
(1987) 04 MP CK 0018

In the Madhya Pradesh High Court

Case No : Civil Revision No. 195 of 1986

Laxmi Narayan

APPELLANT

Vs

Madan Mohan and Another

RESPONDENT

Date of Decision : 21-04-1987

Acts Referred:

Constitution of India, 1950 — Article 15(4), 16(4)

Citation : AIR 1988 MP 142

Hon'ble Judges : T.N. Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

T.N. Singh, J.—The plaintiff prayed for exemption from payment of court-fee in the trial Court and his prayer was accepted. In doing so, the Court below placed reliance on two Notifications of the State Government, being Notification No.F. 9-1-83-B-XXI, dated 1st April, 1983 (published in Madhya Pradesh Rajpatra (Asadharan), dated 1-4-1983) and No. F 8-5-25-4-84, dated 26th Dec., 1984 (published in M.P. Rajpatra Part I, dated 8-2-1985), hereinafter referred to as Notifications "A" and "B" respectively.

2. Because Notification "A" is of immediate and crucial relevance to the controversy the text thereof deserves to be extracted in extenso, with a portion duly emphasized :

"In exercise of the powers conferred by Section 35 of the Court-fees Act, 1870 (No. 7 of 1870), the State Government hereby remits in the whole of the State of Madhya Pradesh, the Court-fees mentioned in Articles 1-A and 2 of the first schedule and Articles 5, 17 and 21 of the second schedule to the said Act payable on plaint by the following categories of persons whose annual income immediately preceding the date of presentation of plaint from all sources does not exceed thousand, namely : --

(i) member of Scheduled Tribes;

- (ii) member of Scheduled Castes:
- (iii) minors:
- (iv) women:
- (v) artisan;
- (vi) unskilled labourer;
- (vii) landless labourer:
- (viii) person belonging to the weaker sections of society.

Explanation: -- For the purposes of this notification : --

(i) "Member of Scheduled Castes" means a member of any caste, race or tribe or part of or group within caste, race or tribe specified as such with respect to the State of Madhya Pradesh under Article 341 of the Constitution of India:

(ii) "Member of Scheduled Tribes" means a member of any tribe, tribal community or part of or group within a tribe or tribal community specified as such with respect to the State of Madhya Pradesh under Article 342 of the Constitution of India."

3. By Notification "B", issued in pursuance to the provisions of Articles 15(4) and 16(4) of the Constitution, the State Government has declared the classes of citizens included in the Schedule thereof as "Socially and educationally backward classes." The Schedule contains as many as 82 entries, including entry No. 33 of which clause (b) reads -- "Mali (Saini) Marar". The plaintiff non-petitioner was held entitled to the exemption prayed as he admittedly belonged to the class of citizens who were known as "Mali" by caste and on that ground he was considered by the trial Court as belonging to "weaker sections of the society."

4. The short question for decision in this, revision, therefore, is what meaning has to be attributed to the term "weaker sections of the society" of clause (viii) of Notification "A" and whether the trial court acted without jurisdiction in extending to the plaintiff benefit of the said Notification on the ground that the plaintiff was a person belonging to backward class, covered by entry No. 33(b) of Notification "B".

5. Shri A.K. Shrivastava, vocal and vociferous as he always is, has very strenuously urged that the trial court's interpretation of the term "weaker sections of the society" is ultra vires the Notifications as also the Constitutional provision and exemption from payment of court-fees granted to the plaintiff non-petitioner is illegal and without jurisdiction.

6. However, the arguments of the learned counsel have not appealed to me for more than one reason. Firstly, the term "weaker sections of the society" is subject to the general qualification which applies to all classes of all cases covered by the Notification "A". Thus, the first condition to be satisfied to avail

the benefit of Notification "A" is that the plaintiff must satisfy the Court that his annual income from all sources did not exceed Rs. 6,000/-. Secondly, the fact is that the term "weaker sections of the society" is not defined anywhere in the two Notifications as also in Articles 15 and 16 of the Constitution though in Notification "A" itself, the Explanation defines the terms "Member of Scheduled Caste" and "Member of Scheduled Tribe" with reference to Articles 341 and 342 respectively of the Constitution. Indeed, the position that the expression in question has a very wide import is even conceded by Shri Shrivastava. It is not limited evidently to members of Scheduled Castes or Scheduled Tribes, or even to other citizens who suffer disability of other types such as of age and sex, and indeed, of inferior socio-economic status as is clearly projected in the application of the Notification to artisan, unskilled labourers and landless labourers who may not be of Scheduled Tribes or Scheduled Castes or minors or women, but may belong to any section of the society.

