
(1994) 10 KAR CK 0029

In the Karnataka High Court

Case No : W.P.S. No's. 30397 to 30399 of 1994

Mysore Paper Mills Officers Association

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 24-10-1994

Acts Referred:

Constitution of India, 1950 — Article 19, 19 (1)

Citation : (1994) ILR (Kar) 3759 : (1995) 4 KarLJ 665 : (1995) 2 LLJ 228

Hon'ble Judges : M.F. Saldanha, J

Bench : Single Bench

Judgement

Saldanha, J.—This Group of Petitions has been presented by the Mysore Paper Mills Officers' Association and two of its office bearers. Briefly stated the Management has issued a show cause notice to the 2nd and 3rd petitioners calling upon them to indicate as to why disciplinary action should not be taken against them principally on the ground that they have infringed Rules 19, 20, 21 and 22 of the Service Regulations. The short facts are that the petitioners 2 and 3 in the capacity as office bearers of the Association are alleged to have issued certain press releases and made certain statement which according to the Management infringes upon the Regulations in question. There is also a subsidiary head of charge namely charge-4 whereby it is contended that the petitioners have made unauthorised disclosures of information and documents that came into their possession in the course of their duties and it is observed here that the petitioners have approached this Court at a very preliminary stage. They have not so far filed their replies nor has the inquiry proceeded. They have come to the Court on the plea that Regulations 19 to 22 contain provisions that infringe their Fundamental Rights particularly the one in relation to the freedom of speech and expression that is embodied in Article 19(1) of the Constitution. In sum and substance, it is their contention that the Regulations in the present form fetter the Fundamental rights of the petitioners, regardless of the fact that they are employees of the Company insofar as they are citizens of India.

2. I have gone through the Regulations in question. In sum and substance they prohibit employees approaching the media in relation to matters that pertain to the day-to-day functioning of the Company. There is also a prohibition in respect of not only making such disclosures but in respect of documents and information that have come into the possession or knowledge of the employees in the course of their duties. Essentially, the Regulations have been framed for the purpose of maintaining a degree of discipline as also confidentiality in relation to the functioning of the Company. The short question that is posed for consideration before this Court is as to whether the restrictions embodied in these four Regulations offend the Fundamental Rights of the petitioners. If the answer is in the affirmative then the petitioners are certainly entitled to challenge the vires of the Regulations in question.

3. Apart from submitting that the petitioners are citizens of India, have every right to protest against unjust, improper, unfair or dishonest acts, Mr. Subba Rao contended that in situations where the petitioners are vitally concerned with the future of survival of the Company and where the instance are serious enough to be of public interest, that they are fully justified in going to the media with their grievance. He sought to point out that the petitioners as officer bearers of the Association have been complaining to the concerned authorities and it is because of the inaction on the part of the authorities who have not taken any steps in the matter that they are left with no option except to go to the media in order to generate strong public opinion which in turn would perhaps propel the authorities to embark upon an investigation and appropriate action. It is his contention that the entire action was justified and well motivated and that the petitioners are within their rights in whatever they have done and that consequently, in law, no inquiry is warranted.

4. Mr. Subba Rao has relied on a few decisions which I shall refer to briefly. In the first instance he relied on the decision reported in Kameshwar Prasad and Others Vs. The State of Bihar and Another, wherein, the Supreme Court struck down a blanket provision which imposed a total ban on demonstrations. It is true that on the facts of that case the Supreme Court did intervene but the justification is apparent from the Judgment itself in so far as the basic rights of the petitioners as members of a particular Union had been completely and totally fettered which is not something within the scope of a reasonable restriction.

5. Mr. Subba Rao placed strong reliance on a Division Bench judgment of this Court reported in B. Manmohan and Others v. State of Mysore and Others AIR 1966 Mys 261 wherein this court had occasion to strike down Regulation 7(o) of the Government Service Conduct Regulation. Once again, the Court in that case was concerned with a total fetter on the exercise of Fundamental Rights by the Government servants which unfortunately is not the position as far as the present Regulations are concerned. Mr. Subba Rao placed reliance on several of the observations of this Court in the division Bench Judgment and he submitted that they apply completely to the facts of the present case in so far as the

Regulations in question totally preclude his clients from giving expression to any form of grievance or injustice. A bare reading of the Regulations however indicates that that is not the position.

6. Mr. Subba Rao next placed reliance on another Decision of the Supreme Court reported in *Dr. V.K. Javali Vs. State of Mysore and Another*, He relied basically upon paragraph 21 of the Judgment wherein, the Supreme Court was required to strike down Rule 26(a) principally because that Rule infringed upon the Fundamental Rights of the petitioners. This again was a blanket ban on the exercise of those rights. Lastly, Mr. Subba Rao placed reliance on the observations of the Apex Court in the decision reported in *O.K. Ghosh and Another Vs. E.X. Joseph*, wherein the Supreme Court was concerned with a Regulation under which there was a total ban of strikes. It is well settled law that is now recognised even by the Courts that employees of a Trade Union in appropriate cases do have the right to resort to strike action. In that situation the Supreme Court upheld the petitioners' grievance that a total ban on strikes was not contemplated and was not permissible as far as legal structure of this Country is concerned. The principle enunciated in the aforesaid decision are undoubtedly profound principles and represent the crystallised position in law. The short point for consideration before me is as to whether, on facts, the four Regulations that are impugned in the present petition offend the guarantees contemplated by Article 19(1) of the Constitution. Mr. Subba Rao dealt with the concept of reasonable restriction and he submitted that the restrictions placed in the present case are totally unreasonable and therefore, that they are ultra vires Article 19(1) of Constitution. To my mind, a careful reading of all the 4 Regulations indicates that there is no total or blanket ban on the exercise of the petitioner's rights of freedom of speech, expression, association, etc. All that is in fact done is to impose some restriction with regard to the manner in which an officer/employee has to conduct himself. To my mind, apart from discipline and propriety it is also a requirement of law that an officer/employee of a Company has to maintain a certain degree of confidentiality and conduct himself with a degree of propriety. These are part of their job functions. There is a prescribed procedure for the redressal of grievances and the Management is certainly within its right to prevent unauthorised or improper publication or going to the press or the media with all sorts of issues that are within the confidential framework of the management. To my mind, the restrictions that are embodied in the 4 Regulations are perfectly reasonable and necessary and therefore do not offend Article 19 of the Constitution. The second aspect of the matter namely the question as to whether the employees concerned have justifiably been proceeded against or not is not a matter which I propose to consider because the petitioners are entitled to fairly and fully agitate their defence in the course of the proposed inquiry. They should not be prejudiced in the least in the exercise of that right.

7. Unless the Regulations in question are ultra vires Article 19 of the Constitution, to my mind, the present challenge in the 3 Petitions cannot be permitted. The petitions accordingly fail and stand dismissed.