
(1998) 08 KL CK 0013
In the High Court Of Kerala
Case No : O.P. No. 14416 of 1998

A. Raghavan

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 20-08-1998

Acts Referred:

Telegraph Act, 1885 — Section 7B

Citation : (1998) 2 KLJ 451 : (1998) 4 RCR(Civil) 673

Hon'ble Judges : K.S. Radhakrishnan, J

Bench : Single Bench

Advocate : P.B. Sahasranaman and K. Jagadeesh, for the Appellant; K. Ramakumar (SCGSC), for the Respondent

Final Decision : Dismissed

Judgement

K.S. Radhakrishnan, J.—Petitioner has approached this court challenging Ext.P3 order passed by the first respondent appointing third respondent as the arbitrator to decide the dispute under Sec.7B of the Indian Telegraph Act. Third respondent is Assistant General Manager (Engg.) in the office of the General Manager (Planning), Telecommunications, Thiruvananthapuram. Petitioner submits third respondent being an officer of the Telephone Department is disabled from acting as Arbitrator. From past experience, counsel for petitioner submits if a party wants to examine an officer of the telephone department, Arbitrator (officer of Department) would not allow him to examine the officer. Similarly Arbitrator would accept documents produced by the department without even giving a copy thereof to the parties. Further, according to the petitioner, third respondent has no knowledge of law, and he would not follow the well-known principles of natural justice before rendering his decision. In the said circumstances, petitioner suggested three names to be appointed as Arbitrator. According to the petitioner, they are fit enough to be considered for appointment as Arbitrators. The names of those persons are given by the petitioner in Ext.P2 representation.

2. Section 7B of the Indian Telegraph Act is extracted below:

(1) Except as otherwise expressly provided in this Act, if any dispute concerning any telegraph line, appliance or apparatus arises between the telegraph authority and the person for whose benefit the line, appliance or apparatus is, or has been, provided, the dispute shall be referred to an arbitrator appointed by the Central Government either specially for determination of that dispute or generally for the determination of disputes under this section.

Counsel for the petitioner submits under Sec.7B Central Government cannot appoint departmental officials as arbitrators. I am of the view, statute never prevented the Central Government from appointing a departmental officer as an arbitrator. In other words, statute gives considerable amount of power to the Central Government to appoint any person as arbitrator to decide the dispute. In a given case if circumstances warrant Central Government could appoint a non-official as Arbitrator.

3. Disputes to be decided under Sec.7B are not disputes between private individuals, but disputes between individuals and department. A departmental official normally appointed as an arbitrator has no personal interest in the lis. Mere "official" or policy bias may not necessarily be held to disqualify an official, from acting as an adjudicator. Griffith and Street on Administrative Law says official bias rarely invalidate proceedings. A mere general interest in the subject matter to be pursued would not disqualify a Judge in deciding the matter. There must be some direct connection with the litigation. The direction given by the Supreme Court in M.L. Jaggi Vs. Mahanagar Telephones Nigam Ltd. and others, , that arbitrator should give reasons in his award, is sufficient enough to allay the fears expressed by the petitioner. In this connection it is profitable to refer to the decision of the Andhra Pradesh High Court in S. Kanyalal Vs. Union of India and others, . A learned single Judge of the Andhra Pradesh High Court found that there was no illegality in appointing departmental officials as arbitrators to resolve the dispute under Sec.7B of the Indian Telegraph Act. According to learned single Judge the need to give adequate grounds while giving the decision is an ample safeguard to the rights of the parties. I am in respectful agreement with the above mentioned decision.

In the above mentioned circumstances, I do not find any reason to give a direction to the third respondent not to act as an arbitrator. Original Petition lacks merits and the same is dismissed.