
(1982) 11 RAJ CK 0021

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1706 of 1982

Kailash Meghwal and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 30-11-1982

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : AIR 1983 Raj 182

Hon'ble Judges : Guman Mal Lodha, J

Bench : Single Bench

Advocate : B.L. Sharma and K.S. Rathore, for the Appellant;

Final Decision : Dismissed

Judgement

Guman Mal Lodha, J.—Making Article 38 of the Constitution of India containing the directive principles that the State shall two-mote social order ensuring justice social, economic and political in national life as bedrocks. Shri Kailash Meghwal. M.L.A. of Ajmer alone with two other alleged social workers, Ramesh Chand and Sunil Lunia, has filed this writ petition against Shri Shiv Charan Mathur. Chief Minister of the State and other functionaries of State of Rajasthan alone with Government of Rajasthan.

2. The entire pivot of the controversy centres round the alleged shifting of office of Public Health Engineering Department Circle Ajmer to Bhilwara.

3. Seemingly the controversy and the debate appear to be having political overtone? because Shri Meghwal is member of Legislative Assembly from Aimer and Shri Mathur represents Bhilwara district. Political controversy has been brought to the judicial forum in the dimensions newly widened by the Apex Court in S.P. Gupta's case AIR 1962 SC 149, People's Union Democratic v. Union of India 1982 Lab IC 164 Akhil Bharatiya Soshit Karamchari Sangh (Railway) represented by its Assistant General Secretary on behalf of the Association Vs. Union of India (UOI) and Others, and Prahlad Singh v. R.S.E.B.. 1982 RLR 969

wherein a new twinkling star has arisen on the horizon of the Indian judiciary in the name and style of "public interest litigation". Taking inspiration and making it as the foundation. Shri Bajranglal Sharma, the learned counsel for the petitioner has claimed a writ of prohibition, certiorari or mandamus as the case may be. for stopping the shifting of the circle office from Ajmer to Bhilwara.

4. Shri Shiv Charan Mathur. the Chief Minister of State of Rajasthan is undoubtedly from Bhilwara district and he has been elected from one of its constituencies in Rajasthan Legislative Assembly.

5. The grievance of Shri Sharma is the in order to unduly nourish his constituencies and become popular in Bhilwara district, Shri Mathur decided to change the circle office from Ajmer to Bhilwara.

6. The drinking water is said to be one of the most serious problems of city of Ajmer, centrally located in Rajasthan State, which according to Shri Sharma is unique and historic city having religious, cultural, historical and national importance because of the location of Dargah of Khwaia a most prestigious pilgrimage place for Muslims in the world, and the sacred Pushkar lake which attracts Hindus from Kashmir to Kanya Kumari and Kutch to Calcutta. In para 7 of the writ petition. Shri Sharma has asserted that the Urs of Khwaja Sahib and Pushkar fair are not only attracting in lacs of pilgrims from India but thousands of foreigners are coming and some of them had made it a place of their constant resort.

7. The problem of water supply according to Shri Sharma is too acute and on account of that Ajmer has been treated as problematic district and 250 villages have been identified under the water supply schemes financed by the World Bank and one full division has been constituted as alleged. The projects of Nagaur district financed by the World Bank are also under the control of the circle office Ajmer.

8. In para 11 of the writ petition, Shri Sharma has narrated the three phase programme undertaken by the State Government in respect of Ajmer district projects. It includes the Rajmahal water supply worth Rs. 240.00 crores for ensuring water supply to Ajmer and adjoining areas and other like Dahar Ki Dhani Reorganisation scheme for Kishangarh, Bar-Nimaz-Sendra Scheme for Beawar. two projects being of about Rs. one crore.

9. Shri Sharma's contention is that the circle office of Ajmer is required to manage and control and supervise voluminous work and projects of Ajmer district. Contrary to it. there is nothing in Bhilawara district which wants changing of circle office from Ajmer to Bhilawara.

