

(2002) 12 AHC CK 0050
In the Allahabad High Court
Case No : C.M.W.P. No. 52315 of 2002

Dr. Anand Kumar Gupta

APPELLANT

Vs

Rajghat Education Centre and Others

RESPONDENT

Date of Decision : 05-12-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 1 AWC 503 : (2003) 1 UPLBEC 336

Hon'ble Judges : Yatindra Singh, J;M. Katju, J

Bench : Division Bench

Advocate : Arun Kumar Gupta and Bhagwati Prasad, for the Appellant; V.K. Upadhy, for the Respondent

Final Decision : Dismissed

Judgement

M. Katju and Yatindra Singh, JJ.—We have heard learned counsel for the petitioner.

2. The petitioner has challenged the impugned order dated 29.4.2002, Annexure-13 to the writ petition. In our opinion, this writ petition is not maintainable, as it has been filed against a private body, namely, Rajghat Education Centre, Varanasi.

3. Ordinarily, no writ lies against a private body except a writ of habeas corpus vide The Praga Tools Corporation Vs. Shri C.A. Imanuel and Others, Chander Mohan Khanna Vs. The National Council of Educational Research and Training and other[OVERRULED], Ganga Saran v. Civil Judge 1991 (1) AWC 213 Tekraj Vasandi alias K.L. Basandhi Vs. Union of India (UOI) and Others, etc. There are no doubt certain exceptions to this rule, but that is the ordinary rule.

4. Article 226(1) of the Constitution states :

"Notwithstanding anything in Article 32 every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to

any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part II and for any other purpose."

5. The language of Article 226 is no doubt very wide. It states that a writ can be issued "to any person or authority" and "for enforcement of rights, conferred by Part III and for any other purpose." However, the aforesaid language in Article 226 cannot be interpreted and understood literally. If we take the language literally, it will follow that a writ can be issued to any private person or to settle even private disputes. If we interpret the words "for any other purpose" literally, it will mean that a writ can be issued for any purpose whatsoever, e.g., for deciding private disputes, for grant of divorce, succession certificate, etc. Similarly, if we interpret the words "to any person" literally, it will mean that a writ can even be issued to private persons. However, this would not be the correct meaning in view of various decisions of the Supreme Court and of this Court vide *Biran Devi Vs. Sechu Lal and Others*, *Gajendra Kumar Sharma Vs. General Manager, The Bajpur Co-operative Sugar Factory Ltd. and Others*, and *Carlsbad Mineral Water Mfg. Co. Ltd. Vs. H.M. Jagtiani*, etc.

6. The correct interpretation of the aforesaid words in Article 226 is that a writ can ordinarily be issued to a person to whom writs were traditionally issued by British Courts on well established principles. Similarly, the words, "for any other purpose" have to be interpreted in the narrower sense to mean that a writ can be issued for the purpose for which writs were traditionally issued by British Courts on well established principles vide *Workmen of Pepsico India Holdings Limited Vs. Deputy Labour Commissioner, Kanpur and another*, *The British Courts* did not ordinarily issue writs to private persons except a writ of habeas corpus.

7. No doubt the powers of Indian High Courts to issue writs under Article 226 are wider than those of the British Courts vide *Dwarka Nath Vs. Income Tax Officer, Special Circle D-ward, Kanpur and Another*, but they are not so wide as to permit Judges to do anything they like in writ jurisdiction. There are well-settled principles governing the exercise of power under Article 226 as laid down in various decisions of the Supreme Court, and these principles have laid down several limitations to the exercise of such power. For instance, one of such limitations is that ordinarily a writ will not be issued to a private body except a writ of habeas corpus.

8. The respondent Rajghat Education Centre, Varanasi is a private body. Merely because it has been registered as a society that does not make it an instrumentality of the State, just as mere registration of a company under the Indian Companies Act does not make it an instrumentality of the State.

9. For the aforesaid reasons we hold that this writ petition is not maintainable and it is dismissed.