
(1996) 06 KAR CK 0065
In the Karnataka High Court
Case No : Writ Petition No. 15285 of 1996

K.N. Subba Reddy

APPELLANT

Vs

State of Karnataka and Another

RESPONDENT

Date of Decision : 12-06-1996

Acts Referred:

Constitution of India, 1950 — Article 163 (1), 164 (1), 226, 361

Citation : (1997) ILR (Kar) 172

Hon'ble Judges : R.V. Raveendran, J

Bench : Single Bench

Advocate : K.N. Subba Reddy and Party in Person, for the Appellant;

Final Decision : Dismissed

Judgement

R.V. Raveendran, J.—In this public interest litigation, the petitioner questions the size of the State Cabinet. According to him, Administrative Reforms Committee has suggested that the strength of the Cabinet should not exceed 10% of the total strength of the Legislative Assembly and Legislative Council; and as per the said suggestion, the strength of the Cabinet should not exceed 30. Instead of following the said guidelines, the second respondent who is the Chief Minister of the State, has formed a Cabinet with 45 ministers. The petitioner feels that such a large Cabinet is not required for running the affairs of the State, apart from casting a heavy financial burden on the State exchequer. He relied on a newspaper report to show the minimum expenditure of 45 Ministers will not be less than Rs. 30 crores per year. He contends that when citizens are suffering for want of civic amenities and the State is facing shortage of funds, having a jumbo sized Cabinet is against public interest, and a large Ministry is neither economical nor efficient. He, therefore, wants the Government to evolve a policy restricting the total number of member in a Ministry. Hence, he has filed this petition against the State Government and the Chief Minister, for the following reliefs: a) a direction to the respondents to evolve a policy relating to the formation of the Cabinet by following the guidelines issued by the Administrative Reforms

Committee; and b) a mandamus directing the respondents to prune the size of the ministry.

2. There may be considerable logic and truth in the contentions of the petitioner and the matter requires serious consideration by the Government. It is also a fit matter to be placed before the electorate, as an election issue, a subject for political debate that may be discussed in a citizen's forum or even brought before the Legislature itself. But, it is not a matter for judicial review.

3. Article 163(1) of the Constitution of India, provides that there shall be a council of ministers with the Chief Minister at the head, to aid and advice the Governor in the exercise of his functions. Article 164(1) provides that Chief Minister shall be appointed by the Governor and the other ministers shall be appointed by the Governor on the advice of the Chief Minister and the ministers shall hold office during the pleasure of the Governor. Article 163(3) provides that the question whether any, and if so, what advice was tendered by ministers to the Governor shall not be inquired into in any Court, Article 361 provides that the Governor of the State shall not be answerable to any Court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties.

4. Even though a Chief Minister forms the ministry and he is responsible for its size, under the Constitution, the Chief Minister advises the Governor and it is the Governor who appoints the Ministers on the advice of the Chief Minister. Hence, in effect, by challenging the size of the Ministry, the petitioner is challenging the action of the Governor, taken under Article 164(2). Having regard to Article 163(3) read with Article 361, it is not open to the petitioner to challenge such action before any Court of law.

5. Even otherwise, petitioner is not entitled to any relief. The size, economy and efficiency of a Ministry fall under the sphere of the Executive. Courts will not encroach upon the constitutional power of the Executive. The Courts may interfere with the action of the Executive, if it is arbitrary, illegal or unauthorised. The petitioner does not say so. All that he says is that the action is not proper or economical. He is obviously unable to say that the action is illegal as the law does not define what is right or at least what is wrong, in such a situation. The law does not specify the maximum size of a Ministry nor contain the guidelines for formation of the ministry. What may be perceived as improper by the petitioner may be considered as politically expedient by the second respondent. That a particular act could have been done by the Executive in a different manner, to yield a better and more efficient and economical result, is not a ground for interference by Courts. After all, democracy is not known to be the most efficient or economic form of Government. The advantage of democracy does not lie in being efficient or economical, but in trying to be consistently and uniformly beneficial to its citizens. Its advantage is that, sovereign power, instead of being exercised by an individual or a coterie, vests in and is exercised by the

citizens through its representatives with sufficient checks and counter-checks to ensure proper Government. In the circumstances, Judiciary should restrain itself from entertaining any form of challenge to the formation of a Ministry.

6. The petitioner submits that the Court should exercise its judicial activism to curb extravagance and act as catalysts to bring in reforms, as there are no bounds to the powers under Article 226. That there are no bounds, is itself the greatest restraining factor in exercising the power under Article 226. The following observation of the Supreme Court in *State of Rajasthan and Others Vs. Union of India and Others*, may be apposite:

"It is not for Courts to formulate, and, much less, to enforce a convention however necessary or just and proper a convention to regulate the exercise of such an executive power may be. That is matter entirely within the executive field of operations..."

7. The petitioner next contended that judiciary may cause serious damage, if it fails to interfere where it ought to. But, it is well to remember that judiciary may cause equal, if not more, damage by interfering where it ought not to. Judiciary is neither intended, not geared, to solve all problems, nor should it try to solve all problems, merely because problems are brought before it. The Courts can interfere only where it can and where it should. In regard to political problems, it is more appropriate to seek political solutions, before the forums where the matter can be agitated, highlighted and projected. Petitioner is at liberty to do so, as the cause is undoubtedly in public interest.

8. Petitioner is not entitled to any relief in this writ proceeding. No ground made out to issue Rule Nisi. Petition rejected.