7. I have no doubt that Clause (viii) of Notification "A" is meant to be read as a residuary clause to cover cases of such classes of citizens who suffer social disability in other ways making it obligatory for the State to take care of their weaker position in society, to protect them against exploitation. The maxim. *Noscitur a sociis*. lends support to such an interpretation. Indeed, what is the object of the Notification is also to be kept in view in interpreting the expression "weaker sections of the society." By granting exemption from payment of court-fees persons suffering social, economic and socio-economic oppression as a member of a class of citizens are encouraged individually to take recourse to law to enforce their legal rights and fight exploitation. Let it not be forgotten that to adopt measures for establishment of a just social order is State's constitutional responsibility.

8. True it is that notification "A" does not, in terms, speak of "backward classes", but An. 15(4) also does not speak of "backward classes as such and rather speaks of "socially and educationally backward classes" in categorical terms. Indeed, though Article 15(4) speaks categorically of Scheduled Castes and Scheduled Tribes, the protective discrimination or rather weightage envisaged thereunder is extended further to persons who suffer in other ways social disability and inequity inasmuch as it speaks also of persons who are "socially and (or) educationally backward" class of citizens. In other words, those persons who suffer, a lower social ranking or social inequity as a class not only being educationally starved but being otherwise prone to exploitation are also sought to be upgraded and protected by constitutional weightage to neutralise the social inequity they have suffered during the colonial period or even before that. It is not necessary to say further that Articles 15(4) and 16(4) merely sing the signature tune of the Constitution, of social justice. Indeed, the Supreme Court in the case of *K.C. Vasant Kumar v. State of Karnataka*. AIR 1975 SC 1495, has indicated tests to identify the "other backward classes".

9. A period of another 15 years, it was held by their Lordships, may be

reasonably necessary for the upper crust of the oppressed classes to overcome the baneful effects of long periods of social oppression, isolation and humiliation. While it was held that the policy of reservation should be revised every five years or so, twin tests to identify the "other backward classes" were laid down. The classes so specified, it was held, must be comparable to Scheduled Castes and Scheduled Tribes in the matter of their backwardness but their economic backwardness ("means test") should also be considered in the context of prevailing economic conditions. I have no hesitation to read the term "weaker sections of the society" to include also citizens of "backward classes" who are covered by Notification "B" issued in pursuance to Articles 15(4) and 16(4) of the Constitution, because the nexus of classification made in Notification "A" concerning "weaker sections of the society" to that of classification made in Notification "B" concerning "socially and educationally backward classes of citizens" is clear, unimpeachable and indissoluble. Indeed the scheme of Notification "A" mandates such a course; it indicates the imperative necessity of establishing an equation between the expression "weaker sections of the society" and Articles 15(4) and 16(4) in the same way as the Explanation refers to Articles 341 and 342 to define the terms "Scheduled Castes" and "Scheduled Tribes".

10. I do not see any scope for any misuse of the benefit envisaged under Notification "A" by citizens covered by Notification "B" inasmuch as the Notification "A" clearly envisages itself the "means test" in that who are sought to be benefited are those who are economically backward also and are not only "socially backward" inasmuch as the first condition to be satisfied for application of Notification "A" is that the claimant must be such a person whose annual income from all sources does not exceed Rs. 6,000/-. True it is as Shri Shrivastava has submitted, even citizen belonging to socially backward classes identified in Notification "B" may not all be so because they may not be all economically deprived. But the question is, whether the class of citizens presently so specified may have the benefit of Notification "A". The answer is simple and clear indeed spelt out in K.C. Vasanth Kumar and Another Vs. State of Karnataka, that it would be appropriate for the State Government to review the classification of other backward classes every five years in the light of prevailing economic conditions of the society generally and their position in respect thereof.

11. Shri Shrivastava is still not satisfied and he stands up to urge that the trial Court's finding be upset in regard to the annual income of the plaintiff. I must commend the courage of the learned counsel in making such a prayer in revision, knowing it fully well that it is beyond my province to do so. Indeed, what I read in the impugned judgment is that the trial court has categorically taken a considered view of the matter saying that the evidence of the plaintiff was worthy of reliance. The trial court has accepted plaintiff's evidence as respects income which, he deposed, was nothing else than the meagre pension of Rs. 200/- per month. The learned trial Judge has, in categorical terms, preferred his evidence to the evidence adduced by the revisionist/defendant and has driven

hard the nail to seal defendant's opposition to the grant of exception to the plaintiff from payment of court-fees in terms of Notifications "A" and "B".

12. For all the foregoing reasons, this revision must merit instant dismissal, but I make no order as to costs.