

(2016) 11 KL CK 0038

In the High Court Of Kerala

Case No : W.P.(C) Nos. 28790 of 2010 and 27477 of 2013

Gopalakrishna Shenoy

APPELLANT

Vs

Government of India

RESPONDENT

Date of Decision : 10-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Press and Registration of Books Act, 1867 — Section 6

Citation : (2017) 1 KLT 507

Hon'ble Judges : Mr. Devan Ramachandran, J.

Bench : Single Bench

Advocate : Sri. M. Gopikrishnan Nambiar, R. Ramadas and Jai Mohan, Advocates, for the Petitioner; Sri. T. Sanjay, CGC, for the Respondent Nos. 1 and 2; Sri. C.K. Prasad, Government Pleader, for the Respondent No. 3; Sri. M. Ramesh Chander (Sr.) Advocate, Balu Tom, A

Final Decision : Dismissed

Judgement

Mr. Devan Ramachandran, J.—The Press and Registration of Books Act, 1867 is a statute regulating printing presses and newspapers and is legislated to provide for preservation of copies of books and newspapers printed in India and to facilitate registration of new books and newspapers. This is perhaps the oldest law relating to Press still existing in India. Several minor amendments were made in the Act to purvey for the evolving compulsions in the changing situation over these years. However, on the basis of the recommendations of the First Press Commission in 1953, a major amendment was made in the Act to create the Office of the Registrar of Newspapers for India and laying down his duties and functions. The RNI regulates and monitors printing and publication of newspapers under the provisions of the Act and the Registration of Newspapers (Central) Rules, 1956. The Registrar is designated as the "Press Registrar". In addition to various other duties, he is vested with the obligation to issue certificates of registration to the newspapers published under a valid declaration. The RNI or the Press Registrar is statutorily obliged to ensure that newspapers

are published in accordance with the provisions of the Press and Registration of Books Act ("the Act for brevity) and the Rules made thereunder.

2. Under the Act, an applicant, who aspires a particular title to a newspaper, has to first apply for its verification to the jurisdictional District Magistrate, who will then have to get such title verified from the RNI. After such verification is obtained from the RNI, the applicant for the title has to file a declaration for authentication before the District Magistrate and after such authentication alone, can the newspaper be published. Registration of the newspaper is done after the first issue is published. The controversy that has arisen in this case is relating to the verification of a particular title that the contesting parties require for their respective newspapers.

3. The petitioner on one hand and respondents 3 and 4 on the other, applied for verification of the title "Sudeepam" for their newspapers being published from Payyannur.

4. The petitioner made an application for this purpose as is required under the Press and Registration of Books Act, 1867 ("the Act" for brevity) before the District Collector. As per the provisions of the Act, on receipt of such application, the District Collector ought to have caused necessary inquiry of the same and transmitted it for approval to the Registrar of Newspapers for India (RNI). It is alleged by the petitioner that there was considerable delay at the hands of the District Collector or at the hands of the Officers delegated by the District Collector for such inquiry and consequently, the application of the petitioner did not reach the Office of the RNI in time. In the meanwhile, the respondents 3 and 4 made an application before the District Collector on 18.06.2010, which was approved in time and sent up to the Office of the RNI, much before the application of the petitioner reached the RNI. In such circumstances, the RNI, after adhering to all the requirements under the Statute, approved the application of the respondents and the name "New Sudeepam" was granted in favour of the third respondent. This was challenged by the petitioner on the ground that his application had been approved as early as on 30.12.2011 by the District Collector, which is evident from Exhibit P13 communication. Both sides thereafter filed writ petitions before this Court, which were disposed of by Exhibit P16 common judgment dated 21.06.2013 with certain direction to the RNI.

5. The RNI, in obedience to the directions of this Court, issued Exhibit P18 order on 18.10.2013. This order is impugned by the petitioner on the grounds that RNI has issued it without affording him a proper opportunity of being heard or for producing sufficient documents and further because the RNI had not considered the recommendation of the District Collector in his favour, as is evidenced by Exhibit P13.

6. Since these writ petitions deal with the same issue, they are heard together and disposed of by this judgment taking W.P.(C)No.27477/2013 as the lead case, referring to the parties and documents as have been referred to in the said writ

petition.

7. I have heard Mr. Ramesh Chander, the learned Senior Counsel, assisted by Mr. Balu Tom, appearing for respondents 3 and 4, Mr. R. Ramadas, the learned counsel for the petitioner in W.P.(C)No.27477/2013, Mr. Jai Mohan appearing along with Mr. M. Gopikrishnan Nambiar, the learned counsel for the petitioner in W.P.(C)No. 28790/2010 and Mr. N. Nagaresh, the learned Assistant Solicitor General, assisted by Mr. T.U. Vinu, appearing on behalf of RNI. The learned Assistant Solicitor General has invited my attention to the relevant provisions of the Act. Section 5 mandates that no newspaper shall be published in India except in conformity with the Rules laid down therein. As per the provisions, the printer and publisher of every newspaper are to make a declaration in the manner provided therein specifying the title of the newspaper, the language in which it has to be published, periodicity of its publication, etc. Sub-clause (2C) of Section 5 of the Act makes it imperative that a declaration so made has to be authenticated under Section 6 before the newspaper can be published. The authentication of the declaration is as per Section 6 of the Act. For ease of reference, the said Section along with its proviso is extracted below:

