

(1958) 07 PAT CK 0014

In the Patna High Court

Case No : Misc. Judl. Case No. 456 of 1957

Kameshwar Prasad and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 07-07-1958

Acts Referred:

Bihar Government Servants Conduct Rules, 1976 — Rule 4A
Constitution of India, 1950 — Article 19, 19(2), 19(4)
Industrial Disputes Act, 1947 — Section 2

Citation : AIR 1959 Patna 187 : (1958) 6 BLJR 600 : (1959) 1 LLJ 401

Hon'ble Judges : V. Ramaswami, C.J;R.K. Choudhary, J

Bench : Division Bench

Advocate : P.R. Das, Balbhadra Prasad Singh and A.K. Choudhary, for the Appellant; The Solicitor General, of India and Basudeva Prasad, Ganesh Prasad and Jayaswal, for the Respondent

Final Decision : Dismissed

Judgement

V. Ramaswami, C.J.—In this case the petitioners have obtained a rule from the High Court asking the respondents, namely, the State of Bihar and the Deputy Secretary to the Government of Bihar, to show cause why a writ under Article 226 of the Constitution should not be issued for quashing Rule 4A of the Government Servants Conduct Rules, 1956, and commanding them to forbear from giving effect to that rule or otherwise interfering with the petitioners' right to go on strike or hold a demonstration.

2. Cause has been shown by the Solicitor General on behalf of the respondents to whom notice of the rule was ordered to be given.

3. Petitioner No. 1, Sri Kameshwar Prasad, is an Assistant in the Public Health Engineering Department of the Patna Secretariat, petitioner No. 2, Sri Dhanushdhari Prasad, is a clerk of the Civil Court, Monghyr; petitioner No. 3, Sri Ram Ekbal Singh, is an Assistant in the Construction Division, Patna; petitioner No. 4, Sri Jagannath Pandit, is a Reader of the Government Press, Gulzarbagh;

petitioner No. 5, Sri Bindbyachal Prasad, is the Head Clerk of the Government Railway Police", Patna; and petitioner No. 6, Sri K. S. Sabaya, is the Head Clerk of the Board of Secondary Education, Bihar, Patna. On 27th September, 1956, the Governor of Bihar promulgated the Bihar Government Servants Conduct Rules under the proviso to Article 309 of the Constitution. Rule 4 prohibits Government servants from taking part in politics and elections. Rule 4 states as follows:

"4: Taking part in politics and elections--(1) No Government servant shall be a member of, or be otherwise associated with any political party or any organisation which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity.

(2) It shall be the duty of every Government servant to endeavour to prevent any member of the family from taking part in, subscribing in aid of or assisting in any other manner any movement or activity which is or tends directly or indirectly to be, subversive of the Government as by law established and where a Government servant fails to prevent a member of his family from taking part in, or subscribing in aid of, or assisting in any other manner, any such movement or activity, he shall make a report to that effect to the Government.

(3) x x x (4) No Government servant "shall canvass or otherwise interfere or use his influence in connection with or take part in an election to any legislature or local authority:

X X X X"

On the 16th August, 1957. the respondents issued the following notification:--

"Government of Bihar, Appointment Department, Notification. The 25th Sravans, 1879 (S) 16th August, 1957. No. 1II/RI-206/54A. 10371.

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India the Governor of Bihar is pleased to make the following amendment in the Bihar Government Servants' Conduct Rules 1956, published with notification No. JH/RI-206/54A-8787, dated the 27th September, 1956:--

Amendment,

After Rule 4 of the said Rules, the following shall be inserted as Rule 4A, namely:--

"4A--Demonstrations and Strikes--No Government servant shall participate in any demonstration or resort to any form of strike in connection with any matter pertaining to his conditions of service."

By the order of the Governor of Bihar, Sd/- V. Balasubramaniam Deputy Secretary to Government."

It is submitted on behalf of the petitioners that Rule 4A is illegal and unconstitutional as it interferes with the fundamental right of the petitioners

guaranteed under Articles 19(1)(a) and 19(1)(c) of the Constitution.

