

(2014) 07 DEL CK 0110

In the Delhi High Court

Case No : W.P. (C) No. 3348/2014 & CM No. 6892/2014

Navalokam Samskarika Kendram

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 08-07-2014

Acts Referred:

Constitution of India, 1950 — Article 226, 32

Citation : (2014) 07 DEL CK 0110

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : A.S. Chandhiok, Sr. Adv., Ritesh Kumar, Mallika Ahluwalia and Mayank Bamniyal, Advocate for the Appellant; Sumeet Pushkarna, Sara Sundaram, Parth Goswami and Hemant Phalpher, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The petitioner has filed this petition in Public Interest qua the denial of Arjuna Award for the year 2013 to Shri Renjith Maheswari inspite of declaration of his name as recipient thereof and after preparatory steps for conferment of the said award on Shri Renjith Maheswari had been taken. The said denial being owing to the respondent no. 4 Athletics Federation of India (AFI) having found the said Shri Renjith Maheswari to be in violation of the Anti-Doping Rule, the petitioner in this petition, besides seeking a direction for conferment of Arjuna Award on Shri Renjith Maheswari and/or to include him in the list of Awardees for the year 2014, also impugns (i) the order dated 13th October, 2008 of the AFI suspending the said Shri Renjith Maheswari from participating in any domestic or international competition in athletics owing to the said violation; (ii) the subsequent order dated 10th January, 2009, also of AFI of imposing ban on the said Shri Renjith Maheswari for a period of three months w.e.f. 13.10.2008 from taking part in any domestic/international competition in athletics owing to Anti-Doping Rule violation; (iii) the withdrawal of the name of the said Shri Renjith Maheswari from the list of Arjuna Awardees

for the year 2013 on discovering the said facts; and, (iv) the report of the laboratory on the basis whereof the said Shri Renjith Maheswari was found to have failed the Anti-Doping Test.

2. The petition was not filed as a Public Interest Litigation. However the learned Single Judge before whom the petition was first listed, finding that the petitioner had no locus/cause of action to impugn the various orders of suspension and ban from participation in domestic/international events in athletics and that the petitioner had no right to seek the direction for conferment of Arjuna Award on Shri Renjith Maheswari, held the petition to be in the nature of Public Interest Litigation and ordered the petition to be put up before this Bench.

3. We had on the last date of hearing enquired from the counsel for the petitioner as to how this petition could be said to be in public interest and as to why the aggrieved person i.e. Shri Renjith Maheswari had not come before the Court and how could this Court presume that the said Shri Renjith Maheswari was interested in having his affairs investigated by this Court, as would be but necessary to adjudicate this petition and what was there to show that even if the petition were to be allowed, the said Shri Renjith Maheswari is willing to accept the Arjuna Award. It was further enquired whether not it will be a strange/anomalous situation if inspite of this Court finding in favour of the said Shri Renjith Maheswari and holding that his name was wrongly dropped from the list announced of Arjuna Awardees, he were still to refuse to take the award, as he would still be entitled to. On request of the counsel then appearing for the petitioner the matter was adjourned to today.

4. The senior counsel for the petitioner today appearing has drawn our attention to the pleas in the petition to the effect that the petitioner has been effectively supporting and helping the said Shri Renjith Maheswari in all ways including financially and that the said Shri Renjith Maheswari as well as his father are members of the petitioner organization. It is further highlighted that the petition with the said grievance was originally filed as W.P. (C) No. 301/2014 before the Supreme Court and was entertained and a counter affidavit filed by the respondent no. 1 Union of India which disclosed the reasons aforesaid which prevailed for dropping the name of Shri Renjith Maheswari from the list of Arjuna Awardees for the year 2013. The petitioner however on 5th May, 2014 when this petition was listed before the Supreme Court, sought permission for withdrawal thereof disclosing the intention to pursue its remedy under Article 226 of the Constitution of India and to challenge the ban from participation in domestic/international events aforesaid imposed on the said Shri Renjith Maheswari. The Supreme Court allowed the writ petition before it to be withdrawn with the liberty sought.

5. The senior counsel for the petitioner contends that the Supreme Court having so granted liberty to the petitioner, this petition be entertained.

6. We are unable to agree. The mere fact that the petitioner, prior to approaching

this Court filed a petition under Article 32 of the Constitution of India before the Supreme Court and withdrew the same seeking liberty to file a petition under Article 226 and the fact that the Supreme Court allowed the writ petition before it to be withdrawn with the liberty sought, would not make this petition maintainable if otherwise it were to be not.

