
(1995) 08 J&K CK 0004
In the Jammu And Kashmir High Court
Case No : O.W.P. No. 200 of 1995

Nath Ram Bhagat and Others	Vs	APPELLANT
State and Others		RESPONDENT

Date of Decision : 03-08-1995

Acts Referred:

Constitution of India, 1950 — Article 162, 226
Constitution of Jammu and Kashmir, 1956 — Section 104

Citation : AIR 1996 J&K 63

Hon'ble Judges : Bilal Nazki, J

Bench : Single Bench

Advocate : B.L. Kalgotra, for the Appellant; H.L. Bhagotra and B.A. Bashir, for the Respondent

Final Decision : Dismissed

Judgement

Bilal Nazki, J.—This petition has been moved by three petitioners, who claim to be connected with the development of people belonging to

Scheduled Caste/Scheduled Tribe and Backward Classes category. They have filed this writ petition in public interest.

2. The brief facts giving rise to this petition are that the office of Jammu and Kashmir Scheduled Castes/Scheduled Tribes and Backward Classes

Development Corporation (hereinafter referred to as ""Corporation"") was previously located in Gandhi Nagar, Jammu. The said location, according

to the petitioners, was not accessible to the members of the Scheduled Caste and Scheduled Tribe people. On a demand made by them, the office

was shifted to Krishna Nagar, Jammu, which according to the petitioners is a centrally located place. They also submitted that this location is

nearer to the general bus stand and anybody coming from outside Jammu city easily reaches the office of the Corporation. The petitioners submit

that the shifting of the office from Gandhi Nagar to Krishna Nagar was welcomed by the members of the community. The petitioners further submit that although the present location of the office of the Corporation is best suited to the people for whose benefit the Corporation has been created, the respondents want to shift it to Gandhi Nagar/Shastri Nagar/Trikuta Nagar, and for this purpose, a notification was got published on 12-1-1995 in a local daily newspaper. The respondents want accommodation for their office in any of the said areas. A copy of the advertisement notice has been appended with the writ petition. The petitioners case is that the shifting of the office of the Corporation is being made only with a view to provide advantage and comfort to the officials of the Corporation, who mostly hail from Gandhi Nagar/Shastri Nagar/Trikuta Nagar areas which are the posh localities of Jammu city. They further contend that shifting of the office in one of the said areas will not be in the interest of Scheduled Castes/Scheduled Tribes and Backward Classes category people, for whose benefit the Corporation was created. According to them, the petitioners and some other persons interested in the welfare of the Scheduled Castes/ Scheduled Tribes people made a representation before the respondents that the office of the Corporation should not be shifted from Krishna Nagar. They further submit that the shifting of office earlier from Gandhi Nagar to Krishna Nagar was done at a huge cost, and in case of shifting again, the Corporation will again have to spend a lot of money and this amount shall be met from the funds of the Corporation, which are otherwise meant for the development of Scheduled Tribe/ Scheduled Cast people. The petitioners also contend that the present location of the office of the Corporation has sufficient accommodation, as was verified by the Managing Director himself in the Board meeting of the Corporation held in the year 1993. They submit that the shifting of the complex from Gandhi Nagar to Krishna Nagar was also approved by the Board of the Corporation in its meeting held on 10-11-1993.

3. Objections have been filed by respondent No. 1. In his objections, the respondents submit that the petition is misconceived and not maintainable, as the petitioners have approached this Court in the garb of public interest litigation with an ulterior motive, which is to meet the vested interests of those persons who have no locus standi to file the petition. The respondents have further submitted that the only ground taken in

the petition is alleged inconvenience to the people, and even if it is admitted that inconvenience will be caused to them, even then there is no cause

for the writ petitioners to approach this Court in terms of Article 226 of the Constitution. The respondents have further submitted that the

petitioners have suppressed the material facts in their petition, and therefore, the same deserves dismissal. The respondents case is that ex-

