
(2014) 08 DEL CK 0280
In the Delhi High Court
Case No : W.P.(C) 4741/2014

Maulana Ansar Raza

APPELLANT

Vs

Udhav Thackrey

RESPONDENT

Date of Decision : 22-08-2014

Acts Referred:

Citation : (2014) 08 DEL CK 0280

Hon'ble Judges : G. Rohini, C.J.; Jayant Nath, J

Bench : Division Bench

Advocate : Nawal Kishore Jha, Advocate for the Appellant; Sanjay Jain, ASG, Anil Soni and Naginder Benipal, Advocate for the Respondent

Final Decision : Dismissed

Judgement

G. Rohini, C.J.—The petitioner, who claims to be the Chairman of a NGO Gharib Nawaz Foundation, pleads that he is a social activist and works for betterment of the society. The present writ petition is filed purportedly in public interest seeking directions to immediately arrest the Members of Parliament of Shiv Sena for allegedly provoking religious sentiments of minority communities by forcing a Muslim Catering Supervisor at the New Maharashtra Sadan, New Delhi, who was fasting for Ramzan, to eat chapati.

2. It is averred by the petitioner that the facts mentioned in the writ petition are based on the reports of print and visual media about the alleged action of Members of Parliament from Maharashtra whereby they had force fed `chapattis" to a `rozedar" Muslim Resident Manager at Maharashtra Sadan. Contending that the said action of the Members of Parliament provokes religious sentiments of the citizens of India, the petitioner sought the following reliefs:-

a) Direct the Speaker of both the houses of Parliament to initiate disqualification process of these Members of Parliament being unbecoming the Member of Parliament after the incident at New Maharashtra Sadan,

b) Direct the respondent Union of India, i.e., Home Ministry to immediately

arrest all those involved Shiv Sena Member of Parliament in the incident.

c) Direct the Election Commission to start the procedure for de-recognizing the Shiv Sena party after this incident according of Representative of Peoples Act,

d) Direction the respondent Union of India to form a special investigation team under the Chairmanship of sitting High Court Judge to inquire this matter and place report before this Hon''ble Court under the sealed cover.

3. We have heard the learned counsel for the petitioner.

4. The learned Additional Solicitor General, Shri Sanjay Jain who appeared on behalf of the respondent No.14 - Union of India on advance notice, at the outset has brought to our notice that the issue sought to be espoused in the instant writ petition has already been taken note of by the Department of Home and after making the necessary enquiry, the Home Minister on 25.07.2014 made a statement in the Parliament that the incident was regrettable and unfortunate and that the Government is committed to safeguard religious freedom guaranteed by the Constitution to its citizens. A copy of the statement made by the Home Minister has been placed before this Court which reads as under:-

"According to a report received from the Government of Maharashtra on 17.07.2014, at around 11.30 a.m. a few Hon''ble Members of Parliament from Maharashtra expressed their objection to the quality of food being served by IRCTC at New Maharashtra Sadan. Thereafter, they demanded immediate discontinuation of IRCTC services there.

2. It has also been informed that they entered the Camp Office and also the kitchen room of the Resident Commissioner at New Maharashtra Sadan and expressed their objection. Thereafter, they reportedly tried to feed as 'Chapati' to Shri Arshad Zubair, Resident Manager of IRCTC while taking exception to the quality of food being served.

3. Subsequently, the IRCTC terminated their contract with the Maharashtra Sadan by a letter, dated 18.07.2014 for providing Catering and IT services. It has been informed by the IRCTC that their decision to the aforesaid effect is final and irreversible. No complaint has been filed by Shri Arshad Zubair with the local police. The Resident Commissioner of Maharashtra Sadan has apprised the Office of the Chief Secretary, Maharashtra of this matter. However, no complaint has been filed by him.

4. I would like to inform this House through the Hon''ble Chairman that the incident was regrettable and unfortunate.

5. I would also like to inform this House that our Govt. is committed to safeguard religious freedom guaranteed by the Constitution to its citizens. I would like to appeal to all the Hon''ble Members that we should all make constant efforts for maintaining religious harmony in our country.

5. It is also submitted by the learned ASG that as per the instructions received

from the Additional Commissioner of Police, New Delhi District to the Ministry of Home Affairs, the victim has not made any complaint, however, two complaints have been received, one from Sh.Prabhat Kumar, President, Aam Admi Sena, WZ-47, Lajwanti Garden, New Delhi and the other from Sh.Imran Ali, (Advocate Delhi High Court), resident of A-26, Ghasoor Nagar, Jamia Nagar, New Delhi regarding the issue stating that the behaviour of the Members of Parliament has deeply hurt their feelings and their action has caused a rift between communities and that the said complaints are being looked into from the legal point of view.

6. On a perusal of the documents produced by the learned ASG, it is found that the Members of Parliament from Maharashtra expressed their objection to the quality of food being served by IRCTC at New Maharashtra Sadan and that they reportedly tried to feed a chapatti to Shri Arshad Zubair, Resident Manager of IRCTC. The Resident Commissioner of Maharashtra Sadan has apprised the Office of Chief Secretary, Maharashtra of this matter, however, no complaint has been filed by the Resident Manager, i.e., the aggrieved party before the local police.

7. As noticed above, two complaints have already been received by the Additional Commissioner of Police about the alleged incident and appropriate action is being taken in accordance with law. Moreover, a statement has been made by the Home Minister terming the incident as regrettable and unfortunate and that the Government should make constant efforts for maintaining religious harmony in the country.

8. Under these circumstances, we are of the opinion that initiation of proceedings by a third party under the garb of public interest litigation is not at all warranted. It may also be added that though the petitioner claims to be the Chairman of a registered Society/Company, no particulars whatsoever have been furnished about the registration much less the activities of the so- called Society/Company. It is also relevant to note that though, as stated in the petition, the petitioner seeks to rely on the basis of information gathered from Newspaper, T.V., News reports and Social Media, no such report or any other relevant document has been annexed or placed on record before this Court and the writ petition has been filed without attaching any of the relevant materials in support of the averments made therein.

9. In *Ashok Kumar Pandey Vs. The State of West Bengal and Others*, , Supreme Court while dealing with sources and nature of information on which PIL is to be based has observed that the Court has to be satisfied about: (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; and (c) the information being not vague and indefinite. The information should show the gravity and seriousness involved. The Supreme Court further held that the Court has to strike balance between two conflicting interests, (i) nobody should be allowed to indulge in wild and reckless allegations besmirching that character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the Court cannot afford to be liberal. It has to be

extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the executive and the legislature.

10. In the present case, the petitioner has miserably failed to furnish any particulars to establish his credentials to maintain the writ petition by way of public interest litigation. Moreover, in view of the steps that have already been taken by the concerned authorities/departments, we are of the opinion that the matter does not deserve intervention by this Court.

11. For the aforesaid reasons, we decline to entertain the writ petition and the same is accordingly dismissed.