

(2014) 08 AHC CK 0029

In the Allahabad High Court

Case No : Civil Misc. Writ Petition Nos. 7459(MB), 6952(MB), 7801(MB) and 7723(MB) of 2014

People's Forum

APPELLANT

Vs

C.B. Yadav

RESPONDENT

Date of Decision : 21-08-2014

Acts Referred:

Constitution of India, 1950 — Article 14
Special Protection Group Act, 1988 — Section 4(1), 4(1A)

Citation : (2014) 4 UPLBEC 2969

Hon'ble Judges : Dhananjaya Yashwant Chandrachud, C.J.;Devendra Kumar Arora, J

Bench : Division Bench

Advocate : Ashok Pandey, Tripuresh Tripathi and Nutan Thakur, Advocates for the Appellant; Alok Mathur, Advocates for the Respondent

Judgement

Dr. Dhananjaya Yeshwant Chandrachud, C.J. and Dr. Devendra Kumar Arora, J.—
All the four writ petitions before the Court have been filed by an organization described as "People's Forum through its convener Dr. Nutan Thakur, address - 5/426, Viram Khand, Gomti Nagar, Lucknow". The reliefs which are sought in the petitions are briefly described as follows:

(i) A writ of quo-warranto directing the Additional Advocate General to immediately vacate the administrative charge of the post of Advocate General pursuant to an order of the State Government dated 6.8.2014, Writ Petition No. 7459 (M/B) of 2014.

(ii) A writ of mandamus for enforcing the provisions of the Indian Administrative Service (Cadre) Rules, 1954 as amended in 2014 and the Indian Police Service (Cadre) Rules, 1954 as amended in 2014, Writ Petition No. 7723 (M/B) of 2014.

(iii) A writ of mandamus directing the Union of India through the Secretary, Ministry of Law and Justice as well as the Union of India through the Principal Secretary to the President of India to immediately stop all further appointments

of the Judges of the Supreme Court and of the High Courts through what is described in the petition as a "so-called collegium system which has been turned down by Parliament of India", and to make further appointments only in accordance with the provisions of the National Judicial Appointments Bill, 2014 and the 121st Constitutional Amendment Bill, 2014, Writ Petition No. 7801(M/B) of 2014, and

(iv) A writ of mandamus directing the Registry of this Court to entertain all Public Interest Litigation filed by the People's Forum, either through its convener or through anyone else without applying the judicial order passed by a Division Bench of this Court on 11.4.2014 in Writ Petition No. 2967 of 2014.

On 11.4.2014, a Division Bench of this Court heard Writ Petition No. 2967 of 2014 which was filed in public interest by Dr. Nutan Thakur challenging the validity of the Special Protection Group Act, 1988, enacted for the constitution and regulation of an armed force of the Union for providing proximate security to the Prime Minister of India, former Prime Ministers of India and members of their immediate families and for matters connected therewith. The Division Bench held that the petition was entirely baseless and had been filed with an oblique purpose of seeking publicity. The Division Bench observed as follows:

"We find that the writ petition is entirely baseless, and has been filed with an oblique purpose for seeking publicity. The petitioner does not appear to have the locus and understanding of the importance of security which is required to be provided to the Prime Minister, former Prime Ministers and their family members. After assassination of the former Prime Minister of the country, the Special Security Group Act was enacted, to protect the highest public executive functionary of the country from threats extended by terrorist organizations. The importance of this Act cannot be overstated. The Act itself provides in the proviso to Section 4(1) and Section 4(1A) of the assessment of level of threat periodically for continuing the security and the guidelines for such assessment. We thus find the challenge of the Act, as ultra vires to Article 14 of the Constitution of India, is entirely baseless and frivolous."

2. The Division Bench recorded that the Court was informed that Dr. Nutan Thakur has filed as many as 140 writ petitions styled as "public interest cases". Details of those writ petitions were placed on the record of the order that was passed on 11.4.2014. It would be necessary, at this stage, to extract from paragraphs 5 and 6 of the order, which read as follows:

"5. We are informed, and are confirmed by Dr. Nutan Thakur - the petitioner appearing in person that she has filed about 140 writ petitions under the category of public interest litigation. She appears in Court almost every day, for these matters. She has become a self-styled PIL specialist, and her name regularly appears in news papers. Some of the writ petitions filed by the petitioner have been entertained by this Court. Even her husband, a serving IPS Officer of IG rank indulges in filing writ petitions in public interest numbering

more than 20 upto the beginning of this month. Together the petitioner and husband have filed 160 writ petitions in purported public interest matters in last three to four years.

