
(2019) 12 CAL CK 0106
In the Calcutta High Court
Case No : Writ Petitions (WP) No. 389 Of 2018

Kamal Dey

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 20-12-2019

Acts Referred:

Constitution Of India, 1950 — Article 18

Citation : (2019) 12 CAL CK 0106

Hon'ble Judges : Thottathil B. Radhakrishnan, CJ;Arijit Banerjee, J

Bench : Division Bench

Advocate : Kamal Dey, Partha Ghosh, Debjani Ghoshal, Ranu Sarkar

Final Decision : Dismissed

Judgement

The Court: This writ petition is filed as a public interest litigation seeking a direction to the official respondent to lay down proper norms and guidelines for ascertaining the eligibility criteria for selecting the candidates for the awards which are called 'National Awards' including Bharat Ratna and Pama Awards. The writ petition is founded on the plea that the directions issued by the Apex Court through the judgment in Balaji Raghavan vs. Union of India [AIR 1996 SC 770] are not being complied with and are being violated. One of the specific issues attempted to be pointed out is that, according to the petitioner, there is an outer limit of fifty put on the Padma Awards but this limit is being breached.

Before we proceed further, we may notice that it is a matter of record that the petitioner himself is a self-nominated applicant for grant of such award.

Be that as it may, confining ourselves to the fundamental issues sought to be raised, we see that Their Lordships of the Supreme Court through Balaji Raghavan (Supra) laid down a law that the national awards including Bharat Ratna and Padma Awards do not amount to titles for the purpose of Article 18 of the Constitution of India. This is fundamentally the sum and substance of the major part of the ratio decidendi of the judicial decision. The said judgment

further expands its horizon to say that Their Lordships were not satisfied that there was a transparent and laid down mode of guidelines for grant of Padma award. Therefore, directions were issued to constitute a committee to visit the norms, if any, already in place and to formulate new guidelines if there are no requisite guidelines governing the field. While the petitioner refers to paragraph 42 of the judgment of Balaji Raghavan (Supra) to say that the number of awards under each category must be curtailed to preserve their prestige and dignity in any given year, the Padma Awards, all put together, may not exceed fifty, we may notice that the said observation is part of the separate opinion framed by Hon'ble Justice Kuldip Singh (as His Lordship then was) while the directions contained in paragraph 33 of that judgment of Balaji Raghavan (Supra) required that the guidelines have to be considered by a High Level Committee appointed by the Prime Minister in consultation with the President of India. The existing guidelines, if any, were also required to be considered. Thus, a High Level Committee was constituted by the Prime Minister in May 1996 in consultation with the President of India. The composition of that committee is delineated in a report of the High Level Review Committee which shows that the committee was constituted as under:-

"In pursuance of the majority judgment dated December 15, 1995 of the Supreme Court of India in the Transfer Cases (Civil) No.9 of 1994 and No.1 of 1995, relating to the constitutional validity of Padma Awards, a High Level Review Committee was constituted by the Prime Minister in May, 1996, in consultation with the President of India, to go into the guidelines for Padma Awards and certain other aspects. The composition of the Committee was as follows: -

- (1) Vice-President of India (Shri K. R. Narayan) (Chairperson)
- (2) Cabinet Secretary (Shri T. S. R. Subramanian)
- (3) Attorney General of India (Shri Ashok H. Desai)
- (4) Home Secretary (Shri K. Padmanabhaiah)
- (5) Foreign Secretary (Shri Salman Haider)
- (6) Secretary to the President (Shri S. S. Sohoni)
- (7) Shri Ram Niwas Mirdha
- (8) Prof. U. R. Anantha Murthy, President Sahitya Akademi
- (9) Prof. (Miss) A. S. Desai, Chairperson, UGC
- (10) Prof. M. Y. Qaudri, Vice-Chancellor, Kashmir University
- (11) Prof. Yash Pal, National Research Professor.

2. Terms of reference of the Committee were as follows: -

- (i) To review the existing guidelines and to fix the criteria for the selection of persons for the Padma awards (criteria which will enhance respect for the Padma Awards);
- (ii) To lay down restrictions on the number of awards to be given and to ensure that the number is not so high as to dilute the value of the awards; and
- (iii) To decide whether the awards should be given every year."

The High Level Committee's report relates to the criteria for selection of persons for Bharat Ratna Awards and Padma Awards. It also imposes restrictions on the total number of such Awards that could be given. Certain other recommendations touching the matter have also been made. It also provides for grant of Posthumous awards. The materials on record show that with such action being taken, the exercise of considering persons for grant of such awards were being taken up with the intention to maintain the maximum limit to be sixty. Obviously, this is so because the Committee directed to be appointed by the Hon'ble Supreme Court had necessarily the authority to arrive at such figure notwithstanding the contents of paragraph 42 of the judgment of Balaji Raghavan (Supra) which is not, on the face of the said judgment, a view that could be taken as an opinion with the approval of Their Lordships who gave the opinion with more number of Judges which has been taken as majority view while constituting the Committee as can be seen from the opening part of the report from which we have extracted hereinabove.

The aforesaid discussion will show that the plea taken by the petitioner that there is no guideline made in terms of the direction contained in Balaji Raghavan (Supra) does not merit acceptance.

The petitioner, however, attempted to show that certain persons were granted Padma Award even on later point of time including post death. He says that a particular person who was a foreign national was awarded a Padma Award though he was dead by the time. This is not a matter stated in the pleadings and purely attempted to be shown through a print out which the petitioner has shown to us. We are not prepared to act on such material more particularly, because that was not one, which was made a part of the records of this case. We reject such plea. We also see that if cases of individual awards are to be challenged, the grantee or a person entitled to represent the grantee should obviously be heard. Bereft of that the challenge is not eligible for consideration.

For the aforesaid reasons, the writ petition fails and the same is, accordingly, dismissed.