

(2000) 09 MP CK 0076
In the Madhya Pradesh High Court
Case No : Writ Petition No. 1404/98

Rajendra Singh Tomer

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 20-09-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 4 MPHT 343 : (2001) 1 MPJR 52 : (2001) 1 MPLJ 259

Hon'ble Judges : N.G. Karamdelkar, J; Faizanuddin, J

Bench : Division Bench

Advocate : R.D. Jain and S.K. Jain, V.K. Bharadwaj, for the Appellant; J.D. Suryavanshi, Government Advocate for Respondent No. 1, I.B. Shastri and Sanjay Dwivedi for Respondent No. 2, Ramji Sharma and Vishal Mishra, for the Respondent

Judgement

Fakhruddin, J.

This petition styling as "Public Interest Litigation" has been filed by the petitioner on the ground that the respondent No. 4, i.e., Samta Loksansthan Trust is running the College/Institute at Thatipur against the permission, which has been granted by the respondent No. 2-All India Council for Technical Education, New Delhi, as per Annexure P-4, dated 8-8-1997.

The facts of the case are that the respondent No. 4, which is a public registered Trust, had applied for grant of permission to run the college in the name and style of "Institute of Technology and Management" at Malanpur District Bhind, to respondent No. 2, i.e., All India Council for Technical Education, hereinafter referred to AICTE, for short. The respondent No. 2, AICTE, after consideration, granted permission to the respondent No. 4 to run the college at Malanpur in District Bhind, as per Annexure P-4, as mentioned above. It was contended that since respondent No. 4 did not comply with the permission so granted and started to run the college in Thatipur against the permission the petitioner brought this fact to the notice of the Competent Authority, i.e., respondent No. 2,

AICTE, vide Annexure P-5, but all in vain. It was further contended that during the pendency of the present petition, the respondent No. 2, AICTE, permitted the respondent No. 4/Trust to establish and run the College at Gwalior instead of Malanpur District and this was done on the basis of the recommendations of the M.P. Pollution Control Board and the Central Pollution Control Board.

Having been aggrieved by the actions of the respondents, the petitioner has preferred this petition under Article 226 of the Constitution of India, claiming the following reliefs as under :--

"(i) That, respondent-All India Council for Technical Education be directed to quash the permission, Annexure P-4.

(ii) That, respondents be directed not to permit respondent No. 4 to run the Technical College, Gwalior.

(iii) That, respondent Jiwaji University be directed not to grant affiliation to the Institute of Technology and Management Malanpur, Gwalior.

(iv) That, any other relief which is suitable in the facts and circumstances of the case in favour of the petitioner may be granted.

(v) That, the permission Annexure P-8 dated 25th August, 1998 be quashed."

Learned counsel for the respondents, on the other hand opposed the petition, and contended that it is liable to be dismissed.

Heard the contentions of the counsel for the parties and perused the record.

It is borne out from the record that earlier the permission was granted to the respondent No. 4-Trust, as per Annexure P-4, for setting up of an Institute of Technology & Management at Malanpur, in the District Bhind, but subsequently on the basis of the recommendations of the M.P. Pollution Control Board and the Central Pollution Control Board, the respondent No. 2 agreed to permit the Institute of Technology and Management to be permanently established at Gwalior instead of Malanpur, District Bhind, vide Annexure R-2.

It further appears from the record that the respondent No. 2, i.e., AICTE took the decision to shift the Institute of Technology and Management from Malanpur to Gwalior on the basis of a letter/recommendation dated 3-3-98 of the M.P. Pollution Control Board, which is marked as Annexure R-1 on the record, in which the Board-respondent No. 5 has refused to give permission to the aforesaid Institute, keeping in view environmental pollution and Industrial accidents, to construct the building, hostel and other residential building of the Institute, which view was upheld by the Central Pollution Control Board. Learned counsel appearing for the respondent No. 2 stated that this decision of shifting the Institution was communicated to the State Government by the respondent No. 2, AICTE, vide its letter No. F. No. 760-81 -2289 (E) ET/97, dated 25-8-1998, addressed to the Principal Secretary Manpower Planning Department, Govt. of M.P., Vallabh Bhavan, Bhopal (Annexure R-2) and the State Government also

approved and recommended the shifting of the Institution from Malanpur to Gwalior, as per Annexure-A, dated 10th May, 1999. Therefore, it is submitted on behalf of the respondents that there is no illegality in the decision taken by the respondent No. 2 and there is no force in the contention of the petitioner.

