

**NON-REPORTABLE**

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

**CIVIL APPEAL NOS.8899-8900 OF 2019**  
**(@ SPECIAL LEAVE PETITION (CIVIL) NO. 21975-76 OF 2019)**

THE STATE OF MIZORAM &  
ORS. ETC.

...APPELLANT(S)

Versus

M/S POOJA FORTUNE PRIVATE  
LIMITED & ETC.

...RESPONDENT(S)

**ORDER**

**Deepak Gupta, J.**

Leave granted.

2. The State of Mizoram has filed these appeals against the order dated 08.08.2019 passed by the Division Bench whereby it modified the said order passed by the learned Single Judge and directed the State to keep in abeyance all paper lottery draws pursuant to expression of interest dated 04.06.2019 pending final outcome of the writ petition.

3. Briefly stated the facts are that the respondent no.1-writ petitioner filed a petition under Article 226 of the Constitution of India seeking quashing of the Invitation for Expression of Interest dated 04.06.2019, issued by the Director, Institutional Finance & State Lottery for selection and appointment of selling agents for sale of Mizoram State Lotteries, both paper and online, and thereafter to re-issue fresh tender by following Lotteries (Regulation) Rules, 2010 and various instructions of the Ministry of Home Affairs, Government of India. The main contention of the respondent no.1-writ petitioner is that the State of Mizoram had issued an expression of interest in total violation of the Lotteries (Regulation) Act, 1998 as well as the Lotteries (Regulation) Rules, 2010, thereby seeking to flout Rule 4(1) of the Mizoram Lotteries (Regulation) Rules, 2019. The main ground raised was that the Government of Mizoram does not have a draw machine or any other mechanical method based on random technology paper lottery draws. Another ground raised before the Single Judge was that the State has no arrangement with any high security press for printing of tickets. It is contended that the State intended to conduct lotteries in violation of the provisions of law and the instructions issued by the Ministry of Home Affairs, Government of India vide letter dated

16.07.2010. Another contention raised is that the State of Mizoram has not laid down proper eligibility criteria with a view to help some traders. It would also not be out of place to mention that the petitioner took part in the bid process, though under protest.

4. The respondent no.1-writ petitioner had prayed for grant of interim relief. The learned Single Judge, having regard to the fact that the writ petitioner had taken part in the tender process and his bid had been accepted, permitted the State to proceed with the tender process. Aggrieved, respondent no.1 had filed Writ Appeal No.206 of 2019 and the Division Bench modified the order and directed that though the tender process may be completed and the parties selected pursuant to the expression of interest dated 04.06.2019 may enter into the agreements, but the operation of the paper lottery pursuant to the expression of interest dated 04.06.2019 be kept in abeyance pending disposal of the petition.

5. The effect of the order of stay is that no paper lotteries can be conducted. Details of the various proposed draws of the successful bidders and their bids for each set of 4 draws are as under:

<b>S. No.</b>	<b>Name</b>	<b>Bid per draw</b>
1.	Teesta Distributors	Rs. 40,480/-
2.	M/s. Pooja Fortune Pvt. Ltd.	Rs .41,100/-
3.	M/s. Skill Lotto Solutions Pvt. Ltd.	Rs. 74,432/-

- |    |  |               |
|----|--|---------------|
| 4. | B. S. Enterprises                            | Rs.1,26,900/- |
| 5. | M/s. Summit Online Trade Solutions Pvt. Ltd. | Rs.1,32,111/- |

Each of the 5 parties had to pay the amount as per draw whether draw of lotteries is conducted or not. Therefore, on a daily basis approximately Rs. 20 lakhs would be the daily earning of the State. The respondent no.1-writ petitioner had bid an amount of Rs.41,100 for draw and now if it is granted a stay then it must be put on terms that if it loses the writ petition then it shall compensate the State for the loss suffered. Otherwise, the lotteries must be permitted to go on.

6. At the outset, we may note that respondent no.1 herein was previously running lotteries in the State of Mizoram and at that time it had no objection to the State not having the draw machine or not having the arrangements with the security press. Be that as it may we make it clear that we are not going into the merits of this case.

7. We had pointedly asked Mr. C.A. Sundaram, learned senior counsel whether his client is willing to give an undertaking and no clear-cut answer has been received. He was only willing to make such a statement on conditions which we are not going to accept.

8. While granting stay, this Court must consider three aspects-

- (i) Balance of convenience
- (ii) Irreparable harm or injury
- (iii) That there is a prima facie case

Even assuming for the sake of argument that the respondent no.1-writ petitioner has a prima facie case on merits, there is no balance of convenience in its favour. The respondent no.1-writ petitioner was running a paper lottery in the State of Mizoram with the same draw machine and with the same drawbacks in violation of the law which it now claims in its favour. The balance of convenience does not lie in favour of such persons. In case stay is granted, no loss or injury shall be caused to the respondent no.1-writ petitioner because it will be permitted to run the lottery as per the bid submitted by it. On the other hand, if the lotteries are not permitted to run, the State will lose about Rs. 20 lakhs daily. There is no way this loss can be compensated by the respondent no.1-writ petitioner since it is unwilling to furnish any bank guarantee in this regard.

9. It has been urged by Mr. Sundaram that the matter is listed before the High Court on 21.11.2019 and the High Court be directed to decide the matter at the earliest. We may also add that on going

through the website of the Gauhati High Court, we find that adjournment before the High Court was sought by the respondent no.1-writ petitioner and not by the State which was ready to argue the matter. Be that as it may, we request the High Court to dispose of the writ petition as early as possible.

10. In view of the above, we allow the appeals, set aside the order of the Division Bench and restore the order of the learned Single Judge. Pending application(s), if any, stand(s) disposed of.

.....**J.**  
**(Deepak Gupta)**

.....**J.**  
**(Aniruddha Bose)**

**New Delhi**  
**November 15, 2019**

ITEM NO.46

COURT NO.15  
S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

SECTION XIV

Petition(s) for Special Leave to Appeal (C) No(s).21975-21976/2019  
(Arising out of impugned final judgment and order dated 08-08-2019  
in WA No.206/2019 08-08-2019 in WA No.207/2019 passed by the  
Gauhati High Court)

THE STATE OF MIZORAM & ORS.

PETITIONER(S)

VERSUS

M/S POOJA FORTUNE PVT. LTD. & ORS.

RESPONDENT(S)

(IA No.158515/2019-ADDITION/DELETION/MODIFICATION PARTIES and IA  
No.140652/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT  
and IA No.158514/2019-PERMISSION TO FILE ADDITIONAL DOCUMENTS  
/FACTS/ANNEXURES and IA No.140651/2019-PERMISSION TO FILE  
ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 15-11-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK GUPTA  
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s)

Mr.Maninder Singh, Sr.Adv.  
Mr.Abhinav Shrivastava, AOR  
Mr.Saha Kamra, Adv.  
Mr.Nirmal Prasad, Adv.  
Mr.S.Mahesh Sahasranaman, Adv.

For Respondent(s)

Mr.Guru Krishan Kumar, Sr.Adv.  
Mr.Shubhranshu Padhi, Adv.  
Mr.Ashish Yadav, Adv.  
Mr.Rakshit Jain, Adv.

Mr.C.A.Sundaram, Sr.Adv.  
Ms.Rohini Musa, Adv.  
Mr.Abhishek Gupta, Adv.  
Mr.Zaffar Inayat, Adv.  
Ms. Rohini Musa, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeals are allowed in terms of the signed order.

Pending applications, if any, stand disposed of.

(Ashok Raj Singh)

(Deepak Sharma)

Court Master

Court Master

(Signed Order is placed in the file)