

(1950) 07 MAD CK 0004

In the Madras High Court

Case No : Civil Miscellaneous Petition No. 5536 of 1950

In Re: Gadea Nagabhushana Reddi and Another

Date of Decision : 11-07-1950

Acts Referred:

Constitution of India, 1950 — Article 226(1)

Citation : AIR 1951 Mad 249 : (1951) ILR (Mad) 1119 : (1950) 63 LW 781 : (1942) 55 LW 781 : (1950) 2 MLJ 278

Hon'ble Judges : Rajamannar, C.J.;Somasundaram, J

Bench : Division Bench

Advocate : C.R. Pattabhiraman, R. RamaSubbu Iyer and N. Koteswara Rao, for the Appellant;

Final Decision : Dismissed

Judgement

Rajamannar, C.J.—This is an application for the issue of a writ of prohibition against the Election Sub-Committee of the All India Congress

Committee, the President of the Andhra Provincial Congress Committee and the District Congress Committee, the Presidents, taluk and town

Congress Committees and the Returning Officers of the various taluks and towns in the district of Guntur for the Primary Congress Panchayat

elections prohibiting them from holding Congress Primary Panchayat elections in the district of Guntur, and to issue an interim prohibitive order

prohibiting the Returning Officers of the taluks and towns in the district of Guntur from holding Congress Primary Panchayat elections and to issue

directions to the various authorities to prepare the electoral rolls of primary Congress members and qualified members as per the rules of the

Constitution and circulars issued by the various authorities and give such other directions and grant such further reliefs as the circumstances of this

case warrant and this Court thinks fit. The application has been filed by two

persons alleging themselves to be primary members of the Indian

National Congress entitled to vote at the election of the Primary Congress Panchayat in the Tenali taluk, Guntur district.

2. We have heard fully Mr. C. R. Pattabhiraman, learned counsel for the petitioners on the question, whether this Court can give the relief which

the petitioners pray for in the petition under any provisions of law. The learned counsel relied upon Article 226(1) of the Constitution as giving us

the power to give the several directions which he seeks in the petition. He stressed on the wide language employed in the Article and in particular

referred to the words ""to any person or authority"" and ""for the enforcement of any of the rights conferred by Part III and for any other purpose"".

He practically conceded--and if he had not conceded we are prepared to hold--that a writ of prohibition as understood in the English law might

not be available in this Court. But learned counsel argued that Article 220 is not confined to the issue of recognised writs like mandamus,

prohibition or certiorari. It includes other writs and orders and directions without any restriction whatsoever as to their scope. In answer to a

question from us he was compelled to confess that the logical result of the construction sought to be placed by him on the language of the Article

would be to enable any person aggrieved to obtain any relief by an application under this Article. Take for instance the case of money due under a

promissory note to the payee of the note. Ordinarily, the only remedy available for the creditor to recover the money due to him is by way of a suit

in the appropriate Court. But, as the language of Article 226(1) is very wide and refers to the issues of directions to any person for any purpose,

logically, the creditor instead of filing a suit can straightway approach this Court for a direction to the debtor to pay him the money. As the only

limitation contained in Article 226 is that the power is confined to the territories in relation to which this Court exercises jurisdiction, presumably

any person in the State of Madras can approach this Court under Article 226 for a direction against any other person in this State for any purpose.

The construction of Article 226 would practically abrogate the entire judicial system and the machinery set up for the administration of justice in the

State. We do not think that Article 226 should be construed in this manner in spite of the wide language on which the counsel relied.

3. The application in question purports to be for the issue of a writ of prohibition. Ordinarily, this writ is available only against inferior Courts and

Tribunals and bodies entrusted by the law of the land with powers to affect the rights of parties. No case has been brought to our notice in which

this writ has issued to a private organisation, however widespread and powerful it may be, Mr. Pattabhiram stated that the respondents against

whom the writ was sought were officers of the Congress party. We do not think that the Congress party could be held in law to be a public body.

It may be a very powerful, if not the most powerful, political party in the land and the members of the Governments of the various States are

persons belonging to that party. Nevertheless, in law it cannot be held to be a public body entrusted by the law of the land with powers and duties

relating to the rights of people.

4. If, therefore, a writ of prohibition in the strict sense of that term cannot issue in this case, can we say that Article 226 gives us the power to issue

directions to a private association, because certain irregularities are alleged to have been committed in the conduct of election to the various

branches of that organisation? Or should the aggrieved persons be left to pursue the ordinary remedy by way of suit and injunction? In our opinion,

the general rule applied to the case of writs like mandamus, prohibition and certiorari, namely, that these writs will not issue if there is another

adequate remedy, should apply to the issue of a direction, order or writ under Article 226(1) in spite of the apparently wide language employed. In

this case, the petitioners could well have filed a suits and obtained immediately an urgent order of injunction and thus obtained the same reliefs

which they seek from this Court. Then of course the suit should be filed in the Court having territorial jurisdiction in the matter.

5. For these reasons, we hold that this application is not maintainable under Article 226(1) of the Constitution and it is therefore dismissed.