10. Paras 14 and 15 may be reproduced as they are principal paragraphs in the writ petition which show political motivation according to the petitioner: --

"As is obvious from the averments made above, Ajmer circle office of P.H.E.D. has to manage control Mid supervise voluminous works and projects and needs

to be strengthened by adding adequate staff and creating more divisions to successfully complete the work and projects and for their proper maintenance. However, abruptly the State Government has taken an unfortunate decision to shift the circle office of Superintending Engineer. PHED Ajmer to Bhilwara vide its order No. P19 (130)/Gr.4/66 dt. 14th Oct. 1982. The petitioners have applied for a copy thereof which has not been made available and will be submitted as and when made available. However, a photostat copy of another order No. P.G. 3 (619) 82-83/86397-597 dt. 14-10-1982 of the Chief Engineer, PHED Rajasthan. Jaipur is enclosed herewith as Ann. No. 1 which shows that the circle office Ajmer has been ordered to be shifted at Bhilwara. This decision of the Government has been decried by the people of Ajmer, their representatives, representatives of all political parties, various organisations of employees, professional bodies and other associations of people."

"The decision of the Government to transfer circle office from Ajmer to Bhilwara is politically motivated and has been taken under the influence of Chief Minister Shri Shiv Charan Mathur who hails from Bhilwara. The Government decision to shift this office is against public interest and has been ordered under the influence of the Chief Minister Shri Shiv Chavan Mathur in order to benefit his own district at the cost of the interest of people of Ajmer District and even against the public interest."

11. Shri Sharma's contention was that Bhilwara was under Udaipur circle and there was no interest for shifting circle office from Ajmer to Bhilwara. Shri Sharma has given the figures and data of population and revenue in the writ petition which are full of statistical data.

12. I have carefully considered the submissions of Shri Sharma and I am inclined to accept that in view of the new dimensions and horizon of the public interest litigations, the entertainment by the Apex court and the decisions referred to above by me, the blanket prohibition which was earlier traditionally enforced by the law courts has ceased to have any relevance and the citizen of a place can agitate the matters of public importance in the public interest litigations sphere. However, as in individual cases even public interest litigations, must, be based on bedrock of some legal, constitutional or other rights.

13. The sole controversy in the present case is whether the circle office of PHED which is at Ajmer at the moment and which is being shifted to Bhilwara, raises any general issue for judicial review and adjudication. Assuming Shri Sharma's contention, prima facie, to be correct that Ajmer is very important city which undoubtedly it is, should this Court take upon it the basic task of judicial scrutiny of the administrative decision for location, fresh establishment or shifting of administrative offices. The State functions through thousands of departments and offices and the State functionaries again, are thousands and lacs who manage them. Primarily, this work of establishment shifting change, alterations, transfers, additions, or variations in the administrative function of the various schemes, projects, plans which are managed by the various functionaries and

offices, are to be decided and implemented by the State Government which means bureaucracy under the guidance of policy decision of the Minister concerned or the Cabinet, as the case may be.

14. It will have to be admitted that the establishment of circle office of PHED or its shifting from one district to another is neither a matter of prima facie judicial, nor legislature domain and none is concerned in such matters because it is neither legislative nor Judicial. As executive or administrative decision simpliciter cannot be put to judicial review.

15. Though. Mr. Sharma has made allegations of mala fides against Shri Shiv Charan Mathur but no details or datas or facts have been given to show in what manner Shri Mathur influenced this decision. It is not the case of Shri Sharma that Shri Mathur is the concerned Minister of this department. It is also not the case of Shri Sharma that Shri Mathur got this decision from the Cabinet by his influence as Chief Minister. Nowhere in the writ petition. it has been mentioned that Shri Mathur directed any specific State functionaries nor it has been mentioned that he passed any order. Even in the reference on which the petitioner relies, Annexure 1. all that has been mentioned is that certain Engineers are being transferred. At Section No. 6. in the case of transfer of Shri B.M. Bhootra. who has been transferred to Bhilwara. it has been mentioned that Headquarters or Head Office established from Ajmer to Bhilwara. It appears that there is some order dated 14th Oct. 1982 which is sought to be quashed, but it is not known who has passed that order nor it is known whether it is an order for the change or transfer of Headquarters or circle office from Ajmer to Bhilwara.

16. A perusal of paras 17, 18 and 19 shows that the kingpin of attack of the petitioners is that the Government action of transfer is capricious, malacious. irrational, political motivated and arbitrary. All these adjectives have been used on the bedrock that Shri Mathur belongs to Bhilwara and he wants that World Bank projects were and should be at Bhilwara.

