
(2007) 06 MP CK 0021
In the Madhya Pradesh High Court

Satya Pal Anand	Vs	APPELLANT
High Court of M.P. and Others		RESPONDENT

Date of Decision : 20-06-2007

Acts Referred:

Constitution of India, 1950 — Article 130, 214, 226, 227

Citation : (2007) ILR (MP) 936 : (2007) 3 MPHT 448

Hon'ble Judges : S.C. Sinho, J;Deepak Verma, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Deepak Verma, J.

Petitioner No. 1 Shri Satya Pal Anand appeared in person and argued the matter.

1. The petitioner No. 1 as pro bono publico has preferred this writ petition under Articles 226 and 227 of the Constitution of India claiming several reliefs which are reflected in Paras 7, 7(a), 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 7(h), 7(i), 7(j) and 7(k) in the petition. Petitioner No. 2 is a practicing Advocate of this Court.

2. In nutshell, basic and foremost prayers are that there should be a Circuit Court of this High Court at Bhopal, and further Indore and Gwalior Benches should also be empowered to entertain and decide all types of cases, including the vires matters.

3. Looking to the prayer made, it is profitable to reproduce Section 51 of the State Reorganization Act, 1956 (hereinafter referred to as "the Act"):

51. Principal seat and other places of sitting of High Courts for new States.--(1) The principal seat of the High Court for a new State shall be at such place as the President may, by notified order, appoint.

(2) The President may, after consultation with the Governor of a new State and the Chief Justice of the High Court for that State, by notified order, provide for

the establishment of a permanent Bench or Benches of that High Court at one or more places within the State other than the principal seat of the High Court and for any matters connected therewith.

(3) Notwithstanding anything contained in Sub-section (1) or Sub-section (2), the Judges and Division Courts of the High Court for a new State may also sit at such other place or places in that State as the Chief Justice may, with the approval of the Governor, appoint.

4. In furtherance of this he has submitted that on a bare and plain reading of Sub-section (3) of Section 51 of the Act, it is clear that Judges and Division Courts of the High Court can also sit at such other place or places in that State as the Chief Justice may with the approval of the Governor, decides to do so. According to him, looking to the fact that more than 70% cases pending in the High Court, State of M.P. is a party, therefore, it is desirable that a Circuit Court may be directed to be established at Bhopal. It is urged by him that to defend the cases filed against the State or to prosecute the matters filed by the State, Government officers are required to come all the way from Bhopal to Jabalpur causing burden to the Government exchequer. To avoid un-necessary expenditure, it is necessary to have a Circuit Court at Bhopal. To buttress his point, he has placed reliance on State of Maharashtra Vs. Narayan Shamrao Puranik and Others, .

5. To appreciate the said submissions, we have critically perused both the decisions. In both these cases the challenge was to the order of the Bombay High Court, wherein the notification issued by Chief Justice of Bombay High Court in exercise of his powers under Sub-section (3) of Section 51 of the Act, with the prior approval of the Governor of Maharashtra by which he appointed Aurangabad as a place at which the Judges and Division Courts of Bombay High Court shall sit, was quashed. It is patent that both the aforesaid judgments of the Supreme Court had arisen on account of the same order passed by the High Court of Bombay between the same parties. The aforesaid judgments of the Supreme Court do not help the cause of the petitioner in any manner whatsoever.

6. According to Article 214 of the Constitution, there shall be a High Court for each State, but with regard to constitution of Benches, the power has been conferred u/s 51 of the Act. This High Court was constituted w.e.f. 1-1-1956. At that time, on account of Presidential notification issued in this regard, Benches at Indore and Gwalior were also constituted. Thus, we already have the Main Seat Jabalpur with permanent Benches at Indore and Gwalior. In the said Presidential notification there was no mention with regard to the Circuit Court at Bhopal, and rightly so, as the said power has been conferred exclusively on the Chief Justice of the State under Sub-section (3) of Section 51 of the Act, with the approval of the Governor of the State.

