
(2001) 04 MAD CK 0075

In the Madras High Court

Case No : Writ Petition No. 19013 of 2000 and W.M.P. No. 27552 of 2000

S. Singaram

APPELLANT

Vs

Government of Tamil Nadu and Others

RESPONDENT

Date of Decision : 30-04-2001

Acts Referred:

Constitution of India, 1950 — Article 226
Prize Chits and Money Circulation Schemes Banning Act, 1978 — Section 2, 3
Prize Competitions Act, 1955 — Section 4

Citation : AIR 2001 Mad 419

Hon'ble Judges : N.K. Jain, C.J.; K. Sampath, J

Bench : Division Bench

Advocate : D. Ramakrishnan, for the Appellant; K. Elango, Government Advocate (for Nos. 1 and 2), S. Gnaneswaran, (for Nos. 3 and 6), S. Vijayaraghavan, (for No. 4) and C. Ramesh, (for No. 5), for the Respondent

Final Decision : Dismissed

Judgement

N.K. Jain, C.J.—This writ petition has been filed by the writ petitioner praying to issue a writ of Mandamus directing the respondents 1 and 2 to take action against the respondents 3 to 6, who are conducting prize schemes in the media.

2. The writ petitioner is a trader in wooden furniture and a Carpenter by profession. The enactment of Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and the Rules framed thereunder in the year 1980 also the Prize Competitions Act, 1955 were mentioned. The grievance of the petitioner is that recently the visual media and the press are coming out with prize schemes, announcing fabulous prizes, the highest being a prize of Rs. One Crore. According to the petitioner, these are nothing but violation of the provisions of the Act mentioned above. The petitioner also issued a notice to respondents 1 and 2 on 12-10-2000 requesting them to take action against 3 to 6 for the illegality committed by them. It is further stated that on earlier occasion when prize schemes were announced by weekly magazines during Deepavali festival,

they were stopped by the order of this Court reported in *Voice v. Commissioner of Police*, 1999 Writ LR 86. As no fruitful action is taken so far, the writ petitioner is before this Court with the prayer as stated above.

2A. The third respondent filed a counter-affidavit stating that the writ petition is not maintainable. It is stated that in the programme "Koteeswaran" being conducted by the third respondent, no question of gambling is involved. No element of wagering or betting is also involved. Out of the candidates, who applied, for the purpose of selection to the chair, only the person, who is able to answer the question using his/her skill is taken to the chair, and he has to answer the questions put to him out of the options given. It is stated that the said person need not pay or put any stake in the hope of any prize or reward, and that it is only the skill of the person which is put to test, and if he is successful in answering the question, payment is incidental to that and if the answer is wrong, the person is ousted out from the competition with whatever money the person has earned by answering correct questions. It is categorically denied in the counter-affidavit that "Koteeswaran" programme is concerned with any money circulation. It is further stated that the programme is a game of skill and during the programme, many of the advertisements are being shown in short breaks, which commercially promote the goods advertised for. It is further stated that the decision in *Voice's* case (1999 Writ LR 86) (cited supra) is not applicable to this case. It is further stated that such programmes are being telecast in other television channels in Bombay, Delhi and Calcutta and when they were put under challenge, High Courts of those States had held that the programme only involves skill. With these, the third respondent prays for the dismissal of the writ petition.

3. The fourth respondent has filed a counter-affidavit stating that the Prize Chit and Money Circulation (Banning) Act, 1978 will not apply to this case as neither a chit nor circulation of money is involved. It is stated that public is informed on matters of public interest, by means of quiz that is conducted, and it is a test of skill. It is also stated that the right to conduct legitimate prize competitions based upon substantial skill is a right recognised under Article 19(1)(g) of the Constitution, as per the ratio laid down by the Supreme Court in *R.M.D. Chamarbaugwalla Vs. The Union of India (UOI)*, : It is also stated that even as per the decision of this Court in 1999 Writ LR 86, the element of substantial degree of skill is the crucial test for finding out whether the scheme is hit by the provisions of the Act, 1978, and in this case, the exercise of substantial skill is very much available. No such element of inducement or loss to the public by means of any money that is parted with is available in conducting these programmes. It is also stated that there is no drawing of lots or any other method to determine the winner by chance and that the winner is the person who has won the maximum number of points based on skill alone. It is further stated that all questions to be asked are devised for persons of reasonable learning and understanding which the vast majority of the public constitutes and, therefore, the allegation that the conduct of programmes amounts to gambling is

not correct.

4. The sixth respondent has filed a counter-affidavit stating that the competition conducted, involves only the skill. It is stated that answers should be written in the coupon, and which are in order will be sent to a panel of persons for selection and, therefore, the competition cannot be considered to be a gambling. It is also stated that the provisions of the 1978 Act will not be attracted. It is further stated that the programme does not involve any game of chance and that it involves only skill.