17. As I have already mentioned above, no direct nexus has been established between the shifting of the alleged office, assuming it to be correct prima facie between Shri Mathur and the impugned order, if any.

18. Granting and assuming that the legal position now is that even administrative actions if they are mala fide can be made subject-matter of Judicial review on account of the latest pronouncements of the Supreme Court in People's Union for Democratic Rights and Others Vs. Union of India (UOI) and Others, and Akhil Bharatiya Soshit Karamchhari Sangh (Railway) represented by its Assistant General Secretary on behalf of the Association Vs. Union of India (UOI) and Others, yet heavy burden lies on the petitioner to establish the nexus or relationship or direct connection of cause and effect between the authority passing order and the above alleged designs of Shri Mathur. True it is that Ajmer is more important than Bhilwara so far as the population, location and historical, cultural and other importance is concerned. It is also true that the problems of

Ajmer in respect of water supply as highlighted by the petitioner prima facie appears to be correct. However, there is a big gap to be covered between the above factual position and the conclusion which Shri Meghwal and other petitioners have drawn that on account of the shifting of circle office there would be automatic shifting of the plants, plans, and projects and the World Bank projects would be influenced by this shifting. I for one do not think that the World Bank authorities would decide the approval of any project or scheme only on the basis of the establishment of circle office.

19. In my considered opinion, the various factors which have been highlighted by the petitioner prima facie, shows that irrespective of the shifting of the circle office, the claim of Ajmer for obtaining such help by the World Bank schemes and projects would not be undermined nor given good-bye. The World Bank authorities and so also the State functionaries assisting them cannot and should not treat any of the Place where Ajmer or Bhilwara or for that matter any other village or city on the basis of its representation in the assembly or even in the Parliament. The basic needs of the people of that area is to be seen and no colour or features or size or political philosophy or its political trends should be the test for establishment of such projects and schemes and I have got no doubt that irrespective of the shifting and changes of the circle office if any the World Bank and the State Government functionaries would not permit them to be influenced by the irrelevant consideration of the size or stature of the public representation of that area. The public representatives can and according to the democratic tradition, should highlight the needs of that area but cannot either dictate the administrative functionaries, nor they can be allowed to vote any administrative need of any area if it is genuine and that way alone a healthy democracy and our Constitutional goals which aim at a welfare State and justice, economic, political and social to the people can be achieved. I have got no doubt that it would be realised by all concerned including the tallest of the politicians or of the bureaucrats that nobody is above our constitutional mandate and needs and whatever has been enshrined in it including Article 38 referred to by the petitioner should be kept in forefront and they would not become a party to the short lived passion or momentous desire or impulse of becoming popular in a particular small area on the basis of the political, regional, sectarian or other considerations. The Chief Minister represents the entire State and in true democratic traditions and the rich legacy, he should always rise over and above small parochial, regional, personal or political considerations.

20. In case, the Chief Minister or any other person for that purpose degrades, himself by becoming parochial, creates regional imbalances by favouritism or nepotism or other such narrow selfish considerations, normally, the forum to ventilate the grievances is the legislative assembly and not the High Court.

21. I would, therefore, refrain myself from adjudicating the controversy on merits about the claim of Ajmer against Bhilwara for shifting of the circle office which is already there and the arguments against its shifting as it can be and

should be considered, if necessary, by the administrative officers in a detached manner impartially and grievance against which can be made in the assembly hall only or any other method of exhibiting the public grievance in a legitimate and legal democratic method and manner.

22. The statistic and data given by Shri Meghwal and others in the writ petition and the forceful argument by Shri B.L. Sharma make out a Plausible case at first sight as it highlights Aimer's claim over Bhilwara but on a mature thoughtful and deep consideration of the entire matter. I have not been able to persuade, myself, to open the flood gates of High Court for these political controversies. The admission of the case for further consideration would only mean the opening of pandora's box for encouraging of regional oriented controversies in writ jurisdiction and the logical expansion would result in assuming role of a third chamber by creating a forum of zero hour or adjournment motion debates in the Judicial field which are impermissible, inexpedient, extraneous and unconstitutional.

23. I have, therefore, resisted the first impulse of normal temptation to admit this controversy by rejecting the in wider constitutional interest as above.

24. With the above observations, this writ petition fails and therefore, the same is dismissed in limine petition dismissed.