

(2012) 04 MAD CK 0120

In the Madras High Court

Case No : Writ Petition No. 9563 of 2012 and M.P. No. 1 of 2012

NPS Employees Reformation Association(NPSERA)

APPELLANT

Vs

The General Manager Heavy Vehicles Factory Avadi, Channai
600 054 and The Chairman/ The Joint General Manager/SMS
Vijayantha Institute HVF, Heavy Vehicles Factory Avadi,
Chennai 600 054

RESPONDENT

Date of Decision : 16-04-2012

Acts Referred:

Constitution of India, 1950 — Article 19(1), 19(2), 19(3), 19(4)

Citation : (2012) 04 MAD CK 0120

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : H. Hazirudeen, for the Appellant; K.V. Sanjeev Kumar, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru /pjudge>.

1. The petitioner is a recreational club of employees working in Heavy Vehicles Factory at Avadi. In tis Writ Petition, the petitioner association

sought for permission to conduct Extraordinary General Body Meeting on 14.11.2011 in the premises of the factory and in the hall known as

Vijayantha Institute. The Joint General Manager of the Factory as well as Ex-officio Chairman of the Association informed the Secretary of the

petitioner association that permission for conducting such Extraordinary General Body Meeting in the Institute will not be granted due to

administrative reasons. As against the information given in November 2011, the petitioner association sent letters dated 24.12.2011 and 1.2.2012.

In the said representations, it was informed that they have 450 members and

they have given letters to the General Manager to permit them to conduct a General Body Meeting and the Secretary alone has got power to convene a meeting. Therefore, the permission was sought for. In the present case, the petitioner's contention is as against the Chairman, who is having a dual role of Ex-Officio Chairman as well as General Manager of the Factory. It is not clear as to how any such Writ Petition is maintainable. If it is purely an internal squabble of the association, then the petitioner will have to file appropriate civil suit as against the other office bearers. If it is the question of utilising the premises of the employer, then certainly the employer cannot be compelled to grant any permission.

2. Even in respect of right of union in holding meeting in a particular place, the Supreme Court vide its judgment in Railway Board Representing

The Union of India (UOI) Vs. Niranjan Singh, has held as follows:

9. The direction with which we are concerned in this appeal is that which prohibits the holding of meetings within the railway premises including

open grounds forming part of those premises. That direction does not deprive the workers any of the freedoms guaranteed to them under Article

19(1). It merely prohibits them from exercising any of them within the railway premises. What is prohibited is the holding of meetings for any

purpose within the railway premises. The question is whether such a direction is violative of Article 19(1)? In the instant case we are concerned

with the meetings held outside the main time office and it was not denied that that place formed part of the railway premises.

10. It was strenuously urged on behalf of the respondent that the rights guaranteed under Article 19(1)(a), (b) and (c) are inviolable and they

cannot be interfered with, excepting in accordance with sub-articles 2, 3 and 4 of the said Article. According to Mr Garg, the railway workers

have a right to assemble in any place they choose and give expression to their views so long as they do not disturb the work going on in the

premises and that right is guaranteed to them under our Constitution.

11. It was not disputed that the Northern Railway is the owner of the premises in question. The fact that the Indian Railways are State undertakings

does not affect their right to enjoy their properties in the same manner as any private individual may do subject only to such restrictions as the law

or the usage may place on them. Hence unless it is shown that either under law

or because of some usage the railway servants have a right to hold their meetings in railway premises, we see no basis for objecting to the direction given by the General Manager. There is no fundamental right for anyone to hold meetings in Government premises. If it is otherwise there is bound to be chaos in our offices. The fact that those who work in a public office can go there does not confer on them the right of holding a meeting at that office even if it be the most convenient place to do so.

12. It is true that the freedoms guaranteed under our Constitution are very valuable freedoms and this Court would resist abridging the ambit of those freedoms except to the extent permitted by the Constitution. The fact that the citizens of this country have freedom of speech, freedom to assemble peaceably and freedom to form associations or unions does not mean that they can exercise those freedoms in whatever place they please. The exercise of those freedoms will come to an end as soon as the right of someone else to hold his property intervenes. Such a limitation is

inherent in the exercise of those rights. The validity of that limitation is not to be judged by the tests prescribed by sub-articles (2) and (3) of Article

19. In other words the contents of the freedoms guaranteed under clauses (a), (b) and (c), the only freedoms with which we are concerned in this

appeal, do not include the right to exercise them in the properties belonging to others. If Mr Garg is right in his contentions then a citizen of this

country in the exercise of his right under clauses (d) and (e) of Article 19(1) could move about freely in a public office or even reside there unless

there exists some law imposing reasonable restrictions on the exercise of those rights.

In the light of the same, the present writ petition is misconceived and accordingly it stands dismissed. No costs. Consequently, connected

Miscellaneous Petition is closed.