The case of the petitioners is that Rule 4A affects the right of freedom of speech and expression and the right to form associations guaranteed under Articles 19(1) (a) and 19(1)(c) of the Constitution. The petitioners, therefore, pray that a writ under Article 226 of the Constitution should be issued for quashing the aforesaid Rule 4A and also commanding the respondents not to give effect to the provisions of that rule.

4. On behalf of the petitioners Mr. P. R. Das made the submission that Rule 4A is unconstitutional because there is an absolute prohibition imposed upon Government servants from holding demonstration or from resorting to strikes. It was contended that the provisions of Rule 4A violate the fundamental rights guaranteed under Articles 19(1)(a) and 19(1)(c) of the Constitution.

The submission on behalf of the petitioners was that the right to resort to strike or to demonstrate was a necessary adjunct or a necessary incident of the right to freedom of speech or the right to form association within the meaning of Articles 19(1)(a) and 19(1)(c) of the Constitution. Counsel on behalf of the petitioners also referred in this connection to the meaning of the word "demonstration" in the New English Dictionary, Volume III, at page 187, where "demonstration" is defined as "a public manifestation by a number of persons of interest in some public question usually taking the form of a procession or a mass-meeting."

Reference was also made by counsel for the petitioners to the definition of "strike" given in the Industrial Disputes Act. u/s 2(q) of this Act "strike" means "a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment."

It was also argued on behalf of the petitioners that strikes are not necessarily illegal, and reliance was placed upon the following passage of the judgment of Hannen, J. in *Farrer v. Close* (1869) 4 QB 602 :

"I am, however, of opinion that strikes are not necessarily illegal. A strike is properly defined as a simultaneous cessation of work on the part of the workmen", and its legality or illegality must depend on the means by which it is enforced and on its objects. It may be criminal, as if it be part of a combination for the purpose of injuring or molesting either masters or men; or it may be simply illegal, as if it be the result of an agreement depriving those engaged in it of their liberty of action, similar to that by which the employers bound themselves in the case of *Hilton v. Eckersley* (1855) 6 E B 47 ; or it may be perfectly innocent, as if it be the result of the voluntary combination of the men for the purpose only of benefiting themselves by raising their wages, or for the purpose of compelling the fulfilment of an engagement entered into between employers and employed, or any other lawful purpose."

It was submitted by learned counsel on behalf of the petitioners that peaceful picketing or demonstration, for instance, like carrying of banners, was a phase of the constitutional right of free speech, and Rule 4A has taken away that right. It was contended, therefore, that the right guaranteed under Article 19 has been rendered worthless, that everything valuable has been taken away from that right and only the husk of the right remains,

It was, therefore, submitted that the provisions of Rule 4A are unconstitutional as the guarantee under Articles 19(1)(a) and 19(1)(c) of the Constitution has been violated.

5. That is the summary of the argument of Mr. P. R. Das on behalf of the petitioners. The first objection taken by the Solicitor General on behalf of the respondents is that Rule 4A has no statutory force and it does not fall within the purview of Article 13 and hence there is no question of violation of the guarantee under Article 19 of the Constitution. The argument of the Solicitor General is that the rules framed by the Governor under Article 309 have not the force of law, and, therefore, Article 13 does not apply to such a case. Articles 13(2) and 13(3) of the Constitution are in the following terms:

"13 (2) The State shall not make any law which takes away or abridges the rights conferred by this part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise requires,--

(a). "law" includes any Ordinance, order, byelaw, rule, regulation, notification, custom or usage having in the territory of India the force of law;

xxx x"

Article 309 states as follows:

"309. Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State:

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating that recruitment and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act."

It was submitted by the Solicitor General that the rules known as the "Government Servants Conduct Rules" promulgated by the Governor under the proviso to Article 309 of the Constitution are merely administrative directions to

Government servants for general guidance and that these rules have no force of law and that the failure to comply with these rules does not give rise to any cause of action. It was argued that these rules are merely rules of internal discipline operating in the sphere of Government service and laying down principles of proper conduct to be observed by Government servants in their capacity as Government servants.

