
(1993) 10 RAJ CK 0004
In the Rajasthan High Court
Case No : Civil Spl. Appeal No. 332 of 1993

Jaipur Division Irrigation Employees' Union	APPELLANT
Vs	
State of Rajasthan and Others	RESPONDENT

Date of Decision : 05-10-1993

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226

Citation : (1994) 2 LLJ 26 : (1993) 2 RLW 644 : (1994) 1 WLC 240

Hon'ble Judges : Mohini Kapur, J;M.R. Calla, J

Bench : Division Bench

Advocate : P.K. Sharma, for the Appellant; Manish Bhandari, for the Respondent

Final Decision : Allowed

Judgement

1. The petitioner-appellant is a registered Trade Union registered with the Registrar of Trade Unions, Jaipur at No. 44/74. The registration certificate has been submitted alongwith the writ petition. The members of this Union are work-charged employees of the Irrigation Department, As a large number of employees were declared surplus it became necessary for this Union to challenge the same by way of a writ petition. This writ petition has been dismissed by the learned Single Judge of this Court holding that the writ petition was not maintainable on behalf of the Union for the alleged violation of fundamental rights and more particularly the provisions of Articles 14 and 16 of the Constitution of India. It was ordered that the rights of individual are not the rights of the Union. For arriving at this conclusion reliance was placed on a case of Rajasthan Vikas-sheel Shikshak Sangh v. State of Rajasthan and Ors. (S.B. Civil Writ Petition No. 3943/1993) decided on July 15, 1993 by the learned Single Judge himself. In the case of Rajasthan Vikas-sheel Shikshak Sangh (supra) reliance has been placed on a decision of the Allahabad High Court in Indian Sugar Mills Association Vs. Secy. to Government, Uttar Pradesh Labour Department and Others,

2. We have heard the learned counsel for the parties. The learned counsel for the

appellant has placed reliance upon certain decisions and even the learned counsel for the respondents has stated that the decision of the learned Single Judge dismissing the writ petition as not maintainable cannot be upheld. His contention is that the resolution which has empowered the President of the Petitioner Union to take this legal action has not been produced on record and if the same is produced the authority will be there and the writ petition would be maintainable.

3. In *Akhil Bharatiya Soshit Karamchari Sangh (Railway) represented by its Assistant General Secretary on behalf of the Association Vs. Union of India (UOI) and Others*, a technical point was raised that the 1st petitioner is an unrecognised association and that, therefore, the petition to that extent was not maintainable. This objection was over-ruled and it was held that whether the petitioners belonged to a recognised union or not, the fact remains that a large body of persons with a common grievance exists and they had approached the Court under Article 32 of the Constitution of India. It was held that (p. 230) "We have no hesitation in holding that the narrow concept of "cause of action" and "person aggrieved" and individual litigation is becoming obsolescent in some jurisdictions". In *People's Union for Democratic Rights and Others Vs. Union of India (UOI) and Others*, an objection about the locus standi was raised and it was observed as under (p. 462):

"But the traditional rule of standing which confines access to the judicial process only to those to whom legal injury is caused or legal wrong is done has now been jettisoned by this Court and the narrow confines within which the rule of standing was imprisoned for long years as a result of inheritance of the Anglo Saxon system of jurisprudence have been broken and a doctrine of locus standi which has revolutionised the whole concept of access to justice in a way not known before to the Court has taken the view that, having regard to the peculiar socio-economic conditions prevailing in the country where there is considerable poverty, illiteracy and ignorance obstructing and impeding accessibility to the judicial process it would result in closing the doors of justice to the poor and deprived sections of the community if the traditional rule of standing evolved by Anglo-Saxon jurisprudence that only a person wronged can sue for judicial redress were to be blindly adhered to and followed and it is, therefore, necessary to evolve a new strategy by relaxing this traditional rule of standing in order that justice may become easily available to the lowly and the lost."

In the famous case of *S.P. Gupta Vs. President of India and Others*, the question of locus standi was discussed and it was held that where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal right or any burden is imposed in contravention of any constitutional or legal provision or without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or determinate class of persons is by reason of poverty, helplessness or disability or socially or economically disadvantageous position, unable to approach

the Court for relief, any member of the public can maintain an application for an appropriate direction, order or writ in the High Court under Article 226 of the Constitution of India or in the Supreme Court under Article 32 of the Constitution of India seeking judicial redress for the legal wrong or injury caused to such person or determinate class of persons.

4. In *D.S. Nakara v. Union of India* 1983 I LLJ 289 this matter again arose and the society which received a number of representations from old pensioners, individually unable to undertake the journey through labyrinths of legal judicial process, costly and protected was allowed to spouse their cause. This Court in recent decision in *All India Loco Running Staff Association Northern Railway v. Union of India* and Anr. 1985 RLR 297 and *CA.D. Workshop Evam Store Workshop Welfare Committee v. State of Rajasthan* and Anr. 1992 (1) WLC 241 have relied upon the Supreme Court decisions in holding that a writ petition filed by a Union is maintainable.

5. In the case of *Rajasthan Vikas-sheel Shikshak Sangh* (supra), which has been relied upon by the learned Single Judge, the point in dispute was that the issuance of the certificates produced by the petitioners, who were seeking employment, were forged certificates and there were irregularities committed by the authorities in giving appointment. Action was taken against those teachers who had produced forged certificates and it was observed that fundamental rights are available to only a citizen and not to the Sangh. Besides this, if any adverse order may be passed which may affect the members of the Sangh, then they say that the judgment given in the case of the Sangh is not binding on them and thus a lot of complications will be created. The Sangh in the case had filed a writ petition without verifying the facts from the members about the genuineness of the certificates and at the same time there was no resolution authorising the Sangh to move this Court by way of writ petition. On all these counts, this Court could not make the same a basis for dismissing the writ petition as non-maintainable.

6. In the case of *Rajasthan Vikas-sheel Shikshak Sangh* (supra) reliance was placed on *Indian Sugar Mills Association* (supra) which only holds that the powers under Article 226 of the Constitution of India should be sparingly used and only in those clear cases where the rights of a person had been seriously infringed and he has no other adequate and specific remedy available to him, but much water has been flown after this decision in view of the later Supreme Court.

7. The order of the learned Single Judge deserved to be set aside as it has wrongly been held that the writ petition is not maintainable. The matter will have to go back before the Single Bench for disposal of the writ petition in accordance with the merits of the case.

8. The special appeal is allowed. The order of the learned Single Judge dated July 16, 1993 is set aside. The writ petition of the petitioner union be placed before the regular Bench hearing such matters for disposal in accordance with law.