force with effect from 02.05.2003.

As far as recovery of liquor from the petitioner by the police official is concerned, reference can be made to the provisions of Punjab Excise Powers and Appeal Orders, 1956 conferring powers of Excise Officer on certain other officials. Clause 5 thereof is extracted below;-

5. u/s 10 of Punjab Excise Act there shall be three classes of Excise Officers to be designated I st Class. 2nd Class and 3rd Class respectively and the persons mentioned in groups A, B and C below shall be respectively Excise Officers of the 1st, 2nd and 3rd Class.

Group Q

Excise Officers of the 3rd Class

6. The persons mentioned in groups A and B below are, under Sections 11 of the Punjab Excise Act, invested with the powers of an Excise Officer of the 1st Class and 3rd Class respectively.

Group A

(To exercise the powers of an Excise Officer of the 1 st Class) (1) All police officers of the rank of Head Constable and any rank superior thereto.

A perusal of the above referred provision of the order shows that all police officials of the rank of Head Constable and superior thereto have been permitted to exercise the powers of Excise Officer of the First Class. Section 61-A of the 1914 Act authorises an Excise Officer for detention or checking of the illegal possession import, export or transport of liquor

As far as facts of the present case are concerned, the allegations against the petitioner is regarding recovery of 8 bottles of Desi Lal Kila liquor which as per the stand in the written statement was recovered by Head Constable Gurmail Singh, who in terms of the provisions of the order as extracted above is authorized to exercise the powers as an Excise Officer. However, as is evident from the facts on record, for the alleged offence committed by the petitioner under the 1914 Act. FIR was registered against him u/s 61/1/14 of the 1914 Act at Police Station Machhiwara though in terms of provisions of Section 61-A of the Act. the alleged offence was required to be dealt with by the Deputy Excise and Taxation Commissioner, in-charge of the district. As the FIR was registered, in furtherance thereto after investigation a challan was presented in the Court where charges were framed against the petitioner. 1 However, when the import of Section 61 -A of the 1914 Act, as was inserted with effect from 02.05.2003. was brought to the notice of the Court, the learned Magistrate passed the following order:-

In view of the latest amendment in the Punjab Excise Act, 1914 by the Punjab Act 10 of 2003. the offences in question has been made triable by the Asstt. Excise and Taxation Commissioner. Therefore, this challan is ordered to be returned back to the AIM5. The accused is directed to appear before the AHTC. Ludhiana (3) on 59.08.2006 for further proceedings. The Ahmad is directed to comply with immediately and local police is directed to present the challan before the said authority on date fixed. Judicial papers be consigned to the record room.

A perusal of the above extracted order passed by the learned Magistrate shows that considering the fact that in terms of amendment in the Act vide Punjab Act No. 10 of 2003, the offence in question was triable by Assistant Excise and Taxation Commissioner, the challan presented in the Court was directed to be returned to the Public Prosecutor and the petitioner was directed to appear before the authority concerned for further proceedings.

If the facts of the present case are examined in the light of position of law as discussed above, it is clear that on the date when the liquor was recovered by the Excise Officer, in terms of the provisions of Section 61A of the 1914 Act, the matter was to be adjudicated upon by the officers in the Excise & Taxation Department and no challan was required to be presented in the Court. Once correct position of law was brought to the notice of the learned Court below, in my opinion, the Court below has not committed any illegality in returning the challan back to the Public Prosecutor as the Court did not have jurisdiction to deal with the matter. Merely because a direction has been given to the petitioner to appear before the

competent authority no prejudice has been caused to the petitioner as the matter will now be dealt with by the authority concerned in accordance with law. Once the challan presented in the Court has itself been returned to the Public Prosecutor, the order framing charge against the petitioner shall be considered as non-est, however, the same will not pre-judge the proceedings before the competent authority in any manner.

The situation which has emerged in the present case was avoidable. There are three organs of State, the legislature, the executive and the judiciary. The legislature is to enact laws, the executive is to implement the same and the courts are to examine the laws and the actions of the executive. It is evident from the facts of the present case that though amendment was carried out in the Punjab Excise Act, 1914 vide Punjab Act No, 10 of 2003 with effect from 02.05.2003 providing for different forums for different offences, however, the persons at the helm of affairs who had to implement the Act in its true letter and spirit were not educated about the same which resulted in unnecessary delay in the prosecution of the case, as the proceedings were launched at a wrong forum. It is desirable that whenever a new scheme of things come into operation with the amendment in the Act or the rules, the persons who are concerned for implementation thereof should be educated about its requirements and the procedure to be followed. This will result in avoiding unnecessary litigation or technical objections.

In view of my discussions above, the present petitions are dismissed. The petitioners are now directed to appear before the authority concerned on April 24,2008 for further proceedings.