



RIGHT TO LIVELIHOOD IS ULTIMATELY PUT AT RISK BY CANCELLATION OF GST REGISTRATION

Vinod Kumar v. Commissioner Uttarakhand State GST¹, which breaks uncharted territory, is one of several judgments that have expanded the scope and interpretation of article 21. This case defines the right to life as including both the right to means of livelihood and the right to life, in contrast to previous petitions that solely address the right to life. As upheld by the division bench, led by Acting Chief Justice Sanjaya Kumar Mishra and Justice Ramesh Chandra Khulbe, found that the appellant's right to livelihood has been violated under Article 21 of the Constitution of India as a result of the cancellation of his GST Registration number. This not only provides an opportunity to consider some fundamental problems about the function of law and the character of the Indian Constitution, but it also raises some very fundamental questions about the parameters and ways in which article 21 can be construed.

In this case, the petitioner was a working mason and painter, whose GST registration was invoked since he neglected to submit his return for a continuous six-month period as required by the GST Act of 2017. The petitioner filed an appeal with the First Appellate Authority, but it was denied due to delay. Further, he has no recourse to appeal. Following that, a writ petition was brought, which the Single Judge also rejected as unmaintainable. The petitioner filed this intra court appeal after being aggrieved with the Single Judge's decision. The petitioner upheld that even in situations when there are other, more effective remedies available, the High Court can nevertheless exercise its jurisdiction in case of enforcement of fundamental rights. Thus, it is apparent that the Statute under Article 226 of the Constitution does not provide any prohibition against exercise of the writ jurisdiction.





However, the issue in the case was raised regarding the maintainability of the writ petition with respect to the limitation period of filing appeal is not extendable as same held in the case of Panoli Intermediate (India) Pvt. Ltd. Vs Union of India² . But the case took was interspersed towards the interpretation of Article 21 regarding the means of livelihood as a right. This case stands out from others involving Article 21 because it employs a judicial interpretation principle that creates a wide range of possible interpretations.

Furthermore, the Hon'ble HC observed that the law made by the Parliament as well as the Legislature pertaining to appeals is very strict, in the sense that it does not bestow the First Appellate Authority unlimited jurisdiction to extend the limitation beyond one month after the expiry of the prescribed limitation. In such a case, the petitioner is put in the challenging circumstances and has no recourse. In such circumstances, the petitioner faces starvation due to a loss of livelihood due to a lack of GST Registration.

As a result, the Court remanded the matter back to the learned Single Judge and concluded that the learned Single Judge erred in ruling that the writ petition was not maintainable.

¹ *Vinod Kumar vs. Commissioner Utrakhand SGST & Ors., [TS-336-HC(UTT)-2022-GST]*

² *Panoli Intermediate (India) Pvt. Ltd. Vs Union of India and others, 2016 0 AIR (Guj) 97*





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