
(2023) 04 KL CK 0011
In the High Court Of Kerala
Case No : Writ Petition (Crl.) No. 202 Of 2023

Asif Azad

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 03-04-2023

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2023) 04 KL CK 0011

Hon'ble Judges : Bechu Kurian Thomas, J

Bench : Single Bench

Advocate : Asif Azad, S.Manu, P.Narayanan

Final Decision : Dismissed

Judgement

Bechu Kurian Thomas, J

1. Since the reliefs claimed for in this writ petition are curious, the same are extracted at the threshold itself. They are:

"1. To issue any order in favour of the petitioner for the facts, reasons and circumstances stated in the accompanying petitions, it is most respectfully prayed that this Hon'ble High Court may graciously pass a writ of mandamus directing the respondent no.1 and 2 to suspend respondent no.3 to 38, public servants, from their official duties due to their undue influence, for violating the Constitution of India, for disobeying the directions of law and for the violation of oath.

2. To issue any order in favour of the petitioner for the facts, reasons and circumstances stated in the accompanying petitions, it is most respectfully prayed that this Hon'ble High Court may graciously pass a writ of mandamus to be issued to direct the Registrar of the High Court to not intervene in the rights guaranteed by the Constitution and to register the writ petitions based on their merits and substance, without being influenced by nomenclature or prayer.

3. To allow this petition with cost.”

2. Respondents 3 to 38 are public servants. They include the Chief Secretary, the Home Secretary, the Law Secretary, the Director General of Police, the Additional Director Generals of Police and various Police Officers of different ranks. As evident from relief No.1, petitioner requires the Union Government and the State Government to suspend these officers. As far as relief No.2 is concerned, petitioner desires for a direction to the Registrar of this Court not to intervene in the rights guaranteed by the Constitution and to register the writ petitions based on their merits without being influenced by the nomenclature or the prayers.

3. Petitioner alleges that respondents 3 to 38 are influencing others to destroy his life and is even deceiving this Court multiple times. Supporting his claim, it is alleged that, petitioners signature has been forged in some government security documents and respondents 3 to 38 had disobeyed the directions of law and violated his fundamental rights. Petitioner also alleges that respondents 3 to 15 and 35 and 36 are influencing others and destroying the course of justice. Allegations are levelled against Government Pleaders of this Court alleging that they are arguing for the accused and pointing out defects. The pleadings also refer to the petitioner noticing the influence of respondents 3 to 38 even inside this Hon’ble Court when he saw government pleaders arguing for accused. Exhibit P3 affidavit filed by the petitioner in another writ petition- W.P (CrI) No. 719/2022 is also produced, wherein wanton allegations have been levelled against a government pleader. Though detailed pleadings have been made, there is no reference to any specific act as committed by respondents 3 to 38 for even seeking directions to suspend them.

4. A reading of the pleadings in the writ petition reveals nothing but vagueness, insufficient to grant any of the reliefs sought for. Despite the abstruse nature of the pleadings, it is revealed that petitioner has filed W.P.(C) No.22643 of 2022, CrI.Rev.Pet. No.761 of 2022, W.P.(C) No. (filing No.) 37719 of 2022 and W.A. No.41 of 2023, which according to him, as is pleaded in paragraph 1, are all similar matters. Notwithstanding the filing of earlier writ petitions for the same relief, being a bar on subsequent writ petitions, petitioner, who appeared as party-in-person, insisted on this writ petition being allowed.

5. Shorn of all the confusing and unnecessary factual narratives in the pleadings to the writ petition, petitioner makes wanton allegations against the respondents. Though petitioner repeatedly alleges in his pleadings that respondents 3 to 38 have failed to act according to the duty bestowed upon them, no material is produced to justify such allegations. Aimless allegations are raised against public functionaries without any supporting material.

6. Ext.P2 is an order dismissing a complaint filed by the petitioner against respondents 3 to 38 herein and others, who are arrayed as accused 1 to 48. The learned Magistrate, after considering the statement on oath given by the complainant and based on the materials produced before it, came to the

conclusion that there are no sufficient grounds to proceed against the accused therein. Ext.P1 is the affidavit filed in support of CrI.Rev.Pet. No.761 of 2022, which is preferred against the order in Ext.P2.

7. When the petitioner has initiated a challenge against Ext.P2, which he is legally entitled to, filing this writ petition with the nature of reliefs sought amounts to abuse and misuse of the provisions of Article 226 of the Constitution of India.

8. As far as relief No.2 is concerned, the petitioner during his arguments submitted that the Registry of this Court had noted defects on the petitions filed by him and such noting of defects is affecting his rights guaranteed under the Constitution.

9. This Court is unable to comprehend how the defects noted by the Registry of this Court in the writ petitions filed can be attributed with allegations of violating fundamental rights. One of the functions bestowed upon the Registry is to scrutinize the petitions filed before the Court. Rule 15 and Rule 50 of the Kerala High Court Rules 1971 confer power upon the Registry to notice defects if any, in the petitions or applications filed before the Court.

10. As mentioned earlier, the reliefs claimed by the petitioner are odious and repugnant to the orderly filing of writ petitions. The proclivity to file writ petitions without any basis and to threaten the system into ridicule cannot be permitted under any count. Access to justice, though a fundamental right, cannot be extended to a right to prefer misconceived and frivolous petitions. The nature of reliefs claimed for and the nebulous pleadings are indicative of absence of any particular right of the petitioner having been infringed.

11. Apart from the above, in the absence of violation of any specific right, a person cannot approach this Court under Article 226 of the Constitution of India. The nature of pleadings and the reliefs claimed for reveals that the writ petition is filed on an experimental basis and in bad taste. The manner in which the petitioner has raised his pleadings in the writ petition and the nature of reliefs sought compels this Court to visit the petitioner with costs as a disincentive for indulging in such frivolous writ petitions.

12. In this context the observation of the Supreme Court in *Dr. Buddhi Kota Subbarao v. K Parasaran and Others* [(1996) 5 SCC 530] is pertinent to be borne in mind. It was observed therein that "No litigant has a right to unlimited drought on the courts time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as a license to file misconcieved or frivolous petitions".

13. In the above circumstances, I find no merit in this writ petition. Due to the frivolous nature of this writ petition, it is dismissed with costs of Rs.25,000/- payable by the petitioner to the Kerala Legal Services Authority. If the costs imposed are not paid by the petitioner within 30 days from today, the Kerala

Legal Services Authority shall be entitled to initiate proceedings to recover the same by resorting to appropriate steps in accordance with law.

The writ petition is dismissed.