

(2009) 11 DEL CK 0145

In the Delhi High Court

Case No : Writ Petition (C) No. 4807 of 2007

Priyanka Gupta and Others

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 18-11-2009

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2
Press and Registration of Books Act, 1867 — Section 6, 8B, 8C, 8C(2)
Press Council Act, 1978 — Section 4

Citation : (2009) 11 DEL CK 0145

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : Ali Naqvi and Meehir Ranjan, for Petitioner No, for the Appellant;
Mukesh Anand, R.C.S. Bhadaria and Shailesh Tiwari for R.1-2 and Rajiv Nayyar
Dhruv Diwan and Monark Gahlot for R-4, for the Respondent

Judgement

Sanjiv Khanna, J.—Learned counsel for the respondent No. 4 has raised preliminary objection and has submitted that the impugned authentication of declarations dated 5th April, 2006 and 10th April, 2006 made by Collector & Dist. Magistrate, Indore, on the basis of which the Registrar of Newspapers, New Delhi has granted Certificate of Registration, can be made subject matter of an application u/s 8B of the Press and Registration of Books Act, 1967 (hereinafter referred to as the Act, for short). It is further submitted that any order passed u/s 8B of the Act is appealable u/s 8C of the Act.

2. Section 8B and 8C of the Act read as under:

8B. Cancellation of declaration.

If, on an application made to him by the Press Registrar or any other person or otherwise, the Magistrate empowered to authenticate a declaration under this Act, is of opinion that any declaration made in respect of a newspaper should be cancelled, he may, after giving the person concerned an opportunity of showing cause against the action proposed to be taken, hold an inquiry into the matter

and if, after considering the cause, if any, shown by such person and after giving him an opportunity of being heard, he is satisfied that-

(i) The newspaper, in respect of which the declaration has been made is being published in contravention of the provisions of this Act or rules made thereunder; or

(ii) The newspaper mentioned in the declaration bears a title which is the same as, or similar to, that of any other newspaper published either in the same language or in the same State; or

(iii) The printer or publisher has ceased to be the printer or publisher of the newspaper mentioned in such declaration; or

(iv) The declaration was made on false representation or on the concealment of any material or in respect of a periodical work which is not a newspaper; the Magistrate may, by order, cancel the declaration and shall forward as soon as possible a copy of the order to the person making or subscribing the declaration and also to the Press Registrar.

8C. Appeal.

(1) Any person aggrieved by an order of a Magistrate refusing to authenticate a declaration u/s 6 or canceling a declaration u/s 8B may, within sixty days from the date on which such order is communicated to him, prefer an appeal to the appellate Board to be called the Press and Registration Appellate Board [consisting of a Chairman and another member to be nominated by the Press Council of India, established u/s 4 of the Press Council Act, 1978 (37 of 1978), from among its members].

Provided that the Appellate Board may entertain an appeal after the expiry of the said period, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) On receipt of an appeal under this section, the Appellate Board may, after calling for the records from the Magistrate and; after making such further inquiries as it thinks fit, confirm, modify or set aside the order appealed against.

(3) Subject to the provisions contained in Sub-section (2) the appellate Board may, by order, regulate its practice and procedure.

(4) The decision of the Appellate Board shall be final.

3. Section 8B of the Act is a comprehensive provision which entitles the Press Registrars or any other person to move an application before a Magistrate who is empowered to authenticate a declaration to cancel a declaration already granted if any of the conditions mentioned in Section 8B of the Act are satisfied. In fact, during the course of hearing, learned counsel for the petitioner Nos. 1 and 2 had relied upon Clauses (i) and (iii) read with proviso to Section 6 of the Act and had submitted that declaration granted by respondent No. 3 should be cancelled or

revoked. In these circumstances, it is clear that the petitioners have an efficacious alternative remedy by way of an application for cancellation of declaration u/s 8B of the Act. There is no justification or reason given in the present Writ Petition why the equally efficacious alternative remedy cannot be invoked by the petitioners.

4. Learned counsel for petitioner Nos. 1 and 2 had submitted that respondent No. 3 in his affidavit filed in this Court has stated that while authenticating a declaration u/s 6 of the Act they merely put a stamp of approval without conducting any enquiry. Learned counsel for the petitioners submitted that the Registrar of Newspaper-respondent No. 2 was aware of the disputes between the petitioner and the respondent No. 4 in respect for the name Dainik Jagran and he has wrongly issued the said certificate. The first contention can be raised by the petitioners before respondent No. 3, u/s 8B of the Act. The respondent No. 3 has power to cancel the declaration granted by him. Once a declaration granted u/s 8B of the Act is cancelled, registration of certificate also stands cancelled automatically. In view of the said position even the second contention does not compel this Court to entertain the present Writ Petition.

5. Learned counsel for the petitioners have admitted that they have already filed a suit in Delhi High Court in which an application under Order XXXIX, Rules 1 and 2 of the Code of Civil Procedure, 1908 is pending. In the said application, the petitioners have made a prayer that respondent No. 4 should be restrained from publishing the newspaper "Dainik Jagran".

6. In view of the alternative remedy available to the petitioners, I am not inclined to entertain the present Writ Petition.

7. Petitioners are at liberty to file an application u/s 8B of the Act seeking cancellation of declaration. This Court has not expressed any opinion on merit of the contentions raised by the parties or on the question of declaration granted and whether or not declaration should be cancelled or not cancelled. Parties will be at liberty to raise the said contentions under Sections 8B/8C of the Act.