In support of this proposition the Solicitor General referred to the decision of the Judicial Committee in AIR 1937 31 (Privy Council) and also to *Shenton v. Smith* 1895 AC 229 which was accepted as good law by the Supreme Court in *S.A. Venkataraman Vs. The Union of India (UOI) and Another*, The decision of the Judicial Committee in AIR 1937 31 (Privy Council) was a decision in respect of sub-section (2) of Section 96B of the Government of India Act, which states as follows:

"96B. (2) The Secretary of State in Council may make rules for regulating the classification of the Civil Services in India, the methods of their recruitment, their conditions of service, pay and allowances, and discipline and conduct. Such rules may, to such extent and in respect of such matters as may be prescribed, delegate the power of making rules to the Governor-General in Council or to Local Governments, or authorize the Indian Legislature or Local Legislatures to make laws regulating the public services: Provided that every person appointed before the commencement of the Government of India Act, 1919, by the Secretary of State in Council to the Civil Service of the Crown in India shall retain all his existing or accruing rights, or shall receive such compensation for the loss of any of them as the Secretary of State in Council may consider just and equitable."

It was pointed out that Article 309 of the Constitution is similar in terms and the principle laid down by the Judicial Committee in AIR 1937 31 (Privy Council) should be applied to the present case- This point of view was contested by Mr. P. R. Das on behalf of the petitioners and it was submitted that the rules framed by the Governor under Article 309 have the force of law within the meaning of Article 13.

It is, however, not necessary for me in the present case to express any concluded opinion on this point. I shall assume for the purpose of this case that the rules framed by the Governor under the provision of Article 309 of the Constitution have the force of law within the meaning of Article 13 of the Constitution. Even upon that assumption I shall show, for the reasons which I shall presently state, that there is no violation of the guarantees under Article 19 of the Constitution by the promulgation of the impugned Rule 4A of the Government Servants Conduct Rules.

6. The main contention of Mr. P. R. Das on behalf of the petitioners is that the right to demonstrate and the right to strike are necessary ingredients of the right of freedom of speech and expression and the right to form association within the

meaning of Articles 19(1)(a) and 19(1)(c) of the Constitution. I do not agree with this assumption of learned counsel for the petitioners. I do not consider that the right to strike and the right to demonstrate are included in the right of free speech and the right to form associations guaranteed under Articles 19(1)(a) and 19(1)(c) of the Constitution so far as the Government servants are concerned.

Strike is a weapon which may in certain circumstances be used by employees in an industry for the purpose of benefiting themselves by raising their wages or for any other lawful purpose. There is also a right to demonstrate in a lawful manner with respect to employees in an industrial undertaking. The freedom guaranteed under Articles 19(1)(a) and 19(1)(c) may include the right to strike and the right to demonstrate so far as the industrial employees are concerned, but the position of Government servants is different. So far as Government servants are concerned, I am definitely of opinion that the freedom guaranteed under Articles 19(1)(a) and 19(1)(c) does not include the right to strike and the right to demonstrate.

Freedom of speech and freedom to form associations guaranteed under Articles 19(1)(a) and 19(1)(c) are not absolutes and cannot be interpreted with mathematical exactitude. So far as Government servants are concerned, there is a difference between their position and the position of the employees in an industrial undertaking. The Government servants have greater responsibility than other employees. They have a special status because they are a part of the machinery of the Government. The conduct of Government servants, therefore; is a matter of public interest and it is obvious that their discipline and efficiency would be undermined if they take part in strikes or demonstrations. It is also obvious that the continuance of vital administrative services is a matter of public interest. It is manifest that public interest would suffer if there are strikes and demonstrations and hence in the case of Government servants the freedom guaranteed under Articles 19(1)(a) and 19(1)(c) does not include the freedom to strike or the freedom to demonstrate. The legal position has been very clearly stated by Mr. Justice Holmes in *McAuliffe v. New Bedford* (1947) 91 Law Ed 791, which was an action by a policeman for a writ of mandamus to restore him to office.