"6. Authentication of declaration.- Each of the two originals of every declaration so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made:

[Provided that where any declaration is made and subscribed under section 5 in respect of a newspaper, the declaration shall not, save in the case of newspapers owned by the same person, be so authenticated unless the Magistrate [is, on inquiry from the Press Registrar, satisfied] that the newspaper proposed to be published does not bear a title which is the same as, or similar to, that of any other newspaper published either in the same language or in the same State]."

It is by virtue of the proviso to the Section as noticed above that the District Collector is obliged, before authentication of the declaration, to refer the matter to the RNI for an inquiry by him to ensure that the proposed newspaper does not wear the title which is the same as or similar to any other. This is the process of verification that happens at the hands of the RNI. This is a very important process, without which, authentication of declaration is not possible and for good reason because otherwise it will lead to unhealthy and deleterious competition among newspapers.

8. An ex facie examination of Exhibit P18 would show that it has been issued for sound reasons. The RNI has found clearly that the title "Sudeepam" had already been verified in the name of the third respondent on 28.01.2003 and that it was de-blocked with effect from 12.02.2008. Subsequently, the RNI received an application from the third respondent on 18.06.2010 and since the proposed title "New Sudeepam" was available, the same was verified in her favour on 25.06.2010. Unfortunately for the petitioner, his application at that point of time

did not reach the office of the RNI from the District Collector. It is further leculent from the records that his application was never in fact sent to the office of the RNI by the District Collector and that it is only when the petitioner made an application to the RNI under the Right to Information Act that the RNI came to know that there was such a recommendation. The RNI, based on such information that became available to him, had, even without insisting on the formality of the report of the District Collector reaching him, verified the title "Sudeepam Times" in favour of the petitioner on 28.01.2013. It is, therefore, obvious that nothing can be attributed against the RNI, since it was acting strictly in accordance with the parameters of its jurisdictional domain as is mandated under the provisions of the Act and au contraire, it has acted fairly and commendably in issuing appropriate orders on the petitioner's application even without the report of the District Collector and without resting on technicalities.

9. As regards the contention of the petitioner that there was no sufficient opportunity to present his case, I am not impressed because, as is perspicuous from the facts on record, the third respondent had got title verification as early as on 25.06.2010, whereas, the recommendation made by the District Collector in favour of the petitioner was only on 30.12.2011. It is, therefore, completely within its jurisdiction that the RNI verified the title "New Sudeepam" in favour of the third respondent.

10. The learned counsel for the petitioner has also raised a contention that P18 order has only verified the title "New Sudeepam" in favour of the third respondent and that, therefore, the third respondent is not entitled to use the title "Sudeepam". The learned counsel for the petitioner also submits that Exhibit P18 order was dated 18.10.2013 and that this Court had ordered status quo as on 15.11.2013. It is submitted that the third respondent could not, therefore, have obtained verification of the title "Sudeepam" in her name thereafter.

11. Contrario sensu, the learned Senior Counsel appearing for respondents 3 and 4 would submit that pursuant to Exhibit P18, which had explicitly granted liberty to them to apply for change of title to "Sudeepam" under the provisions of Section 5(2D) of the Act, the third respondent had already applied for change of the title from "New Sudeepam" to "Sudeepam" and that she had obtained orders permitting the change of title from the RNI on 08.11.2013, which was more than a week prior to the passing of the interim order by this Court.

12. The learned Assistant Solicitor General would passionately submit that the RNI has acted completely bona fide and based on the documents that were made available to it and on the basis of the information and verification reports that had come to its notice or to its attention at the time when hearing was done. He supported Exhibit P18 as being an order that has been passed in a considered manner and in conformity with the various provisions of the Act.

13. From a reading of Exhibit P18, as I have already mentioned earlier, I cannot see that RNI has acted in any manner that could be termed to be in excess of its

jurisdiction. On the contrary, the RNI appears to have acted within its powers and has granted the verification to the third respondent for extremely reasoned cause.

14. The petitioner is, obviously, piqued by the delay at the hands of the District Collector in forwarding his application to the RNI and prima facie, it would appear to be justifiable. However, this is not a matter that I can consider in this writ petition or under Article 226 of the Constitution of India. The petitioner is at liberty to work out his remedies as against the District Collector's office in the manner that he is so advised.

15. In such circumstances, I see no reason to interfere in any manner with Exhibit P18 order and therefore, the contentions of the petitioner against Exhibit P18 has to inexorably fail. For these reasons, W.P.(C)No.27477/2013 is dismissed upholding Exhibit P18. Since the prayers made in W.P.(C)No.28790/2010 are substantially the same, it is also dismissed. In the nature of the case, I make no order as to costs and the parties are to bear their respective costs.