
(1987) 10 MP CK 0007
In the Madhya Pradesh High Court
Case No : M.P. No. 740 of 1987

Mumtaj Khan Babukhan

APPELLANT

Vs

State of Madhya Pradesh and others

RESPONDENT

Date of Decision : 05-10-1987

Acts Referred:

Citation : (1989) MPLJ 469

Hon'ble Judges : T.N. Singh, J; R.M. Rastogi, J

Bench : Division Bench

Advocate : K.N. Gupta, for the Appellant; J.S.L. Sinha, Govt. Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Shri K.N. Gupta, counsel for the petitioner.

Shri I.S.L. Sinha, Government Advocate, for the State.

Heard counsel in the matter of admission.

The petitioner has described himself colourfully and indeed he dons coloured robes, of many colours. He is a social worker and also a political activist but in this matter his counsel Shri Gupta, submits that he is motivated to espouse "public cause" in prosecuting, according to Shri Gupta, "public interest litigation".

Counsel has cited Ram and Shyam Company Vs. State of Haryana and Others, to submit that the petitioners' standing may be contested but the judicial dicta of the Apex Court must be brought to the notice of the concerned authority to serve a public cause. We applaud counsel's generous move. We are not moved yet by law as well as facts to give any relief to the petitioner as his motives are doubtful and indeed there is no public cause ripe for redressal.

The petitioner is aggrieved because a sand-quarry, in respect of which public auction took place on 31-1-1987 is being resettled with the sitting lessee, respondent No. 4. Indeed, apprehension of the petitioner is that State exchequer

may lose revenue if that happens. At para 6 of the petition it is stated that respondent No. 5, Suresh Kumar Dubey participated in the auction and made the highest bid of R.s. 1,55,000/- for the quarry. Before the bid could be finalised higher ups in the administration took charge of the matter and made a preemptive strike nullifying the public auctions. However we are not satisfied, at this stage, as if there is likelihood of a loss being occasioned to the public exchequer because of what we read in the statutory provisions. We have no doubt that the State is bound by the law (sic) as also judicially pronounced and if it is not cognizant thereof then we may (sic) bring to the notice of the concerned authority the law as we are constitutently mandated to do so.

We have looked into the M. P. Minor Mineral Rules, 1961. We are satisfied that a sitting lessee is not debarred to make a bid for renewal of his lease because Rules 8 and 11, as Shri Gupta concedes, expressly provide therefor. According to us, Rule 21 as well invest in the State Government the necessary power that any "quarry lease may be renewed for one or more periods not exceeding in each case the period for which the lease of quarry was originally granted." However, what is important to be noted by us and also by the first respondent. State of Madhya Pradesh, is that "rates in force at the time of renewal" would be applicable even when a renewal is granted. Legislature has thus verily taken care of fiscal discipline for the Renewing Authority, and that authority is mandated to abide by it. Ram and Shyam (supra) has made no secret of judiciary's repulsion for secretive moves of the Executive in these matters. It was held that the highest bidder, if otherwise qualified, has to be preferred as any other action would be arbitrary in the matter of distribution of State largesse, which is impermissible. However, we are not concerned in this petition to adjudge validity of the action of the first respondent as to whether renewal of the lease in favour of the 4th respondent is mala fide because no basis therefor has been laid in the petition and indeed the proper person to challenge the act of renewal is not before us.

State counsel Shri Sinha has intervened in this matter and has submitted that respondent No. 5 the highest bidder, had independently come before the court earlier but was unsuccessful. This is conceded too by Shri Gupta, who submits that the petition was dismissed as premature. We are of the same view even today in this matter. Indeed, we have said earlier that we are not in the least satisfied that by renewing merely the lease of the 4th respondent the State was actuated by any such motive as runs counter to the enacted law aforesaid or their Lordships' pronouncement made in Ram and Shyam (supra). We have no doubt that for the renewal period appropriate rates shall be fixed by the State Government to ensure that there is no drain on the State treasury.

So far as the standing of the petitioner is concerned we recall a Division Bench decision to which one of us (Dr. T. N. Singh, J.) was a party. In Jagram Vs. Gwalior Town and Country Development Authority Gwalior and Others, the rests of maintainability of a public interest litigation action this Court hinted in para 9

of the report, albeit by distilling the essence from several decisions rendered by the Apex Court in the case of S. P. Gupta, AIR 1982 SC 194 People's Union for Democratic Rights and Others Vs. Union of India (UOI) and Others, and Bandhua Mukti Morcha Vs. Union of India (UOI) and Others, . When a petition is filed to pursue a public interest litigation this Court, it was said, must see whose cause is the petitioner promoting? Whose fundamental right or other right, if any, has been infringed? Who has to be relieved against any wrong and injury caused to him for which he cannot come to this Court? These tests were indicated illustratively as several pieces of the litums with which maintainability of a public interest litigation has to be tested because such petition has to be only in "public interest" and for a "public cause".

In this petition, looking at the array of the parties and at the recent history which respondent No. 5 has created in this Court, we are of the view that it is not a case in which we can safely and affirmatively hold that the petitioner is pursuing bona fide a public cause. So much for his standing. In so far as the first respondent's statutory duty is concerned, we time made the position clear in that regard, to discharge our own constitutional duty.

With the above observations this petition is dismissed.