

(2002) 01 AHC CK 0140

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 1035 of 2002

Dr.S.A.R.Chaurasia

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 09-01-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 01 AHC CK 0140

Hon'ble Judges : M.Katju, J and S.K.Singh, J

Final Decision : Dismissed

Judgement

M. Katju and S. K. Singh, JJ.—Heard learned counsel for the parties.

2. This writ petition has been filed against the impugned order dated 27.11.2001 and the order dated 23.11.2001 transferring and promoting the petitioner and thereafter terminating the service on 20.12.2001.

3. In our opinion, this writ petition is not maintainable, as the petitioner is an employee of Span Consultants Private Limited, respondent No. 4 which is a purely private body. In our opinion, ordinarily no writ lies against a private body except a writ of habeas corpus. No doubt Article 226 is very widely worded. Article 226 of the Constitution states that writs will lie to any person or authority and it will lie in enforcement of fundamental rights or for any other purpose. However, the words "to any person" cannot be interpreted literally. The correct interpretation of this expression means that writs will lie to a person or authority to which writs were traditionally issued by British Courts on well established principles. Similarly though Article 226 states that writs can be issued "for any other purpose", this expression also cannot be construed literally. It means that writs can be issued for the purpose for which writs were traditionally issued by the British Court on well established principles.

4. No doubt in *Dwarka v. I.T.O.*, AIR 1966 SC 81, the Supreme Court has held that the powers of Indian Courts for issuing writs is wider than that of British

Courts, but that does not mean that writs can be issued for any purpose whatsoever and to any person whomsoever. There are wellsettled limitations on the powers of the High Court to issue writs, and one such limitation is that writs will not be issued ordinarily to a private body except a writ of habeas corpus. Ordinarily, writs will be issued only to the Government or statutory body or an instrumentality of the State vide *Manmohan v. Commissioner*, AIR 1985 SC 364 ; *Francis v. Director of Education*, AIR 1990 SC 428 ; *Ajai v. Khalid*, AIR 1981 SC 487, etc. Learned counsel for the petitioner submitted that respondent No. 4 is building a bridge which is a State function. In our opinion, this argument is not acceptable as the respondent No. 4 is not performing a statutory or public duty.

5. For the reasons given above, we are of the opinion that this writ petition is not maintainable as it is against a purely private body.

6. Hence, the writ petition is dismissed.