
(2006) 03 DEL CK 0177
In the Delhi High Court
Case No : CW No. 21220 of 2005

Narinder Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 10-03-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 20

Citation : (2006) 03 DEL CK 0177

Hon'ble Judges : Vikramajit Sen, J

Bench : Single Bench

Advocate : B.B. Bhatia and Iti Sharma, for the Appellant; Parag P. Tripathi and Suresh Kait, for Respondents 1-4, R.K. Jain and J.M. Sharma and Sandeep Singh, for the Respondent

Final Decision : Dismissed

Judgement

Vikramajit Sen, J.—In this Petition a challenge has been laid to the Nomination of Respondent No.5 as a member of the Meerut Cantonment Board. The Petitioner as well as Respondent No.5 are residents of Meerut. It has been prayed that Respondents 1-4 be directed to remove Respondent No.5 as the Civilian Member of the said Meerut Cantonment Board. Respondent No.3 is the General Officer Commanding in Chief [G.O.C.-In-C), Central Command, Lucknow Cantt.; Respondent No.4 is the Principal Director, defense Estate, Lucknow Cantt. Only Respondent No.1, Union of India and Respondent No.2, Director General, defense Estate, are located in New Delhi. It has further been prayed that the Gazette Notification dated 28.9.2005, to the extent it pertains to Meerut, be quashed. The third prayer is for the issuance of a direction to nominate and install the Petitioner in the Cantonment Board, Meerut as the Civilian Member up to 30.6.2006.

2. Having heard learned counsel for the parties I am of the opinion that this Court ought not to exercise jurisdiction in the matter, and that the Petitioner should be given liberty to approach the High Court of Judicature at Allahabad or

any other Court holding territorial sway over the dispute.

3. The subject of when and which Court should exercise jurisdiction has received considerable attention of the Hon"ble Supreme Court. In *M/s. Patel Roadways Limited, Bombay Vs. M/s. Prasad Trading Company*, , in the context of Section 20 of the Code of Civil Procedure, the Court observed as follows:

It would be a great hardship if, in spite of the Corporation having a subordinate office at the place where the cause of action arises (with which in all probability the plaintiff has had dealings), such plaintiff is to be compelled to travel to the place where the Corporation has its principal place. That place should be convenient to the plaintiff; and since the Corporation has an office at such place, it will also be under no disadvantage.

This reasoning applies even to writ petitions. If the "Corporation at its principal office" is substituted by the Union of India, and the "place where the Corporation has a subordinate office where the cause of action has arisen" is replaced by Respondents No.3 and 4, the Judgment compels this Court not to exercise jurisdiction.

4. Reference may also be made to *Oil and Natural Gas Commission Vs. Utpal Kumar Basu and Others*, . In *Union of India and Others Vs. Adani Exports Ltd. and Another*, it had been opined that -? each and every fact pleaded in the application does not ipso facto lead to the conclusion that those facts give rise to a cause of action within the Court's territorial jurisdiction unless those facts pleaded are such which have a nexus or relevance with the lis that is involved in the case. Facts which have no bearing with the lis or the dispute involved in the case do not give rise to a cause of action so as to confer territorial jurisdiction on the Court concerned?. Similar views have also been articulated in *Kusum Ingots and Alloys Ltd. Vs. Union of India (UOI) and Another*, in the following words:-

30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens.

5. These expositions of the law adumbrating the circumstances when a High Court should choose not to exercise its extraordinary powers under Article 226 of the Constitution may now be applied to the facts of the present case. From a perusal of the Writ Petition itself it is apparent that GOC-In-C, Central Command, had invited names for nominations of its Civilian Members to the Cantonment Board, Meerut, i.e. beyond the ordinary territorial limits of this Court. The Petitioner filed his Nominations in Meerut and filed Objections to the application of Respondent No.5 also at Meerut. The Principal Director, defense Estate, Lucknow, conducted an inquiry and submitted his Report in the State of Uttar Pradesh (U.P.). Reliance has been placed on the inquiry of the Lok Ayukt, U.P.

Against the Nomination of Respondent No.5 a Representation was sent by the Petitioner to the defense Minister but nevertheless the Ministry of defense published the Nomination of Respondent No.5 in the Gazette of India extraordinary.

6. The predominant and substantial part of the cause of action has arisen in the State of U.P. Only a trivial part thereof, if at all, could be contended to have arisen in Delhi. The UOI as well as the Director General of defense Estate can conveniently defend itself either directly or through Respondents No.3 and 4 in U.P. Courts. In fact, official records pertaining to issue would be available in the State of U.P.

7. Keeping all these facts in perspective, I am of the opinion that this Court should decline to hear this Writ Petition on the grounds of lack of territorial jurisdiction. The Petition is accordingly rejected, with liberty granted to the Petitioner to agitate these issues before any other Court enjoying territorial sway in respect of the cause of action.