
(2013) 12 AHC CK 0110
In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition (M/B) No. 11280 of 2013

Hindu Personal Law Board

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 04-12-2013

Acts Referred:

Citation : (2014) 1 ADJ 165

Hon'ble Judges : Dhananjaya Yeshwant Chandrachud, C.J;Devendra Kumar Arora, J

Bench : Division Bench

Advocate : Asok Pande, Party in Person, for the Appellant; Bireshwar Nath, for the Respondent

Final Decision : Dismissed

Judgement

1. The reliefs, which have been sought in these proceedings purportedly filed in the public interest, are as follows:

(a) Issue a writ of Mandamus commanding the respondent No. 1, Ministry of Information and Broadcasting to immediately remove Ms. Leela Samson, Chairman, Central Board of Film Certification (Censor Board for short-Respondent No. 2) from her post and to dissolve the entire Censor Board by removing all its present members for their anti-Hindu attitude whereby they have been acting incessantly against the statutory provisions under the Cinematographer's Act 1952 (the Act, for short) as explained in the Writ Petition.

(b) Issue a writ of Mandamus commanding the respondent No. 1 to appoint a retired Hon'ble High Court or Hon'ble Supreme Court Judge as the Chairman of the Censor Board alongwith a few retired/serving IAS and IPS officers considering the statutory nature of work done by the censor Board alongwith a few members of various religious groups like the Hindu Personal Law Board, the Muslim Personal Law Board and others to take consideration of the religious sentiments of the various important religious groups.

(c) Issue a writ of Mandamus commanding the respondent No. 4, the Central Bureau of Investigation to enquire into the way presently dates of release of feature films get fixed even before the submission of the film before the respondent No. 2, Censor Board and the films actually get released on those pre-announced dates which gives a very strong inkling that some kind of illicit and improper collusion remains between the Censor Board and the film makers which makes the film makers so confident as to announce the date of release even much earlier than the film has been submitted for certificate before the Censor Board.

The petitioner had filed an earlier petition, being Misc. Bench Petition No. 10220 of 2013, seeking identical reliefs. On 31.10.2013, a Division Bench of this Court observed that despite the amendments, which have been brought into force in Chapter XXII Rule 1(3A) of the Rules of this Court, following a decision of the Supreme Court, the petition did not disclose anything about the credentials of the petitioner or of his antecedents. The coordinate Bench directed that the petition would have to be heard as a Public Interest Litigation. Accordingly, when the petition came up before the Division Bench, it was dismissed by an order dated 07 November 2013. The Division Bench observed that once the petition has been directed to be treated as a Public Interest Litigation, there was no question of the petitioner denying to file an affidavit in fulfillment of the requirement of sub-rule (3A) of Rule 1 of Chapter XXII of the Rules of the Court. The Division Bench, while dismissing the petition, observed as follows:

Since in the instant case neither any averment on affidavit in terms of requirement of sub-rule (3A) of Rule 1 of Chapter XXII of the Rules of the Court has been made in the writ petition nor any such intention has been shown by Sri Pande who appears in person for the petitioner-organization in his capacity as its President, as such we are constrained to hold that writ petition is not maintainable.

Accordingly, the writ petition is dismissed at its admission stage.

2. Now a petition has been filed afresh on an identical cause of action by the same party. The earlier order of the Division Bench dated 07 November 2013 specifically records that not merely was no disclosure in terms of sub-rule (3A) of Rule 1 of Chapter XXII of the Rules of the Court made, no such intention has been shown by Sri Pande, who appears in person for the petitioner in his capacity as its President. In fact, the Division Bench also commented on the petitioner denying to file an affidavit in compliance of the requirement of the Rules. The petitioner has a grievance in regard to the order passed by the coordinate Division Bench on 07 November 2013. Obviously, the remedy cannot lie before this Bench.

3. During the course of the hearing, the petitioner, who has been represented in person has made several unfounded allegations against the Judges of this Court who heard the earlier proceedings. We have put the petitioner, in person, on

notice that he is straddling the line beyond which the Court may be constrained to take recourse to its contempt jurisdiction. The petition has been argued ad nauseam and we have also put the petitioner on notice that the time of the Court is being unfairly consumed in making the same submissions and repeating them, which only detracts from the time which is required to be spent on other cases, which are listed on the Board.

4. We are emphatically of the view that a second petition cannot be entertained on the same cause of action when no liberty was granted by the earlier Division Bench while dismissing the first petition. The petitioner submits that in the fresh petition, a disclosure of credentials has been made and, therefore, a second petition should be entertained. We cannot accept the submission in the facts and circumstances of the present case, particularly having regard to the conduct of the petitioner, which must weigh under Article 226 of the Constitution of India. The earlier order of the Division Bench indicates that neither was an affidavit filed, nor was any intention shown at that stage of filing the required affidavit. Entertaining a subsequent petition on facts, such as these, would enable a litigant to forum shop and to avoid Benches of the Court at his discretion. This cannot be permitted because it would seriously affect the sanctity of judicial proceedings.

5. The petitioner is habituated to filing "public interest" petitions. This is a jurisdiction which cannot be allowed to be abused by persons seeking publicity. Frivolous petitions ostensibly filed in public interest but really to pursue other motivations are crowding the docket and dilute the time which can be devoted to genuine causes. The petitioner has been saddled with costs by this Court, the Supreme Court and by the Gujarat High Court for abusing the process of law.

6. We are inclined to saddle the petitioner with costs. Hence, while dismissing the writ petition, we impose costs upon the petitioner quantified at Rs. 1.00 lac, to be paid by the petitioner within a period of one month from today. In default, the Registrar of this Court is directed to recover the costs as arrears of land revenue.

7. The writ petition is dismissed.

8. After we concluded the dictation of the judgment, Sri Pande, who appeared in person, continued to make unfounded allegations against Judges of this Court. During the course of his submissions when the petition was being heard, he had made unfounded allegations against the earlier Division Bench, which had heard the previous petition, questioning their knowledge about criminal law and making several other unfounded allegations. The petitioner continued to make those allegations even after the judgment, referring to the Judges of this Court as "rotten". Shri Pande has disrupted the proceedings and continued to obstruct the Court from hearing other cases even after judgment has been delivered.?

9. Prima facie, the petitioner and Sri Pande are guilty of scandalising the Court and of obstructing the judicial process.

10. Though initially we had refrained from taking recourse to the coercive arm of the law against the petitioner in exercise of the contempt jurisdiction, looking to the conduct of the petitioner in making unfounded allegations against the Judges of this Court after dictation of the judgment and interrupting the Court, it would be in the interests of justice to initiate a criminal contempt proceeding against the petitioner and to take action in exercise of the contempt jurisdiction, to ensure that the sanctity of the judicial institution is preserved. We, accordingly, issue notice to the petitioner and to Sri Ashok Pande to show-cause as to why steps should not be taken in accordance with the Contempt of Courts Act, 1971. The notice shall be returnable after two weeks and the matter shall be heard before the appropriate Bench according to the roster.