Financial Advisor of the Corporation entered into a conspiracy with one Mr. J. C. Raina who happened to be his relation, for housing the

Corporation in his building at 285-A Krishna Nagar and fixed a rent of Rs. 8,000/- per month for five rooms with penalty clause of rupees one lac

in case the premises were vacated before the expiry of term of lease which was five years. According to the respondents, this was done by

Financial Advisor without any authority and without the consent of the Managing Director, and this act of the then Financial Advisor became

responsible for his removal from the Corporation. The building at Krishna Nagar has only five rooms and the staff cannot be accommodated

properly in this building, and therefore the work of the Corporation suffered badly, which resulted into trouble and inconvenience to socially

backward people, for whose benefit the Corporation has been established. Therefore, a proposal was moved for acquiring suitable and better

accommodation, which was approved by the Advisor to Governor, who is the Chairman of the Corporation. The respondents issued an

advertisement in the newspapers and many offers were received, and one such offer was received from one Ramesh Gandotra whose building had

been vacated by Jammu Development Authority after shifting to their own building. The proposal was examined and the building was found to be

spacious enough to accommodate the office of the Corporation. It has fourteen rooms and the rent was negotiated at Rs. 9,000/- per month and

the building was taken on lease w.e.f. 1-3-1995. When the Corporation was preparing for shifting, the landlord Shri J. C. Raina filed a suit in the

Court of Munsiff, Jammu and obtained an ex parte stay order against the Corporation. The respondents preferred an appeal against the same

before the District Judge, Jammu who transferred the same to First Additional District Judge where the matter was fixed on 5th and 6th of April,

1995. The appeal was finally fixed for hearing on 25-4-1995. During the course of hearing, the landlord Shri J. C. Raina felt that he has no cause,

and therefore, at his instigation the petitioners herein filed the writ petition. The learned Additional District Judge after hearing the arguments passed

a detailed reasoned order on 26-4-1995 allowing the appeal and vacating the stay order passed by the Munsiff. On the next day i.e. 27-4-1995,

an ex parte stay order was granted by this Court in the present writ petition. The respondents submit that since this is only the machination of Shri

Raina that this petition has been filed, after he failed in the Civil Courts to obtain the orders of his liking. Therefore, this writ petition needs to be

dismissed. The respondent No. 1 who has filed an affidavit has further submitted that he himself belongs to a reserved category, and as such, he

has personal interest in the welfare of the people, for whom the Corporation has been created. It has also been averred that Jammu is not a big

city, and no particular place in Jammu city is far off compared to any other place in city. It is not a fact that not only the people of a particular area

who have to come to the office of Corporation, but as a matter of fact people belonging to the whole State have dealings with the Corporation.

4. I have heard learned counsel for the parties in detail. Mr. Bhagotra appearing for the petitioners has submitted that the Corporation has been

created for the benefit of the scheduled caste/scheduled tribes people, therefore it is paramount that this Corporation should serve the interests of

those people. The location of the office is dependent on the convenience of the persons of those communities. The State could not shift the office

of the Corporation to a place which is inconvenient to the people of such communities. Mr. Bhagotra has drawn my attention to Arts. 46 and 335

of the Constitution of India. Article 46 which is a directive principle of State policy lays down ""The State shall promote with special care the

educational and economic interests of the weaker sections of the people, and in particular, of the scheduled castes and the scheduled tribes, and

shall protect them from social injustice and all forms of exploitation"". Article 335 lays down that ""The claims of the members of the scheduled

castes and the scheduled tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of

appointments to services and posts in connection with the affairs of the Union or of a State"". I have failed to understand as to how the said Articles

of the Constitution come to the help of Mr. Bhagotrai canvassing that the office of the Corporation cannot be shifted from Krishna Nagar to Shastri

