
(2011) 08 DEL CK 0410
In the Delhi High Court
Case No : Writ Petition (C) 6149 of 2011

Abhishek Jain

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 24-08-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 21, 226

Citation : (2011) 182 DLT 519

Hon'ble Judges : Dipak Misra, C.J; Sanjiv Khanna, J

Bench : Division Bench

Advocate : Sugriva Dubey, for the Appellant; A.S. Chandhiok, ASG, Maneesha Dhir and Preeti Dalal for Resp. No. 1, Najmi Waziri and Neha Kapoor for R-2 and 3, for the Respondent

Final Decision : Dismissed

Judgement

1. Almost five decades back Nobel laureate Samuel Beckett in his play "Waiting for Godot" through a character stated that in the immense confusion, one thing alone was clear that they were waiting for Godot.

2. In the case at hand one thing that gets frescoed and projected to the surface is that the Petitioner who has preferred this public interest litigation is embedded to play with words and usher in a sense of contradiction, irreconciliability and dichotomy. One may, in a different sphere of life, pronounce with heroics that he contradicts himself every moment and, therefore, he grows but, a significant one, the same has no allowance in the field of law. The pleadings, assertions, asseverations and the prayer sought in a writ petition, especially in a public interest litigation has to be clear, manifest, purposefully demonstrable and luculent making out a case that is relevant to public interest.

3. In the case at hand, the Petitioner in paragraphs 26, 28, 29, 30 and 31 has pleaded thus:

26. That the Respondents have taken a decision not to permit a group of persons

to protest against the corruption and also not to allow any organization to speak against the corruption and for this reason the Respondents have not permitted a particular organization to carry out demonstrations and protest which is contrary to the provisions of Article 14 of the Constitution of India.

27. xxx

28. That the object of law should be to expose the corrupt face of the Respondents but the Respondents are trying to prevent the organizations from fighting against corruption and for this reason the Respondents have not granted permission for demonstration though Justice P.B. Sawant Commission has found nothing wrong in the particular organization which is fighting against the corruption but despite that the permission was not accorded which is contrary to Article 14 of the Constitution of India.

29. That the Constitution has provided that any citizen of India has a right to take demonstration and also protest against the public policy which is contrary to the interest of the common man and the fundamental right of the person cannot be evaded by the Respondents by not granting permission to the particular organization for demonstration against the corrupt practices of the Respondents and the Petitioner is one of the participants who believes that the Respondents are indulged in corrupt practices and the common man's interest is being evaded.

30. That the Constitution of India has provided that the Petitioner and other common man of the country has every right to speak and the said right cannot be allowed to be evaded and in the present case the Respondents have sealed the place itself and did not permit any individual to demonstrate against the Respondents and as upto date no organization has been stopped from taking demonstrations as all those organizations are connected with the political parties and hence Article 14 of the Constitution of India has been evaded by the Respondents.

31. That Article 14 embodies the general principles of equality before the law. A specific group of persons cannot be restrained from taking demonstration in Delhi. The Respondents as upto date have been allowing the demonstrations in the Parliament Street and it is admitted that every month the traffic of Delhi faces jam. But there should be a permanent solution to these problems and merely a particular organization is restrained then the problem will not be settled and solved and hence it would be just and proper if a particular is allotted for demonstration such as Burari or other outskirt of Delhi which are lying vacant and the demonstration will not cause any inconvenience to the public and hence the present petition.

4. Earlier to the aforesaid paragraphs, in paragraph 7, 8 and 9, it has been asserted as follows:

7. That the common man has the right to move the glory to live with dignity by carrying out a lawful profession or calling cannot be abridged in the name of

mass protests or mass demonstrations. The collective protest cannot be allowed to take the shape of collective passion to project a fractured mind thereby creating a dent in the concept of rule of law.

8. The persons or the organizations should always keep in mind that in the name of demonstration or protestation the life of a civilized society cannot be allowed to be paralyzed in the name of legitimate exercise or one's right to protest the fundamental right of others cannot be scuttled.

9. That in a democratic polity the fundamental right of each citizen is sacrosanct. The collective cannot destroy the same and the said crowd cannot be allowed to create a tremor in the fundamental right of others and tremble the spine of the members of the society at large by forming a group of a political party. The collective protest cannot be allowed to take the shape of collective passion to project a fractured mind thereby creating a dent in the concept of rule of law and bringing in concavity in the constitutional philosophy which sings the song of highly cherished fundamental rights of millions of people. The demonstrations or dharna in the Parliament Street paralyzes the life of others and the right of others cannot be crucified at the fanciful pedestal of a group or a party and by no stretch of imagination it can be guillotined in a cavalier fashion from any pupil. The law of the country does not show countenance.

5. We have quoted the pleadings in extenso as we are compelled to think that the prayer clause is not in consonance with the pleadings and, in fact, there are contradiction in terms. The duality of mind is writ large. On one hand, a collective grievance is agitated keeping in view the basic conception enshrined under Article 21 of the Constitution of India and on the other hand, the inequality shown to various groups to carry out demonstration under the anvil of Article 14 of the Constitution of India has been pyramided.

6. It needs no special emphasis to state that the whole thing is absolutely perplexing. The purpose is comparable to a mirage. There is no oasis and that reflects the total uncertainty of mind. What the Petitioner really seeks in this public interest litigation, can even baffle a Solomon. It is understandable that a person files a litigation of the present nature for protection of the collective so that their fundamental rights are not affected, but when the pleadings are in a maze, the purpose is lost, the concentration gets unfocused, a sense of puzzlement reigns and anarchy prevails.

7. A public interest litigation is a writ petition under Article 226 of the Constitution of India. We have our gravest doubt whether the court in exercise of inherent, equitable and extra-ordinary jurisdiction, as conferred on it under Article 226 of the Constitution of India, can grant the relief that has been prayed for because in the prayer clause the Petitioner has prayed for commanding the Respondents to demarcate a place for demonstration/ political rallies/any protest by any organization or political parties against the Respondents in the outskirts of Delhi to enable the offices to run smoothly and also to enable the common

man to attend to their duties without any traffic jam caused due to the rallies and demonstrations in the public interest. As advised at present, we are disposed to think that such a mandamus cannot be issued.

8. In view of the aforesaid analysis, we dismiss the writ petition in limine and hope and trust the wisdom shall drawn upon the Petitioner so that the repeated petitions replete with contradiction are not filed.

9. We say with certitude that filing of this kind of public interest litigation deserves to be discouraged. A person while filing a public interest litigation describing himself as pro-bono should not conceive the idea of experimentation because the law does not permit that a litigant should come to court thinking "it is a laboratory or a playgrounds where children come to play". The experimentation of any nature has to be kept at bay. We say no more.