
(2011) 01 MAD CK 0371

In the Madras High Court

Case No : Writ Petition (MD) No's. 11701 and 11699 of 2009 and M.P. (MD) No's. 1 and 2 of 2009

J. Kannan and M. Santhoshkumar

APPELLANT

Vs

The Secretary to Government, Forest and Environment
Department and Others

RESPONDENT

Date of Decision : 28-01-2011

Acts Referred:

Prevention of Corruption Act, 1988 — Section 14, 15, 19, 3

Citation : (2011) 01 MAD CK 0371

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : Veerakathiravan, for the Appellant; R. Janakiramulu, Spl. G.P. for R1 to R3, M. Ravi, for R4 to R10 and M. Saravanakumar, for R11, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—W.P. No. 11701 of 2009 was filed in the capacity of President of Tamil Nadu Forest Plantation Corporation Employees Union. They have come forward with this writ 3 petition, seeking for a direction to the Respondents to take appropriate action on the complaints made by the Petitioner dated 19.02.2009 14.07.2009 and 20.05.2009.

2. When the matter came up on 16.11.2009, this Court directed the said writ petition to be posted along with W.P. No. 11699 of 2009 and notice was taken by the learned Special Government Pleader.

3. It was claimed by the Petitioner Union that appointment of persons as Forester, Forest Guard, Forest Watchman and Driver made pursuant to the order dated 18.05.2009 by the Managing Director of Tamil Nadu Forest Plantation Corporation Ltd., (for short TAFCON) was illegal and a complaint to that effect was sent to the Directorate of Vigilance and Anti-Corruption Department by the Union.

4. The same Petitioner filed a writ petition being W.P. No. 4391 of 2009 challenging the order dated 18.05.2009 in appointing those 7 persons as illegal. The said writ petition came to be allowed partly and the selection of appointment of M/s.P. Saravanan, P. Devendran, R. Thirugnanam and A. Manimaran were set aside. As far as the appointment of M/s. Shelladurai, Senthilkumar and Chandrasekaran are concerned, their appointment as Forest Watchers was upheld on the ground that they participated in the selection process and they have also participated in the National Level events. As against the order passed by this Court dated 8.7.2009, the aggrieved individuals as well as the Managing Director of TAFCON filed Writ Appeal. Those writ appeals were heard before a Division Bench in W.A. Nos. 440 to 445 of 2009 and W.A. No. 491 of 2009. The Division Bench allowed the appeal filed by the TAFCON and found that the Trade Union has no locus standi to challenge the appointment when the selection process by the advertisement itself was not under challenge. Notwithstanding the dismissal of the earlier order, the Petitioner Union sought for a direction to the Respondents to investigate into the allegations of corruption.

5. As against the judgment of the Division Bench, the Petitioner preferred a SLP before the Supreme Court with defective SLP. The SLP came to be dismissed on 16.11.2010 by the Supreme Court. The Supreme Court held that the finding of the Division Bench that the Union has no locus standi to file a writ petition questioning the appointment of private Respondent was valid as held by 5 the Supreme Court in Guruvayur Devaswom Managing Commit. and Another Vs. C.K. Rajan and Others, and State of Uttaranchal Vs. Balwant Singh Chaufal and Others, .

6. It is not clear as to how the Petitioners can file fresh writ petitions in respect of the same subject matter especially when the nature of allegation made by them are the same. Having allowed the earlier writ petition to be decided against them by the Bench, they cannot start a fresh proceeding. Assuming that the present writ petition related to allegations of corruption by the Managing Director of TAFCON, which is a Government owned company and since the Managing Director is a public servant, the Petitioner can very well move the Special Court constituted under the Prevention of Corruption Act and file a complaint rather than taking the route via this Court seeking for a direction to the third Respondent to act on the complaint.

7. Considering the observation made by the Supreme Court as a license to file a fresh writ petition, the Petitioner in W.P. No. 11699 of 2009 has come forward to challenge the appointment order made in favour of those 6 and 7 persons. It must be noted that even in the earlier round of litigation the order of appointment in favour of M/s. Shelladurai (R4), Senthilkumar (R5) and Chandrasekaran(R6) were not disturbed by the learned judge who decided the main writ petition, yet they were also made parties in this writ petitions. Further, the prayer in the second writ petition is for setting aside the appointment made in favour of R4 to R10 by the third Respondent for the very same reasons set out

in the earlier round of litigation. But the Petitioner was also an applicant for the selection made during June 2001. He has also attended the interview. This Court is not inclined to go into the allegation made by the Petitioner as the case of the Petitioner is not for grant of any relief but to set aside the appointment made in favour of R4 to R10 on general grounds.

8. Further in the counter affidavit filed by R4 to R10 dated 09.11.2010 the allegation made by the Petitioner were denied. It was also stated that rules of reservation was strictly followed.

9. If it a case of departmental action against an officer, then certainly a writ petition is not maintainable by a third party as held by the Supreme 7 Court in Dr. Duryodhan Sahu and Others Etc. Etc. Vs. Jitendra Kumar Mishra and Others Etc. Etc., . In paragraph 18, the Supreme Court observed as follows:

18. The constitution of Administrative Tribunals was necessitated because of the large pendency of cases relating to service matters in various courts in the country. It was expected that the setting up of Administrative Tribunals to deal exclusively in service matters would go a long way in not only reducing the burden of the Courts but also provide to the persons covered by the Tribunals speedy relief in respect of their grievances. The basis idea as evident from the various provisions of the Act is that the Tribunal should quickly redress the grievances in relation to service matters. The definition of "Service matters" found in Section 3(q) shows that in relation to a person, the expression means all service matters relating to the conditions of his service. The significance of the word "his" cannot be ignored. Section 3(b) defines the word "application" as an application made u/s 19. The latter section refers to "person aggrieved. In order to bring a matter before the Tribunal, an application has to be made and the same can be made only by a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal. We have already seen that the word "order" has been defined in the explanation to Sub-Section 3(q) as service matters could be brought before the Tribunal. If in that context Sections 14 and 15 are read, there is no doubt that a total stranger to the service concerned cannot make an application before the Tribunal. If public interest litigations at the instance of strangers are allowed to be entertained by the Tribunal, the very object of speedy disposal of service matters would get defeated.

10. Further in the case of Ashok Kumar Pandey Vs. The State of West Bengal and Others, in paragraph 16, it was observed as follows:

16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that Courts are flooded with a large 9 number of so-called public interest litigations. Though the parameters of pubic interest litigation have been indicated by this Court in large number of cases, yet unmindful of the real intentions and objectives, courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine

cases. Though in this Court held that in service matter PI Ls should not be entertained, the inflow of so-called PI Ls involving service matters continues unabated in the Courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision.

11. In the light of the above, both writ petitions will stand dismissed. However, there will be no order as to costs. Consequently, connected miscellaneous petitions are closed.