
(1995) 09 AHC CK 0120
In the Allahabad High Court
Case No : C.M.W.P. No. 19755 of 1995

Pt. Dwarika Nath Shastri

APPELLANT

Vs

Govt. of India and Others

RESPONDENT

Date of Decision : 04-09-1995

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : (1996) AWC 178 Supp

Hon'ble Judges : V.N. Khare, J; D.K. Seth, J

Bench : Division Bench

Advocate : Pt. Dwarika Nath Shastri, for the Appellant;

Final Decision : Dismissed

Judgement

D.K. Seth, J.—The Petitioner in this writ petition has prayed for a direction upon the Respondents namely, the Government of India through the Ministry of Finance, President, Indian Congress Committee, Sri Vishwanath Pratap Singh and Sri Chandra Shekhar, Ex. Prime Ministers, Government of India, Samajwadi Party through President Sri Devi Lal, Ex. Deputy Prime Minister, Government of India, President, Bhartiya Janta Party and President, Communist Party of India, to maintain cohesion with the Petitioner in the national interest as well as public in solving the country's Internal and external problems within the approachable period.

2. The Petitioner sought to move this writ petition as a public interest litigation. By now exception has been made to the strict rules relating to affidavit and locus standi and the like in the case of class litigation termed as "public interest litigation" in which public in general are interested for vindication of some right or enforcement of some public duties. Following the Supreme Court which entertained such litigations, the High Courts have also entertained such litigations and such practice is approved by the Supreme Court.

3. In such class of litigation, it is by now well-established that the court should

take care and caution so that the process of the court is not abused or misused and should, prima facie, satisfy itself that the information laid before the court is of such nature that it calls for examination. Such prima facie satisfaction may be derived from (i) the credentials of the informant, Le., the character and standing of the informant; (ii) the nature of the information given by him, viz., whether it contains vague and indefinite or contains specific allegations as a result of survey or Investigation; or (iii) the gravity or seriousness of the complaint set out in the information; or (iv) any other circumstances appearing from the communication addressed to the court.

4. However, in the present case, the petition having been supported by affidavit, the above question need not be gone into. On the other hand, the court cannot exercise this power at the instance of a person who seeks to espouse the cause of unnamed and undisclosed person unless the Petitioner may be held to possess a representative capacity. It is by now well-established that the court must be extremely careful to see that under the guise of redressing public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature. Neither it can direct the State Government to initiate legislation nor it can advise the executive authority of the Government in the matter of administration in effecting cohesion in between the Petitioner and the Respondents named above.

5. In the case of State of Himachal Pradesh v. A. Parent of a Student of Medical College, Simla and Ors. 1983 (3) SCC 169, it was held:

The direction given by the Division Bench was really nothing short of an indirect attempt to compel the State Government to initiate legislation with a view to curbing the evil of ragging.... This the Division Bench was clearly not entitled to do. It is entirely a matter for the executive branch of the Government to decide whether or not to introduce any particular legislation. Of course, any member of the Legislature can also introduce legislation but the court certainly cannot mandate the executive or any member of the Legislature to initiate legislation, howsoever necessary or desirable the court may consider it to be. That is not a matter which is within the sphere of the functions and duties allocated to the judiciary under the Constitution. If the executive is not carrying out any duty laid upon it by the Constitution or the law, the court can certainly require the executive to carry out such duty and this is precisely what the court does when it entertains public interest litigation...the court certainly can and must Intervene and compel the executive to carry out its constitutional and legal obligations.... When the court passes any orders in public interest litigation, the court does so not with a view to mocking at legislative or executive authority or in a spirit of confrontation but with a view to enforcing the Constitution and the law, because it is vital for the maintenance of the rule of law that the obligations which are laid upon the executive by the Constitution and the law should be carried out faithfully.... But at the same time, the court cannot usurp the functions assigned to the executive and the Legislature under the Constitution and it cannot even

indirectly require the executive to Introduce a particular legislation or the Legislature to pass It or assume to itself a supervisory role over the law-making activities of the executive and the Legislature.

6. In the present case, no particular breach of any constitutional obligation has been mentioned. The prayers made are vague to the highest degree. The pleadings made out and the relief sought are thoroughly misconceived and does not come within the purview of public interest litigation, as has been established by now through various decisions of the Hon''ble Supreme Court.

7. Similarly, the court cannot supervise the natural behaviour in between different political parties or the Individuals. It is wholly beyond the domain of activities of the Judiciary to control the behaviour or interaction between political entities or private individuals, particularly when they are not even authorities within the meaning of Article 12 of the Constitution of India. Neither can the judiciary direct the Government in the matter of its approach or relation or interaction with private individuals or rival political parties in the matter of its mutual relation and Interaction.

8. We, therefore, are unable to appreciate the necessity of entertaining the present writ petition in the facts and circumstances of the case and are afraid that the court cannot grant the relief prayed for in the writ petition. The writ petition is, therefore, dismissed. There will, however, be no order as to costs.