6. The Registry has supplied a list of 86 cases, which have been filed by the petitioner Dr. Nutan Thakur in person, in which she is the first petitioner, which is extracted as under:

3. The Division Bench adverted to the decision of the Supreme Court in *State of Uttaranchal Vs. Balwant Singh Chaufal and Others*, , particularly to the observations of the Supreme Court to the effect that of late, the jurisdiction in public interest has been usurped for a blatant abuse of the process and for extraneous purposes. The Division Bench noted that Dr. Nutan Thakur has raised issues of public interest before the Court within a few days when any social or political issue attracts the attention of the media and almost all the writ petitions have been filed on the basis of newspaper reports. The Division Bench observed as follows:

"8. In many of the files of public interest litigation filed by the petitioner, examined by the Court, we find that the petitioner has raised issues within a few days when any social or political issue attracts the attention of the media. Almost all the writ petitions are filed without any research or material and based only on the newspaper reports. The petitioner appears to have a permanent presence before the Bench hearing public interest litigation matters. It appears from the records of the writ petitions and the orders that the petitioner has received a tacit encouragement in filing such petitions, which takes away substantial time of the Court leaving other important matters.

9. Most of the writ petitions, filed by the petitioner in person are not in public interest. These writ petitions have been filed covering almost every subject covered by media to be topical mostly concerning social, political economic or commercial interest. She has also allowed her children, still minor in filing writ petitions; the last one concerning the decision of the Central Government awarding Bharat Ratna awards. Almost every subject under the sun which attracts her imagination becomes a subject matter of Public Interest Litigation.

10. In order to save this Court from the tsunami of writ petitions filed by the petitioner who appear almost every other day in Court touching matters which hits the headline, treating it as public interest, we find it appropriate to direct that henceforth the registry of the Court will not entertain any writ petition in public interest from Dr. Nutan Thakur - either in person or through Counsel (either as petitioner or co-petitioner) unless the petition, filed by her, accompanies a demand draft of Rs. 25,000/- (Twenty Five Thousand). At the time of admission of the writ petition, if the Court considers that the petitioner has raised a matter which is genuine and bona fide and in public interest, the demand draft deposited by her may be returned to her. In case it is found by the Court that the Writ Petition filed by her does not involve any public interest and

the writ petition is dismissed, the amount in the demand draft deposited by her will be treated as costs imposed on her, and the amount will be credited in the account of the High Court Legal Services Committee at Lucknow to be spent for activities of the Legal Services Committee of the High Court."

4. By the order of the Division Bench, the Court has directed that the Registry shall not entertain any writ petition in public interest from Dr. Nutan Thakur - either in person or through Counsel (either as petitioner or co-petitioner) unless it is accompanied by a demand draft of Rs. 25,000/-. The Court also clarified that at the time of admission of the petition, if the Court considers that the petitioner has raised a grievance which is genuine and bona fide and in public interest, the demand draft deposited may be returned but if it is found that the writ petition does not involve any element of public interest and is dismissed, the amount of the demand draft will be treated as costs and will be credited to the account of the Legal Services Committee of the High Court at Lucknow.

5. Subsequently, a writ petition (Writ Petition No. 6952 (M/B) of 2014) was filed before this Court through an organization called the People's Forum of whom Dr. Nutan Thakur is described as convener. In the writ petition, as noted earlier, the relief which was sought was a direction to entertain all PILs filed through the People's Forum without insisting on compliance of the order passed by the Division Bench of this Court on 11.4.2014. By an order dated 1.8.2014, the Division Bench observed that as a coordinate Bench, it would not be appropriate for the Court to take a view contrary to that of a coordinate Bench in the judgment dated 11.4.2014. However, a prima facie view was expressed that Dr. Nutan Thakur can appear on behalf of a society as its representative and, hence, as an interim measure, permission was granted to appear on behalf of the society, registered or unregistered, in this Court.

6. All the four writ petitions have been placed on the board. A preliminary objection has been raised on behalf of the State to the maintainability of the petitions on the ground that the purpose and object of filing petitions through the organization called "People's Forum" of which Dr. Nutan Thakur is the convener, is to circumvent compliance with the order passed by the Division Bench on 11.4.2014. The learned Additional Advocate General and the learned Standing Counsel for the Union of India have extensively relied on the Deed of Declaration constituting the People's Forum dated 3.8.2014 and it has been urged that even a bare perusal of the Deed would indicate that the whole effort is to obviate compliance of the order of the Division Bench dated 11.4.2014. It was urged that so long as the order passed by the Division Bench dated 11.4.2014 continues to hold the field, compliance cannot be allowed to be circumvented in this manner.

