
(2006) 11 MAD CK 0133
In the Madras High Court
Case No : Writ Petition No. 44540 of 2002

G.R. Swaminathan

APPELLANT

Vs

The State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 29-11-2006

Acts Referred:

Citation : (2006) 11 MAD CK 0133

Hon'ble Judges : P.P.S. Janarthana Raja, J; P.D. Dinakaran, J

Bench : Division Bench

Advocate : Sundar Narayan for M/s. R. Yashod Vardhan, for the Appellant; V. Viswanathan A.G.P. for Respondents 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

P.D. Dinakaran, J.—The petitioner, who is a practicing lawyer, has moved this Court pro bono publico, by way of this writ petition, to declare G.O. Ms. No. 234, - Revenue [Land Reforms 3(1)] Department, dated 17.6.2002 issued by the first respondent, in and by which, the government granted permission by invoking the power vested in it u/s 37B(2) of the Land Reforms (Fixation of Land Ceiling) Act, 1961 in respect of the lands of the third respondent for a period of three years for the purpose of education, as unconstitutional and ultra vires the Tamil Nadu Land Reforms (Fixation of Land Ceiling) Act. However, Mr. Sundar Narayan, Learned Counsel appearing for the petitioner, seeks permission of this Court to withdraw the public interest litigation, which can only be portrayed as somewhat unfortunate, as the main petition is brought to highlight the gross violations of the constitutional and statutory rights by the fifth respondent, who, at the relevant period of time, happened to be the State Minister for Education and the Pro-Chancellor of Anna University, who denied affiliation to other Private Engineering Colleges on the ground that the lands held by them were without permission from the Government u/s 37B of the Act, but, on the other hand, accorded permission from the State Government u/s 37B of the Act for the third respondent/Institution, which was founded by him and presently chaired by the

fourth respondent, who happens to be the wife of the fifth respondent.

2. The question that revolves in our mind at this stage is, whether a public-minded person who has moved this Court pro bono publico, by way of this writ petition, is entitled to withdraw the proceedings from the court.

3. There is no necessity to argue on this point, or to dilate on the facts and circumstances of the case. The prayer, if granted, would frustrate the important issues the main petition has served to highlight.

4. Even the Learned Counsel appearing for the petitioner had not stated a reason for withdrawing the writ petition, but for making an endorsement, which reads as under:

Petitioner may be permitted to withdraw the above writ petition.

5. In a public interest litigation, unlike traditional dispute resolution mechanism, there is no determination or adjudication of individual rights. While in the ordinary conventional adjudications the party structure is merely bi-polar and the controversy pertains to the determination of the legal consequences of past events and the remedy is essentially linked to and limited by the logic of the array of the parties, in a public interest action the proceedings cut across and transcend these traditional forms and inhibitions. The compulsion for the judicial innovation of the technique of a public interest action is the constitutional promise of a social and economic transformation to usher in an egalitarian social order and a welfare State. Effective solutions to the problems peculiar to this transformation are not available in the traditional judicial system. The proceedings in a public interest litigation are, therefore, intended to vindicate and effectuate the public interest by prevention of violation of the rights, constitutional or statutory, of sizeable segments of the society, which owing to poverty, ignorance, social and economic disadvantages cannot themselves assert - and quite often not even aware of - those rights. The technique of public interest litigation serves to provide an effective remedy to enforce these group rights and interests. In order that these public causes are brought before the courts, the procedural techniques judicially innovated specially for the public interest action recognises the concomitant need to lower the locus standi thresholds so as to enable public-minded citizens or social action groups to act as conduits between these classes of persons of inheritance and the forum for the assertion and enforcement of their rights. The dispute is not comparable to one between private parties with the result there is no recognition of the status of a dominus litis for any individual or group of individuals to determine the course or destination of the proceedings, except to the extent recognised and permitted by the court. The "rights" of those who bring the action on behalf of the others must necessarily be subordinate to the "interests" of those for whose benefit the action is brought. The grievance in a public interest action, generally speaking, is about the content and conduct of government action in relation to the constitutional or statutory rights of segments of society and in certain circumstances the conduct

of government policies, vide Sheela Barse Vs. Union of India (UOI) and Others,

6. By proposing to withdraw this writ petition, the petitioner has done no service either to himself or to the cause he sought to serve. If we accept this request of an individual, who brings a public interest litigation, we will render the proceedings in public interest litigation vulnerable to and susceptible of a new dimension which might, in conceivable cases, be used by persons for personal ends resulting in prejudice to the public weal. Under such circumstances, we refuse permission for the withdrawal of the writ petition, and direct that the petitioner be deleted from the array of parties in this proceeding. The proceedings shall now be proceeded with a direction to the Tamil Nadu Legal Services Authority to prosecute the petition.

In the result, the writ petition is dismissed qua the petitioner herein, but the name of the Tamil Nadu Legal Services Authority shall be substituted in place of that of the petitioner. The petitioner, who is permitted to withdraw, is directed to pay Rs.10,000/- (Rupees ten thousand only) as costs to the Tamil Nadu State Legal Services Authority.