
(1992) 04 MAD CK 0005
In the Madras High Court

R. Parthasarathy		APPELLANT
	Vs	
The Union of India (UOI)		RESPONDENT

Date of Decision : 23-04-1992

Acts Referred:

Constitution of India, 1950 — Article 356

Citation : (1993) 1 MLJ 257

Hon'ble Judges : D. Raju, J

Bench : Division Bench

Judgement

D. Raju, J.—The writ petition has been filed for the issue of a writ of declaration, declaring that the Presidential Proclamation dated

2.4.1992 under Article 356 of the Constitution of India relating to the State of Nagaland is null and void, unconstitutional and ultra vires. The

petitioner has made available the xerox copy of a news item containing the gist of the Presidential Proclamation. By virtue of the Presidential

Proclamation issued under Article 356 of the Constitution of India, the Administration of the State of Nagaland was brought under the President's

rule. Another xerox copy of a news item made available by the petitioner contains the details of advice which appears to have been tendered to the

President of India, who issued the proclamation under Article 356 in relation to the State of Nagaland; the sum and substance of it appears to be

that the very ground relied upon by the Governor to dissolve the Assembly shows that it was not possible to carry on the administration of the

State in accordance with the provisions of the Constitution.

2. The petitioner appeared as party in person and argued the case by referring to several judgments of the Apex Court as well as various High

Courts. In substance his contention was that the circumstances which prevailed in the said State at the crucial point of time did not warrant or

justify recourse to Article 356 of the Constitution of India. In the light of the view, I propose to take in disposing of the writ petition, I consider it

unnecessary to deal with extensively the various aspects of the submissions made and referred to, in detail, in the several judgments quoted by the

petitioner. In my view, the writ petition is liable to be dismissed for the very simple reason that the petitioner would have no locus standi to maintain

this writ petition and that at any rate no part of the cause of action for the writ petition arose at all, either wholly or in part, within the territorial

jurisdiction of this Court.

3. Though the petitioner has chosen to institute the present writ petition as a public interest litigation, there is no controversy over the fact that he

claims to be an Indian citizen and only a voter in the State of Tamil Nadu. Public interest litigation does not mean that anyone can institute

proceedings any where and that too the writ petition for any cause or purpose, irrespective of the fact whether he has any semblance of interest

either in his personal or representative capacity in the subject matter concerned or involved in the case. Courts have been encouraging public

interest litigation deviating from the normal rule of locus standi and the principle of personal grievance or personal injury, only in respect of matters

where it involved denial of fundamental right to innocent citizen who cannot protect themselves, or where it is to espouse the cause of some

helpless individual or a representative group who have no vigilance or wherewithal or the required stamina to have recourse to courts and to fight

to secure relief for themselves. Except in such extraordinary situations, entertaining of writ petitions on any and every issue at the instance of

anyone from the public irrespective of the nature of the cause or his legitimate concern in respect of such matters, in my view is not to be

countenanced. Otherwise, it will lead to serious repercussions and encourage all types of unethical litigation which is to be otherwise severely

repelled by Courts of justice.

4. The Supreme Court had an occasion to consider the nature and type of public interest litigation that is of late coming before courts and held that

a cautious approach is to be adopted in countenancing such litigation. Learned

Judge, V. Khalid, J. while delivering a supporting, but a separate opinion in Shri Sachidanand Pandey and Another Vs. The State of West Bengal and Others, , has observed as follows:

My learned brother has considered the facts in detail and the questions of law relevant for the purpose of this appeal. I fully agree with his

conclusions. This short tailpiece is with a purpose. This case goes by the name ""Public Interest Litigation"". I wish to delineate the parameters of

public interest litigation concisely, against the background of the facts of this case, so that this salutary type of litigation does not lose its credibility.

Today public spirited litigants rush to courts to file cases in profusion under this attractive name. They must inspire confidence in courts and among

the public. They must be above suspicion. See the facts of this case and the end result.

My purpose in adding these few lines of my own is to highlight the need for restraint on the part of the public interest litigants when they move

courts. Public interest litigation has now come to stay. But one is led to think that it poses a threat to courts and public alike. Such cases are now

filed without any rhyme or reason. It is, therefore, necessary to lay down clear guidelines and to outline the correct parameters for entertainment of

such petitions. If Courts do not restrict the free flow of such cases in the name of public interest litigations, the traditional litigation will suffer and the

courts of law, instead of dispensing justice, will have to take upon themselves administrative and executive functions.

It is only when courts are apprised of gross violation of fundamental rights by a group or a class action or when basic human rights are invaded or

when there are complaints of such acts as shock the judicial conscience that the courts, especially this Court should leave aside procedural

shackles and hear such petitions and extend its jurisdiction under all available provisions for remedying the hardships and miseries of the needy, the

underdog and the neglected. I will be second to none in extending help when such help is required. But this does not mean that the doors of this

Court are always open for anyone to walk in. It is necessary to have some self-imposed restraint on public interest litigants.

The apprehension about the indiscriminate volume of litigation under the guise of public interest litigation expressed by the learned Judge applies in

my view on all fours to the case on hand. The person or persons, if at all concerned about the action complained of, cannot be said to be one or

those who cannot look after themselves or more for protection, if they and so wish the writ petition in my view is instituted more by way of

publicity for the self rather than for really serving any practical or useful public purpose.

5. That apart the action complained of is against the respondent whose office is not situated within the territorial jurisdiction of this Court. Further,

the order of proclamation issued under Article 356 has no impact whatsoever in this area or State over which this Court has jurisdiction. No cause

of action, either wholly or in part could be said to have arisen within the territorial jurisdiction of this Court. The effect of proclamation could not be

said to have been felt or suffered legally in any manner by any one including the petitioner in this State and consequently I am of the view that the

relief prayed for as well as this writ petition cannot be maintained before this Court under Article 226 of the Constitution.

6. For all the reasons stated above, the writ petition shall stand dismissed.