It appeared that the policeman had been removed by the mayor, who found that he was guilty of violating a certain police regulation of the city which provided that "no member of the department shall be allowed to solicit money or any aid, on any pretence", for any political purpose whatever." It was argued by the petitioner that the Mayor's finding did not warrant his removal and that the regulation violated was illegal as invading the petitioner's right to express his political opinion, and that a breach of it was not a sufficient cause for removal under the statute. Mr. Justice Holmes, delivering his opinion, said:

"There is nothing in the Constitution or the statute to prevent the city from attaching obedience to this rule as a condition to the office of policeman, and making it part of the good conduct required. The petitioner may have a

constitutional right to talk politics, but he has no constitutional right to be a policeman. There are few employments for hire in which the servant does not agree to suspend his constitutional right of free speech, as well as of idleness, by the implied terms of his contract. The servant cannot complain as he takes the employment on the terms which are offered him. On the same principle, the city may impose any reasonable condition upon holding offices within its control. This condition seems to us reasonable, if that be a question open to revision here."

In a recent American case, *United Public Workers of America v. Harry B. Mitchel* (1947) 91 Law Ed 754, the question arose as to the validity of the Hatch Act which made it unlawful for employees of the Federal Government to take any active part in political management or in political campaigns, and the regulation of the Civil Service Commission made such conduct a ground for removal of civil service employees. The constitutional validity of the Act was upheld by the Supreme Court, and Reed, J. who delivered the opinion of the majority, observed at p, 774 of the report as follows:

"The determination of the extent to which political activities of governmental employees shall be regulated lies primarily with Congress. Courts will interfere only when such regulation passes beyond the general existing conception of governmental power. That conception develops from practice, history, and changing educational, social and economic conditions. The regulation of such activities as Poole carried on has the approval of long practice by the Commission, court decisions upon similar problems and a large body of informed public opinion.

Congress and the administrative agencies have authority over the discipline and efficiency of the public service. When actions of civil servants is the judgment of Congress menace the integrity and the competency of the service, legislation to forestall such danger and adequate to maintain its usefulness is required. The Hatch Act is the answer of Congress to this need. We cannot say with such a background that these restrictions are unconstitutional."

A similar view has been expressed recently by the Supreme Court in *P. Balakotaiah Vs. The Union of India (UOI) and Others*, where Venkatarama. Aiyar J. has observed as follows:

"It is next contended that the impugned orders are in contravention of Article 19(1)(c). and are there fore void. The argument is that action has been taken against the appellants under the rules, because they are communists and trade unionists, and the orders terminating their services under Rule 3 amount, in substance, to a denial to them of the freedom to form associations, which is guaranteed under Article 19(1)(c). We have already observed that that is not the true scope of the charges. But apart from that, we do not see how any right of the appellants under Article 19(1)(c) has been infringed. The orders do not prevent them from continuing to be Communists or trade unionists.

Their rights in that behalf remain after the impugned orders precisely what they

were before. The real complaint of the appellants is that their services have been terminated; but that involves, apart from Article 311, no infringement of any of their Constitutional rights. The appellants have no doubt a fundamental right to form associations under Article 19(1)(c). but they have no fundamental right to be continued in employment by the State, and when their services are terminated by the State they cannot complain of the infringement of any of their Constitutional rights, when no question of violation of Article 311 arises. This contention of the appellants must also be rejected."

My concluded opinion, thereofre, is that the freedom guaranteed under Articles 19(1)(a) and 19(1)(c) of the Constitution does not include the right to strike and the right to demonstrate so far as Government servants are concerned.

7. I shall, however, assume in favour of the petitioners that the right to strike and the right to demonstrate are part of the content of freedom of speech and freedom of association guaranteed under Articles 19(1)(a) and 19(1)(c) of the Constitution in the case of Government servants. Even upon that assumption I hold that the restriction imposed by Rule 4A of the Government Servants Conduct Rules are reasonable and in the interest of public order within the meaning of Articles 19(2) and 19(4) of the Constitution. Article 19(2) of the Constitution reads as follows:

"19 (2) Nothing in Sub-clause (a) of Clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of Court, defamation or incitement to an offence."

