

(2009) 02 KAR CK 0036
In the Karnataka High Court
Case No : Writ Petition No. 5050 of 2009

Ms. Belle Ravivarma

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 26-02-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2009 Kar 2303 : (2009) 4 KarLJ 724 : (2009) 3 KCCR 1932

Hon'ble Judges : P.D. Dinakaran, C.J.;S.R. Bannurmath, J

Bench : Division Bench

Advocate : Ravivarma Kumar for Vigneshwara S. Shastri, for the Appellant;

Final Decision : Dismissed

Judgement

P.D. Dinakaran, C.J.—The petitioner - a law student - has filed the above public interest litigation, seeking a writ of certiorari declaring the advertisements issued by the respondent herein carrying the name and photograph of Mrs. Sonia Gandhi, as unconstitutional, illegal and void and also seeking a writ to forebear the Union of India and all its instrumentalities from issuing advertisements for whatsoever purpose, carrying the name and the photograph of Mrs. Sonia Gandhi, and to issue a mandamus to the respondent-Union of India to initiate an enquiry and fix the responsibility of the persons who are responsible for issue of such advertisements, direct the expenditure incurred in issuing the advertisements to be recovered from the person responsible for issue of such advertisements in all the newspapers, electronic media etc. An interim prayer is also made seeking issue of temporary injunction to restrain the Union of India or/ and all its instrumentalities from issuing any advertisements carrying the name and photograph of Mrs. Sonia Gandhi.

2. When the matter was moved for admission, this Court raised an objection as to whether the power of judicial review conferred under Article 226 of the Constitution of India be exercised by this Court against publishing of the name and photograph of Mrs. Sonia Gandhi - a sitting Member of Parliament - in all the

advertisements being published by the Union of India or/and its instrumentalities and whether a writ can be entertained or issued in this regard against an individual - Mrs. Sonia Gandhi?

3. Sri Ravivarma Kumar, learned Senior Counsel appearing for the petitioner, immediately came forward to delete the name of Mrs. Sonia Gandhi, who was initially arrayed as second respondent to this writ petition. Accordingly, the Counsel on record deleted the name of Mrs. Sonia Gandhi as a party respondent in this writ petition.

4. But, we feel that the objection raised in the above writ petition is only against carrying the name and photograph of Mrs. Sonia Gandhi in the advertisements published by the Union of India or/and its instrumentalities. According to Sri Ravivarma Kumar, learned Senior Counsel appearing for the petitioner, Mrs. Sonia Gandhi is not holding any constitutional position and therefore there is no justification whatsoever in publishing an advertisement carrying her name and photograph, as it would otherwise amount to an unauthorised and wasteful expenditure being incurred from the tax payers' money.

5. It is on this ground, Sri Ravivarma Kumar, learned Senior Counsel appearing for the petitioner, contends that the person/s responsible for issue of such advertisements and spending money from the State exchequer should be made accountable. It is further submitted by the learned Senior Counsel that Mrs. Sonia Gandhi is only the Chairperson of the United Progressive Alliance (UPA), but she does not enjoy any constitutional status or legal recognition either under the Representation of the People Act, 1951 or under the Election Symbols (Reservation and Allotment) Order, 1968 and therefore it is contended that the advertisements issued by the Union of India or/and its instrumentalities, carrying the name and photograph of Mrs. Sonia Gandhi is a serious breach of protocol, especially when the photographs of President of India, Vice-President of India etc., have not been published in any of the advertisements. Hence, the above public interest litigation.

6. We have heard Sri Ravivarma Kumar, learned Senior Counsel appearing for the petitioner at length. Sri Ravivarma Kumar, however, is neither disputing that the Union of India or/and its instrumentalities, much less any Government, has the right to publish advertisements showcasing their programmes and achievements, as the case may be; nor the legal sanction for publishing such advertisements. The only objection, according to the learned Senior Counsel, is against the publishing of the name and photograph of Mrs. Sonia Gandhi in the advertisements being published by the Union of India or/and its instrumentalities or any authorities under it.

7. We are of the considered opinion that if there is any grievance by the petitioner against issue of any advertisement in the media at the cost of the tax payers' money without reference to any individual leader, we would have appreciated such contention. But, the grievance of the petitioner appears to be

only against publication of the name and photograph of Mrs. Sonia Gandhi. If that to be so, the only answer is that it is an admitted fact that Mrs. Sonia Gandhi is the Chairperson of UPA and the Chief Architect of Common Minimum Programme (CMP) of the UPA, which was acknowledging and guiding torch for the Union Government for the past five years. If the challenge is only based on carrying the name and photograph of Mrs. Sonia Gandhi in the advertisements, we still fail to understand how the authorised expenditure would suddenly be termed as an "unauthorised" one by merely publishing the name and photograph of an individual.

8. On a perusal of the photographs produced along with writ petition, of course, indicates that not only the name and photograph of Mrs. Sonia Gandhi alone, but the advertisements carry the names and photographs of Hon"ble Prime Minister, other Hon"ble Ministers and Hon"ble Chief Ministers of the States. By adding the name and photograph of Mrs. Sonia Gandhi, who is a sitting MP and Chairperson of UPA, in our opinion, by itself would not amount to unauthorised expenditure spent for such advertisements carrying the names and photographs of constitutional functionaries. We are, therefore, unable to appreciate the contention raised on behalf of the petitioner as either logical or legal.

9. That apart, whether an individual is acknowledged in the eye of the public as a leader, national leader or global leader, is a matter of reality, much less a political reality, which cannot, in our considered opinion, be questioned or challenged invoking the powers of judicial review of this Court under Article 226 of the Constitution of India, terming such policy decision of the Government to advertise its programmes or to publicise achievements in the political interest, particularly, when the right of the Government for advertise its programmes and achievements as well as the legal sanction towards such expenditure, are not questioned by the petitioner.

10. If there is no virtue in criticising a leadership of an individual as political sycophancy, there is no sin in acknowledging a leader as political leader, popular leader, national leader or global leader, which, in our considered opinion, is a matter of reality, much less political reality, into such political thicket, this Court should not hasten to enter into exercising the power of judicial review under Article 226 of the Constitution of India.

Writ petition is dismissed.