7. The legal tool of Public Interest Litigation was invented by the Courts as an exception to the otherwise well established rule, of only a person having cause of action or locus standi being entitled to approach the Court. Such invention was deemed necessary finding that in certain situations, owing to social or economic backwardness or other reasons the aggrieved parties were themselves unable to approach the Court (See S.P. Gupta Vs. President of India and Others, and State of Uttaranchal Vs. Balwant Singh Chauhan and Others,). The field of operation of the said tool was expanded to cover situations where a general direction of the Court was deemed necessary, not for the benefit of any one person or a group of persons but for the benefit of the public generally viz. protection and preservation of ecology, environment etc. and for maintaining probity, transparency and integrity in governance. The Supreme Court else has been repeatedly issuing warnings, of allowing the said tool of Public Interest Litigation to be misused (See BALCO Employees Union (Regd.) Vs. Union of India and Others,). The petitioner has been unable to satisfy us as to how it is entitled to file this petition in public interest. The warnings issued by the Supreme Court, of Public Interest Litigation becoming Publicity Interest Litigation (see Neetu Vs. State of Punjab and Others, and of allowing "meddlesome interlopers" to file Public Interest Litigation (see S.P. Gupta supra) is apposite in this regard. Similarly, in Holicow Pictures Pvt. Ltd. Vs. Prem Chandra Mishra and Others, it was held that Public Interest Litigation is to be used for delivering social justice to the citizens.

8. We do not find the present case to be falling in any of the aforesaid categories. The grievance if any, from first suspension and thereafter ban imposed on Shri Renjith Maheswari from participation in the domestic/international events in athletics, is personal to the said Shri Renjith Maheswari and even if Shri Renjith Maheswari were to be its member, the petitioner can have no grievance thereagainst. The fact remains that Shri Renjith Maheswari never chose to challenge the said suspension or ban and rather accepted the same. A third person, as the petitioner, cannot be permitted to challenge the same. It is not as if the suspension or ban of Shri Renjith Maheswari was on account of his membership or the membership of his father, of the petitioner organization. The challenge to the order of suspension and ban is on the ground of, the laboratory, on the basis of whose test report Shri Renjith Maheswari was so suspended and banned being not a recognized one. Adjudication of the same would definitely entail going into the affairs of Shri Renjith Maheswari who is not before this Court and which is impermissible. It is well nigh possible that Shri Renjith Maheswari does not want his affairs investigated by this Court. Similarly the grievance if any from denial of the Arjuna Award and the right if any for

conferment of the said Award is personal to the said Shri Renjith Maheswari and the petitioner who is merely an organization of which the said Shri Renjith Maheswari and his father are claimed to be members, has no right to claim such a relief. It is again not as if the award was being conferred or has been denied owing to the membership of any of the said Shri Renjith Maheswari of the petitioner organization. The Supreme Court in *Holicow Pictures Pvt. Ltd. supra* has also held that the Court has to act ruthlessly while dealing with such busybodies or meddlesome interlopers, who have no interest of public or of their own to protect, impersonating as public spirited persons and masquerading as crusaders of justice. Similarly, in *Kushum Lata Vs. Union of India (UOI) and Others*, it was held that for a Public Interest Litigation to be entertained, there must be real and genuine public interest and not merely an adventure of knight errant borne out of wishful thinking.

9. Yet another feature is that this petition is to redress the individual wrong meted out to Shri Renjith Maheswari. The Supreme Court as far back as in *S.P. Gupta supra* held that PILs are to be confined to legal wrong and legal injury to a group of people or class of persons and should not be issued for individual wrongs because individuals can always seek redress, though it is not an absolute rule. The effect of entertaining this petition would be that, if allowed, Shri Renjith Maheswari will be the beneficiary of the order but if dismissed, Shri Renjith Maheswari shall not be bound by the order.

10. Owing to the said reasons, the argument of the senior counsel for the petitioner of the said Shri Renjith Maheswari having been allowed to participate in subsequent events is also of no avail.

11. We therefore do not find any ground to entertain the present petition filed by way of Public Interest Litigation.

12. We may notice that the senior counsel, at the fag end of the hearing, stated that he has no objection to this Court on its own impleading the said Shri Renjith Maheswari as respondent to this petition.

13. Once we have found the petition as filed to be not maintainable, the question of exercising suo motu power to implead anyone as party thereto does not arise.

14. The petition is dismissed. We refrain from imposing any costs on the petitioner though the precious time of this Court has been wasted on as many as three occasions.