Article 19(4) states as follows:

"19. (4) Nothing in Sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing in the interests of public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause."

I do not agree with the argument of Mr. P. R. Das on behalf of the petitioners that there is a total prohibition of freedom of speech and freedom of expression because of the promulgation of Rule 4A. In paragraphs 4 and 5 of the counter affidavit of the respondents it is said that a limited right of forming service associations has been granted to Government servants and the right of such associations to represent their grievances in an appropriate manner to the authorities concerned. A copy of the instructions of the State Government, dated the 19th September, 1956, is annexed to the counter-affidavit.

Paragraph 5 of this annexure states that representations from an Association, whether made orally or in writing, can be received by Government officers in certain circumstances. Paragraph 7 of this annexure also states that Government

may specify the channel through which representations from an Association may be submitted and the authority by whom a deputation may be received. There is another additional affidavit of the respondents dated the 11th March, 1958. Annexure K of that affidavit states that there is no bar to the officers mentioning their grievances regarding pay, transfer, promotion etc., to Hon'ble Ministers on tour.

It is also stated in annexure K that the officer concerned may be asked by the Hon'ble Minister to make a representation through proper channel, and as a rule final orders would be passed only after the representation is received through the proper channel. Annexure L to the affidavit also provides that Government servants should not submit memorials or representations direct to higher authorities, without first seeking redress at the hands of the immediate superior officers. But if the immediate superior officer unduly delays passing order on the petition, the Government servant may address a petition to the next higher authority direct.

I am, therefore, unable to accept the argument urged on behalf of the petitioners that there is a total prohibition of freedom of speech or freedom of association by the promulgation of Rule 4A. It is necessary to read Rule 4A along with the Government instructions, which is annexure I to the counter-affidavit and also in the context of annexures J, K and L of the affidavit of the respondents, dated the 11th March, 1958. It is manifest that only two methods of ventilating grievances have been prohibited, namely, strikes and demonstrations, and that other methods are open to Government servants for ventilating their grievances namely, to make representations either orally or in writing in accordance with the procedure prescribed by the State Government in the memorandum which is annexure 1 to the counter-affidavit of the respondents, and also annexures J, K and L of the affidavit of the respondents dated the 11th March, 1958.

It is true that Rule 4A prohibits Government servants from ventilating their grievances by means of strike or demonstration. But my view is that the restrictions imposed by Rule 4A are reasonable and in the interest of public order within the meaning of Articles 19(2) and 19(4) of the Constitution. The restrictions imposed by Rule 4A are reasonable because they apply only to one class of community, namely, those in the employment of Government in the civil service. The rule is also reasonable because Government servants occupy a different position from those who work in an industry. They have a greater responsibility because they occupy a special status.

The question at issue is really a question of balancing conflicting social interests, the social interest of protecting freedom of speech and freedom of association and the social interest of preserving the discipline and efficiency of the civil service in a democratic society, I am definitely of the view that in the circumstances of this case public interest in a disciplined and efficient civil service must outbalance the public interest in the maintenance of freedom of speech and freedom of association, and, therefore, the restrictions imposed by

Rule 4A of the Government Servants Conduct Rules must be held to be reasonable restrictions and in the interest of public order.

The meaning of the expression "public order" was the subject-matter of consideration by the Supremo Court in *Romesh Thappar Vs. The State of Madras*, and it was observed in that case by Patanjali Sastri J. at p. 598 (of SCR): (at p. 127 of AIR) that "public order" was an expression of wide connotation and signified that state of tranquillity which prevails among the members of the political society as a result of internal regulations enforced by the Government which they have established. It is manifest that Rule 4A which prohibits Government servants from taking part in strikes or demonstrations is made in the interest of public order within the meaning of Articles 19(2) and 19(4) of the Constitution.

