
(2005) 08 RAJ CK 0073

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 258 of 2001

Bhagwat Singh Panawat

APPELLANT

Vs

State of Raj. and Others

RESPONDENT

Date of Decision : 24-08-2005

Acts Referred:

Ancient Monuments and Archaeological Sites and Remains Rules, 1959 — Rule 80

Citation : (2005) 4 RLW 3101 : (2005) 4 WLC 622

Hon'ble Judges : Vineet Kothari, J;V.K. Bali, J

Bench : Division Bench

Advocate : Bajrang Lal Sharma, Raj Sharma and S.P. Sharma, Manoj Kumar Sharma and Dinesh Yadav, for the Appellant; Bharat Vyas, A.A.G., for the Respondent

Final Decision : Dismissed

Judgement

Vineet Kothari, J.—Rajasthan is a big, peaceful and beautiful State. Tourism is a growing industry in this State and it's rich heritage in the form of old palaces, monuments desert with golden sand dunes, folk stories attract tourists from all over the country and globe and the latest trends indicate that one out of three international tourists who visit India, finds his destination or at-least a part of itinerary in Rajasthan. Jodhpur, Jaipur, Bikaner, Kota and other cities of the State have various such places which attract and render the tourists wondering how beautiful and peaceful this State is. Added to that is the sweet and respectful language, love and affection for one and all in the heart of people of this State which should really make anybody belonging to this State proud.

2. In the back drop of increasing tourism with attending benefits to all persons connected with the said industry, hotels transport, guest houses, guides and all persons providing these facilities, Infrastructures and palces to make visit of tourists pleasant, comfortable and memorable one really wonders why there should be petty fogging and continuous litigative battles in one section surviving and growing under the umbrella of this industry, Guides, the section of trained

personnel, who are supposed to guide, show places and tell stories of palaces, monuments, historical places and other places of interest to the various visitors to the State, are at the center stage of this litigation before us in the present matter.

3. The litigation in the present appeal before us against the judgment of learned Single Judge dismissing the writ petition has not come before us through one channel but this appears to be a scattered litigation in various writ petitions and appeals, which were examined by not only different learned Single Judges of this Court on different occasions but also Division Bench judgments dismissing similar writ petitions and appeals at earlier point of time. Two such decisions, we may instantly refer. The Division Bench, while dismissing the D.B. Civil Special Appeal (Writ) No. 824/2002 arising out of SBCWP No. 4032/2002 Tourist Guides Association v. State of Rajasthan dismissed the said appeal vide its judgment dated 3.10.2002 observed that the present controversy had already been raised on a number of occasions and the writ petitions preferred by the Tourist Guide Association on various occasions had been dismissed and even after we accept that the petitioner association i.e. Tourist Guide Association has got the locus standi to file this petition, we do not find any error or infirmity in the order passed by the learned Single Judge rejecting the petition. The Court said "In our opinion, the interest of the guides who have already undergone the training and who are waiting for the issuance of the certificates cannot be subjected to face an anomalous situation at the instance of the association which claims to take care of the interest of the guides as well as the visitors and tourists." Not only this, another Division Bench of this Court while dismissing the appeal with costs of Rs. 5,000/- came down heavily on the petitioners finding that the appellant-petitioners are absolutely busy body in as much as none of the appellant-petitioners have concern whatever, that the Course which is being adopted by the Department of Tourism, Government of Rajasthan for imparting training to the tourist guides under the Scheme laid by the Department. The appellant-petitioners were challenging the reservation in the training to which they were not seekers of admissions. This judgment was rendered in D.B. Civil Special Appeal No. 414/2001 Jitendra Singh and Ors. v. The State of Rajasthan and Ors. Besides these two Division Bench judgments, by different learned Single Judge on different occasions dealt with similar/controversy and rejected the petitions, the appeals against which are before us.