7. We may also refer to the decision rendered in the case of Union of India and Another Vs. S.P. Anand and Others, . In the aforesaid case Union of India had

assailed the notice issued by the High Court of M.P., Indore Bench. The prayer in the said writ petition filed by the present petitioner at the Indore Bench was for issuance of writ of mandamus to have a Bench of Supreme Court at Indore. The Apex Court scrutinized the language employed under Article 130 of the Constitution of India and thereafter referred to the report of the Constituent Assembly Debates and eventually in Para 20 of the judgment expressed an opinion as under:

20. On this view of Article 130 of the Constitution, the whole edifice of the case set up by the petitioners in the writ petition falls to the ground. We, therefore, arrive at the conclusion that the relief sought by the petitioners in the writ petition filed by the petitioners in the High Court could not be granted by the High Court in exercise of its jurisdiction under Article 226 of the Constitution and the said writ petition could not be entertained. The issuing of a notice to the respondents in the writ petition would serve no useful purpose and would only distract the respondents from performing their other important functions. In our opinion, this was a case which should have been dismissed in limine and the High Court was in error in issuing a notice to the respondents to defend the writ petition.

After so stating, Their Lordships referred to the decision rendered in H.S. Srinivasa Raghavachar Vs. State of Karnataka and Others, , wherein it had been opined that seeing one's name in newspapers everyday has lately become the worst intoxicant and the number of people who have become victims of it is increasing day by day. Thereafter Their Lordship in Para 22 has opined thus:

22. At the stage of preliminary hearing of a writ petition, the High Court, before issuing a notice to the respondent, has to guard against the Court being used as a forum for gaining publicity by the person or persons moving the writ petition. The need for such caution is grater when a person holding a high constitutional office is impleaded as a respondent in the writ petition or when matters of policy are involved. In the instant case, we are constrained to say that in passing the impugned order issuing notice on the writ petition, the learned Judge of the High Court has failed to bestow the requisite care and circumspection. We are, therefore, unable to uphold the impugned order.

In the same judgment it has been held that in case a writ petition filed by the petitioner in the High Court does not raise a triable issue, then the same should be dismissed in limine.

8. A somewhat similar question had cropped up for consideration before the Supreme Court in the matter of Federation of Bar Associations in Karnataka Vs. Union of India, . In the said matter demand for establishment of High Court Bench at Dharwad-Hubli was made. Supreme Court has held that Article 214 of the Constitution only mentions that there shall be a High Court for each State, but nothing is stated therein for establishment of Benches of the High Court at different centres. The statutory provision under which a Circuit Bench of the High

Court can be created is included in Section 51 of the Act.

9. Perusal of the relevant provision of law would show that unless the Chief Justice of the State is of the opinion with the prior approval of the Governor to have Judges and Division Courts of the High Court at other places also, the same cannot be directed. Thus, it is the sole discretion and the prerogative of the Chief Justice to form an opinion and to decide if any Circuit Court or Bench is required to be established in the State.

10. In the case in hand, so far there is no such opinion of Hon"ble the Chief Justice to have a Circuit Court at Bhopal also. Thus, according to us, there is no merit or substance in this petition. It is absolutely misconceived.

11. We have no hesitation in holding that the present litigation has been filed to see one's name published in the newspaper as if it is an intoxicant to sustain the petitioner. We say so as petitioner Shri Satya Pal Anand is a chronic litigant, a Court bird and is knowing the doors of the Court under Articles 226 and 227 of the Constitution on slightest of cause, under the garb of Public Interest Litigation. His several matters had travelled to the Apex Court. His energy seems to be really misdirected.

12. Quite apart from the above, certain assertions have been made with regard to requirement of Bench of the High Court at Bhopal. The same is also factually incorrect. As mentioned hereinabove, there is a principal seat at Jabalpur and permanent Benches at Indore and Gwalior. The said arrangements which was envisaged at the time of formation of the State of M.P. is catering well to the needs of the litigating public. After all, glory and aura of the High Court cannot be reduced to that of glorified District Courts by having so many Benches or Circuit Courts within the State.

13. It is worth noting here that the State of M.P. has already been bifurcated by M.P. Reorganization Act, 2000 as a result of which number of districts have been carved out from the original State of M.P. to form the State of Chhattisgarh. Thus, the assertions are also absolutely unwarranted and have no factual basis.

14. As far as second relief is concerned, the same also cannot be granted to the petitioners in the light of the opinion expressed by majority view of Full Bench reported in Abdul Taiyab Abbasbhai Malik and Others Vs. The Union of India (UOI) and Others, Thus, this ground also has no merit and substance.

15. We would be failing in our duty if we do not say that we would have imposed exemplary heavy costs on the petitioner, but taking pity on his old age, we refrain from doing so, atleast in this case.

16. In the result the writ petition, being devoid of merit and substances, stands dismissed in limine. The security amount, if deposited by the petitioner, be refunded to him after due verification.