The restrictions imposed by Rule 4A are also reasonable restrictions within the meaning of these Articles. I hold, therefore, that Rule 4A is a reasonable restriction and promulgated in the interest of public order within the meaning of Articles 19(2) and 19(4) of the Constitution, and I reject the argument addressed on behalf of the petitioners that there is a violation of the guarantee of freedom under Articles 19(1)(a) and 19(1)(c) of the Constitution. I should like in this connection to quote a passage from the judgment of Douglas J. in (1947) 91 Law Ed 745 :

"The intricacies of modern government, the important and manifold tasks it performs, the skill and enterprise required, the vast discretionary powers vested in the various agencies, and the impact of their work on individual claimants as well as on the general welfare have made the integrity, devotion, and skill of the men and women who compose the system a matter of deep concern of many thoughtful people. Political fortunes of parties will ebb and flow; top policy men in administrations will come and go; new laws will be passed and old ones amended, or repealed.

But those who give continuity to administration, those who contribute the basic skill and efficiency to the daily work of government, and those on whom the new as well as the old administration is dependent for smooth functioning of the complicated machinery of modern government are the core of the civil service. If they are beneficiaries of political patronage rather than professional careerists, serious results might follow -- or so Congress could reasonably believe. Public confidence in the objectivity and integrity of the civil service system" might be so weakened as to jeopardize the effectiveness of administrative government."

8. Lastly, the argument was addressed on behalf of the petitioners that Rule 4A is repugnant to the provisions of Chapter V of the Industrial Disputes Act. Reference was made by learned counsel to Section 2(g) of the Industrial Disputes Act, which defines an "employer" to mean in relation to an industry carried on by or under the authority of any department of the Central Government or a State Government, the authority prescribed in this behalf, or

where no authority is prescribed, the head of the department. Reference was made to section 22(1) of the Act. which states as follows:

"22. Prohibition of strikes and lock-outs-- (1) No person employed in a public utility service shall go on strike in breach of contract-

(a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking; or

(b) within fourteen, days of giving such notice; or,

(c) before the expiry of the date of strike specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings."

In the course of argument Mr. P. R. Das conceded that the petitioners Nos, 1, 2, 3, 5 and 6 are not workmen within the meaning of the Industrial Disputes Act and that they are not governed by the provisions of that Act. As regards petitioner No. 4, Sri Tagannath Pandit, however it was submitted that he was a Reader employed in the Gulzarbagh Government Press and he was a workman within the meaning of Section 2(s) of the Industrial Disputes- Act. On this point the Solicitor General said that there is no statement in the application what salary petitioner No. 4 is drawing and what is the nature and scope of his duties in the Gulzarbagh Government Press.

It was argued by the Solicitor General that if petitioner No. 4 was employed in a supervisory capacity and drew wages exceeding Rs. 500/- per mensem, he would not fall within the definition of workman in Section 2(s) of the Act. It was further argued by the Solicitor General that even if petitioner No. 4 is a workman, the provisions of Rule 4A of the Government Servants Conduct Rules cannot be held to be unconstitutional. It was submitted that Rule 4A would not apply to a Government servant who was governed by the Industrial Disputes Act.

It was argued that such a restricted interpretation must be put on Rule 4A so as to avoid a repugnancy or conflict with the provisions of the Industrial Disputes Act. I think that the argument of the Solicitor General is right and that a restricted interpretation must be put on Rule 4A so as to make it constitutional; in other words, Rule 4A must be construed as having application only to such Government servants as are not governed by the provisions of the Industrial Disputes Act.

It follows, therefore, that if petitioner No. 4 as a workman within the meaning of Section 2(s) of the Industrial Disputes Act, Rule 4A will not have any application to him. But as I have already said, there is no material in this case to determine whether petitioner No. 4 is a workman or not within the meaning of Section 2(s) of the Industrial Disputes Act, and it is not, therefore, possible to grant a writ even as regards petitioner No. 4 in this case.

9. For the reasons I have expressed, I hold that the petitioners have not made out any case for grant of writ under Article 226 of the Constitution. In my opinion, the application fails, and must be dismissed with costs. Hearing fee Rs. 200/-.

R.K. Choudhary, J.

10. I agree.