

(1990) 07 MAD CK 0053

In the Madras High Court

Case No : Writ Petition No. 1172 of 1989

Dr. Valampuri John, M.P.

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 06-07-1990

Acts Referred:

Constitution of India, 1950 — Article 14, 328, 329
Representation of the People Act, 1951 — Section 123

Citation : AIR 1991 Mad 151 : (1990) 2 LW 667

Hon'ble Judges : Kanakaraj, J

Bench : Single Bench

Advocate : Harihara Rajan, for the Appellant; P. Narasimhan, Sr. Central Standing Counsel and Muthappa, Government Advocate, for the Respondent

Judgement

1. This writ petition was filed at the time when the election to the Tamil Nadu State Assembly was being conducted. In fact, as the affidavit of the petitioner says he had filed a writ petition, W.P. No. 482 of 1982 for the issue of a writ of mandamus to forbear the Government Servants from interfering with the elections and from assisting the Prime Minister whenever he came for canvassing in favour of the candidate belonging to the Congress (I) Party. I have dismissed the said writ petition as infructuous on 27-6-1990 because the apprehension of the petitioner no longer subsists because the election itself is over. But the learned counsel for the petitioner insisted that this writ petition which only challenges the validity of a rule in what is known as the "Blue Book" still survives and requires a decision for the future guidance of the parties. The prayer in this writ petition is for a declaration to declare the following portion in R. 71(6) as ultra vires the Constitution of India :

.....As the security of the Prime Minister is the concern of the State, all arrangements for putting up the rostrum, the barricades etc. at the meeting place, including that of an election meeting will have to be made by the State Government concerned.

2. The learned counsel for the petitioner concedes that the Prime Minister of the Country is entitled to great respect and honour and naturally, he is entitled to special security arrangements. In fact in paragraph 8 of the affidavit after quoting Rule 71 (6) of the "Blue Book", the petitioner affirms in his affidavit as follows :

At the very outset, I would like to submit beyond any shade of doubt that there cannot be two opinions on the security of the Prime Minister,

since we have already lost Mahatma Gandhi, the father of the Nation and Shrimathi Indira Nehru Gandhi in tragic circumstances.

But the argument is that in the guise of providing security to the Prime Minister, the impugned rule offends the conduct of a free and fair election.

The argument proceeds that the said rule is used as a camouflage to utilise the service of the Government servants in the election propaganda of the

Prime Minister of India and in furtherance of the election prospects of the party to which Prime Minister belongs. Thus, the party to which the

Prime Minister belongs is able to have rostrums, barricades and other arrangements made at an Election meeting at the cost of public exchequer.

Therefore the party to which the Prime Minister belongs, gets an undue advantage over the other political parties. It is therefore contended that the rule offends Art. 14 of the Constitution of India.

3. Though no counter has been filed on behalf of the respondents, Mr, P. Narasimhan, learned counsel, argues for the respondents I and 2. It is

submitted that though arrangements are made by the State Government concerned as per the impugned rule, the expenses involved in the erection

of rostrum and barricades etc. are collected from the Political Party to which the Prime Minister belongs. Therefore, the charge that Political Party

to which the Prime Minister belongs gets an undue advantage, by the expenses being borne by the State Government is without any basis. Once it

is admitted that the security of the Prime Minister is sacrosanct, it cannot be disputed that wherever he goes, whether it is to attend an official

public meeting or a private political meeting, it is the duty of the Nation to

provide for his security. The rule only says that the arrangements for putting rostrums, barricades etc., will be made by the State Government. It is now clarified that if it is an Election meeting, the expenses will come only from the Political party to which the Prime Minister belongs. If that is so, the purpose of the rule is only to see that the arrangements are made by the State Government itself which is a responsible body answerable to the public. If the arrangements are left to be made by private parties, the chances of loop-holes or short comings entering into the security arrangements are more. Therefore, once it is conceded that the Prime Minister is entitled to proper security, there is nothing wrong if the arrangements are made by the State Government.

4. One other significant factor has to be noticed in understanding the rule. It is not uncommon that the party in power at the Centre is different from the party in power in the State. Therefore, when the rules required only the State Government to make arrangements for putting up rostrums, barricades etc., it may happen that the State Government is ruled by a political party to which the Prime Minister does not belong. Therefore, the rule is not concerned really with any particular political party or the political party to which the Prime Minister belongs. The rule is concerned only with the security of the Prime Minister. I am unable to see how the rule offends a fair and free election. In fact most of the allegations of the petitioner in his affidavit are against the party in power at that time viz., the Congress (I) party. As already indicated by me, there is no substance in the allegation that the rule favours any particular political party.

5. Learned counsel for the petitioner is not able to point out any other infirmity in the rule or how it offends any Article of the Constitution of India.

Inasmuch as the learned counsel for the petitioner concedes that special arrangements can be made for the Prime Ministers, having regard to the office that he holds, there cannot be any complaint of discrimination in the impugned rule.

6. For all the above reasons, I do not find any substance in the writ petition. It is accordingly dismissed There will be no order as to costs.

7. Petition dismissed.