Nagar. On the other hand, Mr. B. A. Bashir appearing for the respondents has made two fold arguments; firstly, that the writ petition has been moved at the behest of one Mr. Raina who has lost the case before the lower courts; and secondly, that it is the power of the State and the Corporation to have an office at a location of their choice. Now, coming to the first argument, I am afraid, it cannot be accepted. It is true that Mr. Raina who is the landlord of the building leased out to the Corporation at Krishna Nagar, Jammu, had filed a civil suit before Munsiff, Jammu and obtained a stay order which was appealed against before the District Judge, who has passed a detailed order vacating the stay order. It is also true that although the writ petition was filed on 10-4-1995, and the Registry had directed its listing on 28-4-1995, but on a mention, the petition was got listed before the Court on 27-4-1995, when the stay order was vacated by the District Judge on 26th April 1995. But this is not sufficient to show that the petitioners were in collusion with said Shri Raina. Coming to the second argument that it is the State's prerogative to take an office at the location of their choice, Mr. Bashir submits that the Corporation knows best about its needs and requirements. Since the officials of the Corporation up to the level of Advisor to Governor, have applied their mind and come to a conclusion that the office at Shastri Nagar will be best suited to the Corporation, this Court may not intervene in the matter. The Corporation is getting fourteen rooms instead of five rooms by only paying a rent of Rs. 9,000/- per month, whereas the Corporation was paying a rent of Rs. 8,000/- for five rooms only. Since the members of scheduled caste/scheduled tribes communities are not living in a particular area of Jammu city alone, therefore it is absurd to say that a particular place shall be convenient for them, as compared to any other place at Jammu. Mr. Bashir has drawn my attention to a judgment of the Supreme Court reported in J.R. Raghupathy and Others Vs. State of A.P. and Others, . The said case related to location of Mandal Headquarters, the question involved before the Supreme Court was whether location of Mandal Headquarters in the State of Andhra Pradesh in terms of Andhra Pradesh Districts Formation Act, 1994 was purely a Governmental function, and therefore, not amenable to writ jurisdiction of the High Court under Article 226 of the Constitution? By an Act, the State of Andhra Pradesh wanted to bring the administration nearer to the people and make

all public services easily available to them, the revenue administration of Andhra Pradesh was changed by creation of Revenue Mandals in places

of Talukas and Firkas. The High Court before which the location of certain Mandals was challenged, quashed the notification and the matter went

in SLP before the Supreme Court. The Supreme Court held, as under:

We find it rather difficult to sustain the judgment of the High Court in some of the cases where it has interfered with the location of Mandal

Headquarters and quashed the impugned notifications on the ground that the Government acted in breach of the guidelines in that one place or the

other was more centrally located or that location at the other place would promote general public convenience, or that the headquarters should be

fixed at a particular place with a view to develop the area surrounded by it. The location of headquarters by the Government by the issue of the

final notification under Sub-section (5) of Section 3 of the Act was on a consideration by the Cabinet Sub-Committee of the proposals submitted

by the Collector concerned and the objections and suggestions received, from the local authorities like the Gram Panchayats and the general

public. Even assuming that the Government while accepting the recommendations of the Cabinet Sub-Committee directed that the Mandal

Headquarters should be at place 'X' rather than place 'Y' as recommended by the Collector concerned in a particular case, the High Court would

not have issued a writ in the nature of mandamus to enforce the guidelines which were nothing more than administrative instructions not having any

statutory force, which did not give rise to any legal right in favour of the writ petitioners.

5. The above quoted para from the judgment will show that in the case before the Supreme Court, even there were guidelines for creation of

Mandal Headquarters which were not followed by the State, the Supreme Court was of the view that High Court could not have issued a

mandamus to enforce those guidelines, which were only administrative instructions. The matter is within the domain of the respondents. It is only

they, who can decide about the location of their office at a particular place. In the present case, there are not even guidelines prescribed.

Therefore, locating an office at a particular place is purely an administrative function, and this Court cannot substitute view of the respondents by its

own views.

6. For the aforesaid reasons, I do not find any merit in this writ petition, which is accordingly dismissed, along with the CMP. Interim direction shall stand vacated.