4. What was under challenge before the learned Single Judge in the SBCWP No. 2322/2000 Bhagwat Singh Ranawat v. The State of Rajasthan and another, the facts of which are taken into consideration while deciding these appeals, were that vide Annexures-1, 2 and 3 the Department of Tourism of State of Rajasthan at Jhunjhunu, Bharatpur and Ajmer invited applications vide these advertisements of different dates in the year 2000 from eligible candidates having minimum qualification of Senior Secondary or equivalent examinations passed for imparting them training as Tourist Guides and upon completion of such training they were to be given identity cards and they became eligible to

get appropriate licence to work as Guides for various monuments and historical places which are controlled by Archaeological Department under the Central legislation namely; Ancient Monuments and Archaeological Sites and Remains Act, 1958. However, no such guarantee of issuance of such license under the Central legislation was either given in these impugned advertisements nor it could possibly be given by the Department of Tourism of the State of Rajasthan under the Central Statute. These advertisements also clearly stipulated that the said scheme of training of guides at local level was entirely a scheme for self employment and the successful candidates will not be entitled to any employment with the State Government. The trainees were also to pay their costs for food and living at the place where the said training was provided and a fee of Rs. 5,00/- was charged for providing study material and training to such candidates.

5. The writ petitions appear to have been filed by the petitioner who claim to be a Regional Tourist Guide since 1985 approved by the Department of Tourism, Government of India and such other similarly situated persons. The petitioner and such other regional guides perhaps wanted to nip in the bud the possible competition with such trained persons in pursuance of impugned advertisements under the Scheme formulated by the Tourism Department, State of Rajasthan and therefore, they initiated this litigative battle against such candidates, the unknown faces, who were not even brought before the Court by the petitioner-appellants and they have laid challenge on the ground that no such training can be provided to them nor on the basis of such training the candidates can be entitled to get licence under the aforesaid Central legislation under which such persons came to be approved and authorised as guides and such license could be granted under Rule 80 of the aforesaid Rules, only by the competent authority under that enactment namely; the Addl. Director General Department of Tourism, Ministry of Tourism, New Delhi.

6. We are of the considered opinion, that the challenge of the appellant-petitioners before the learned Single Judge as well as before the Division Bench is wholly misconceived and deserves to fail.

7. What was sought to be opened up by the Tourism Department of State Govt. under the Scheme formulated in the back drop of ever increasing unemployment in the State and the Country was to merely train few eligible qualified youths as Tourist Guides at their own costs so that they may become part of the stream of tourism, which is a growing industry in the State, as already noted above and they could at-least achieve a level and identity cards to work as such so that the visitors and tourists coming to the State may have a minimum faith level in them. They were of- course, to work as self employed persons only. For working as guides in the monuments and historical places covered by the Central legislation no such right as is available to the Regional Tourist Guides Authorised under the aforesaid enactments was either assured or given to such candidates by the impugned scheme and advertisements inviting

such people for taking a training avenue opened by the Department of Tourism, State of Rajasthan, which could have, if at all, a positive effect on the tourism industry.

8. The learned Single Judge in the impugned judgment while holding that there is no bar in any of the Statute for imparting training as a Guide and issuing identity card certifying that the holder of the identity card has gone through this training course successfully clearly held that so long as license is not issued under the Central or State legislation for acting as a guide to show the monuments under the Central and State Archaeological Department, it could not be said that a license is being issued or has been issued without authority of law. The impugned advertisements Annexure-1, 2 and 3 do not promise issuance of licence under the Central or State Act. On the contrary, Clause (14) and (15) of the guidelines noticed by the learned Single Judge clearly indicates that such persons upon successful completion of training course would get themselves enlisted with the respective Regional Government of India Tourist Office which would enable them to get their identity cards endorsed from the ASI. Similarly, the State level guides, would get themselves registered with the Director of Tourism of the respective State and then the relevant identify cards would be endorsed by the competent authority. Clause (15) of the guidelines provides that the regional guides would be required to observed rules and regulations as prescribed by the Department of Tourism, Government of India whereas the State level guides/local guides will be required to observed rules and regulations as prescribed by the Director of Tourism of the respective State.

9. Therefore, as found by the learned Single Judge and which view we firmly approve, that the writ petition is based on misconceived construction of the impugned scheme and advertisements for training floated by the Department of Tourism of the State of Rajasthan and therefore, such mis-conceived litigation against faceless unemployed youths of the State, cannot be countenanced and therefore, the present appeals are liable to be dismissed and we dismiss the same accordingly. Costs made easy.