7. On the other hand, it has been submitted on behalf of the petitioner that the order dated 11.4.2014 requires interference and a petition for review has been filed. Moreover, it has been submitted that there is no reason or justification for the Court not to entertain a writ petition filed by People's Forum through its convener Dr. Nutan Thakur without complying with the mandate of the order

dated 11.4.2014.

8. At the outset, we must preface our consideration of the rival submissions with the legal position that a judgment of a coordinate Bench continues to bind unless it is set aside by the Supreme Court in appeal or is reviewed by that Bench or, dissented from and overruled by a larger Bench of the Court. The circumstances in which the Division Bench passed the order dated 11.4.2014 have been elaborately explained in the judgment from which we have extracted in the earlier part of this order. The People's Forum, on whose behalf successive writ petitions have been filed subsequent to the order of the Division Bench dated 11.4.2014, is constituted purportedly under a Deed of Declaration of a public charitable trust dated 3.8.2014. This deed has been settled on a consideration of Rs. 1,000/-. The principal place of office of the trust is the address of Dr. Nutan Thakur, as stated in the affidavits which have been filed in these proceedings. The deed of settlement, inter-alia, contains the following provisions:

"(C) One of the trustees shall be designated as the Managing Trustee/Convener by all the Trustees through consensus, who shall be in charge of the day to day affairs of the Trust and whose detailed role/responsibility shall be defined and formulated by the Trustees through consensus. The Trustees may rotate the post of Managing Trustee/Convener among themselves as per the requirement of the Trust, in the larger interest of the Trust."

9. Ex facie, it is clear that this device of constituting a Deed of Declaration of a public charitable trust was only to circumvent compliance with the order passed by the Division Bench on 11.4.2014. The legality of that order cannot be decided by a coordinate Bench. We are clearly of the view that when an order has been passed by a coordinate Bench, to respond to a situation where the litigative process of the Court in the exercise of its jurisdiction in public interest is literally being high jacked by what the Division Bench described as a "tsunami of writ petitions" touching matters which hit the headlines in the media, it is necessary for the High Court, as an institution, to ensure that any effort deviously engineered to evade compliance of the order of the Division Bench is put down with a firm hand. If the High Court were not to do so, that will threaten the credibility of the institution and would lead to forum-shopping which, to say the least, cannot be tolerated. So long as the order passed by the Division Bench continues to hold the field, it must be complied with. In fact, the filing of four successive petitions including a writ petition which has been filed, as we have noted earlier, to forestall appointments to the Supreme Court and to the High Courts pending the constitutional process leading to the 121st Constitutional Amendment, is an indicator of the nature and manner in which the process of the Court is being utilised. When the time, attention and effort of the Court is consumed in an avalanche of successive writ petitions including those ostensibly in public interest but in reality to gain publicity, it is necessary for the litigant to understand that the time of the Court has to be devoted for espousing genuine causes. It is necessary to ensure that the jurisdiction in public interest is

exercised carefully and for the purpose of entertaining genuine causes. Access to justice to citizens is a seminal constitutional precept. A fundamental right of access to justice can be traced to several specific Articles of the Constitution, particularly those in Part-III of the Constitution and is an emanation from those constitutional provisions. The right of access to justice has to be carefully safeguarded. But, at the same time, access to justice cannot be used as a charter for abuse. When a citizen utilises the jurisdiction of the High Court by tormenting the judicial process with repeated PILs, motivated by a desire to seek publicity or to achieve extraneous purposes, it is necessary for the Court to deal with these abuses. In doing so, the Court protects its own institutional credibility as much as it protects the right of access to justice to others. Time consumed in determining fruitless cases filed only with a motivation to generate publicity or for oblique motives, deprives the Court of valuable judicial time that should be spent in devoting attention to the genuine problems of other citizens who wait in long queues for their cases to be heard. Access to justice is not merely for a litigant who approaches the Court in a PIL but a valuable right which is available to all litigants. Where the process of the Court is found to have been abused, not merely is the Court not powerless to handle such a situation but, in our view, it is the constitutional duty of the High Court to ensure that the due process is not deflected by an abuse of its process.

10. In the circumstances, and having duly considered the request of the petitioner to entertain the aforesaid petitions, and the preliminary objection on behalf of the State, we are of the view that the preliminary objection must be sustained since the writ petitions have been presented without complying with the judicial order of the Division Bench dated 11.4.2014.

11. The writ petitions are, accordingly, dismissed. There shall be no order as to costs. However, we leave it open to the petitioner to seek recourse to the jurisdiction of this Court in public interest on the same writ petitions afresh albeit after complying with the conditions imposed in the order dated 11.4.2014 in Writ Petition No. 2967 of 2014.