Shri Shastri, learned counsel for the respondent No. 2 as well as Shri Ramji Sharma, learned counsel appearing for the respondent No. 4 pointed out that the petitioner is not a permanent resident of District Bhind. He has no interest and therefore under the facts and circumstances, the question of interest of public residing in District Bhind does not arise as he is not the representative of the residents of District Bhind and the petition as such is not maintainable.

Shri R.D. Jain, learned ST. Counsel with Shri S.K. Jain, counsel for the interveners also stated that the present petition does not involve public interest and it is filed in personal interest at the instance of Managing Committee of Maharana Pratap College of Technology, Gwalior. Thus, under the circumstances, it is liable to be dismissed, as not maintainable.

The Apex Court in the case of *Malik Brothers v. Narendra Dadhich and Anr.*, reported in 2000(1) J.L.J. 36, has considered the scope of PIL and observed in Para 2 that:--

"..... it is necessary to bear in mind that public interest litigation is usually entertained by a Court for the purpose of redressing public injury, enforcing public duty, protecting social rights and vindicating public interest. The real purpose of entertaining such application is the vindication of the Rule of law, effecting access to justice to the economically weaker class and meaningful realisation of the fundamental rights. The directions and commands issued by the Courts of law in a public interest litigation are for the betterment of the society at large and not for benefitting any individual. But if the Court finds that in the garb of a public interest litigation actually an individual's interest is sought to be carried out or protected, it would be the bounden duty of the Court not to entertain such petition as otherwise the very purpose of innovation of public interest litigation will be frustrated. It is in fact a litigation in which a person is not aggrieved personally but brings an action on behalf of the downtrodden mass for the redressal of their grievance....."

Learned counsel appearing for the respondents No. 2 and 4 as well as the counsel appearing for the interveners submitted that the pursuant to the permission granted, and the subsequent approval by the State Government, vide Annexure A, dated 10th May, 1999, the building had been constructed at the permanent site, which was approved by All India Council for Technical Education, Govt. of India, New Delhi and the State Government of M.P. It is pointed out that the students have taken the admission in this Institute, Gwalior for a course of five years and have paid the required fees and they are getting education there.

Having considered the facts and circumstances and the material on record, it is apparent on record that, the respondent No. 2, which has been established under

All India Council for Technical Education Act, 1987 with a view to develop the technical education system with proper planned after taking into consideration the difficulties faced by the institution and all these factors and further the recommendation of the M.P. Pollution Control Board and the Central Pollution Board, took the decision and permitted the aforesaid Trust-respondent No. 4 to be permanently established at Gwalior within one year from the issuance of this permission as per Annexure R-2, dated 25-8-1999. It is stated that this decision was well communicated to the State Government which also approved the same by Annexure-A, dated 10th May, 1999. Pursuant to this, the experts team of the respondent No. 2 visited the institute on 5-4-1999 at existing temporary site as well as proposed new permanent site located to monitor the progress made by the Institute and also considered the application for additional course in the branch of Electronics and Instrumentation Engineering. This institute had been shifted on 2-8-1999 at their new permanent site, which was approved by the authorities for the construction of the building and started to function. It is submitted that the students took the admission in the aforesaid institute for four years and they are getting education there.

Considering the facts and circumstances as brought on record and in view of the decision of the Apex Court in the case of Malik Brothers v. Narendra Dadhich and Anr., reported in 2000(1) JLJ 36, in the opinion of this Court no case is made out for exercise of the jurisdiction under Article 226 of the Constitution of India. However, in the ends of justice, it would be just and proper if the respondents No. 1 and 2 are directed to make periodical inspection of the Institute through expertise to find out the norms and standards of the education so that the institution becomes a model institute in the technical education system.

With this observation, the petition is disposed of. Costs as incurred.