5. Mr. D. Ramakrishnan, learned counsel appearing for the writ petitioner submitted that respondents 3 to 6 are holding programmes in visual media and the said prize schemes are all in the form of lottery and are formulated merely for making money quickly and easily. Learned counsel submitted that "Money Circulation Scheme" attracts Section 2(c) of the 1955 Act. Learned counsel submitted that respondents 3 to 6 are conducting only, mock competition and no real and true competition exists in those schemes. Learned counsel also pointed out that the prize money is highly disproportionate to the quality of questions asked. So he prays this Court for issuance of a writ prohibiting the conduct of such schemes.

6. Learned Government Advocate appearing for respondents 1 and 2 submitted that no question of money is involved. No gambling takes place and, therefore, the writ petition is liable to be dismissed. He further submitted that the case relied on by the learned counsel for the petitioner in *Voice's Case* (cited supra) will not be applicable to the case on hand.

7. Learned counsel appearing for respondents 3 to 6 submitted that the conduct of programmes is based upon skill and it cannot at all be construed as a game of chance.

8. The crux of the arguments advanced before us is that no question of circulation of money is involved in the programmes and it cannot be said that the programmes attract Section 2(c) of the 1978 Act. They relied upon the decision in *Bimalendu De and etc. Vs. Union of India (UOI) and Others*, :

9. We have given our careful consideration to the arguments advanced by the learned counsel and also perused the material available on record. First of all, we are satisfied with the fact that no betting is involved. The entries received from the contestants are filtered by various methods. Among the candidates so selected to take part in a single day's participation, a person is further filtered by asking a question, leaving out only the clues. The person who got selected by giving the correct answer is eligible to sit in the chair to take part in the programme conducted by the third respondent. Then for every question, he is given two answers, three answers or four answers. He has to choose the correct one. If he succeeds in giving the correct answer, he will be allowed to go further failing which he will be sent out with the money so far collected. In our view skill alone is involved in these programmes. The questions are framed by collecting

materials from all the fields every day a common man comes across. It depends upon the intelligence of the person facing the programme. A question appearing to be so easy for one will be difficult from the point of view of another person. So, we confine our attention to the question as to whether any skill is involved or not in the said programme. We are satisfied that skill really exists. We take a similar view in respect of the programmes conducted by respondents 4 and 5, and also the sixth respondent wherein the readers are required to answer a question after going through an article published in the magazine. There also, skill is involved to a certain extent.

10. So far as the contention that the conduct of programmes falls within the scope of Section 2(c) of Act 1978 is concerned, a reading of the provisions of the 1955 Act and 1978 Act shows that "Money Circulation Scheme" must exist to attract the provisions of the Act, stated above. The spirit of the Act is to prevent exploitation of the gullible public. But in the programmes conducted by respondents 3 to 6, the contestants appear to have better Intelligence Quotient (I.Q.) than that of an ordinary prudent man. When such is the case, we are of the considered opinion that there is no substance in the allegation of the writ petitioner that the programmes of respondents 3 to 6 amount to "Money Circulation Scheme".

11. Our attention has been drawn to the decision of the Calcutta High Court in Bimalendu De and etc. Vs. Union of India (UOI) and Others, . The programme "Koteeswaran" being conducted by the third respondent is similar to that of the programme "Kaun Banega Crorepati" telecast by Star TV, which was under challenge in the above case. After a detailed discussion on various aspects, the Division Bench of the Calcutta High Court in the above case, held that the said programme does not violate any of the codes of conduct, and that the said programme does not involve any gambling. Except making mere allegations, the writ petitioner has not been able to lay his hands on any material to substantiate his claim that the conduct of programmes by respondents 3 to 6 amounts to nothing but gambling.

12. Our attention has been drawn to the decision of Voice's Case 1999 WLR 86 (cited supra). That was a case, where prize schemes were announced by weekly magazines during Deepavali festival. This Court, while disposing of the matter, directed the authorities concerned to take steps to draw chit prizes, after determining as to how any substantial degree of skill is involved. In our considered opinion, that case will not be applicable to the facts of the present case since we have already stated as to how skill is involved in the present case.

13. For the reasons stated above, we find no merits in the writ petition. The writ petition is liable to be dismissed and accordingly it is dismissed. Connected W.M.P. is closed. Before parting with the case, we would like to observe the following. The writ petitioner, who alleges to be a trader in wooden furniture and a Carpenter by profession, with mere allegations has filed this writ petition styled as Public Interest Litigation. He is not able to show as to what public interest is

involved in this case. Except making mere allegations, he did not attempt to show as to what kind of "exploitation" is present, as to how the provisions of Act 1955 and Act 1978 will be attracted, as to whether "Money Circulation Scheme" is present or not and also as to whether really "skill" is present or not. Under such circumstances, we fail to understand under what "public interest", the petitioner filed this writ petition. In our considered opinion, the writ petition is filed only for his personal gain, tainted with ulterior motive. The same is hereby dismissed. No costs.