

(1984) 09 RAJ CK 0028

In the Rajasthan High Court

Case No : Civil Special Appeal No. 203 of 1984

Sita Ram Trivedi

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 01-09-1984

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1985) 1 WLN 83

Hon'ble Judges : N.M. Kasliwal, J;D.L. Mehta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

N.M. Kasliwal, J.—This special appeal u/s 18 of the Rajasthan High Court Ordinance, 1949 is directed against the order of learned Single Judge dated January 23, 1984, dismissing the writ petition.

2. The petitioners-appellant filed a writ petition on, January 21, 1984, praying that a writ of mandamus or any other appropriate writ, order or direction may be issued for the following reliefs:

(i) declare and quash the constituting of the said two groups-first and Second, as unjust & discriminatory & violative of Article 14 of the Constitution of India.

(ii) declare & quash the system & issual of invitation cards (Annexure 1 to 3) for the said two functions as illegal & ultra vires of Article 14 of the Constitution of India.

(iii) declare and quash the instructions as illegal and ultra vires of Article 14 of Constitution of India in so far so it provides for an unequal & unjust differentiation and restricts & prohibits the petitioner and other persons of the said group Second in the access & enjoyment of the arrangement at the stadium.

(iv) issue writ or appropriate directions to the State Government and the Secretariat of the Governor not to implement the said invitation cards & the said

circular order & not to prohibit the petitioner to have an equal and unfettered access to and enjoyment of the said arrangement at the said two functions.

The petitioner-appellant filed the writ petition basing his claim under Article 14 of the Constitution of India which guarantees equality before the law or the equal protection of the laws within the territory of India. The case of the petitioner-appellant was that he was a citizen of India and enjoys all rights and privilege as embodied in the Constitution of India. 26th January is celebrated all over India and in the city of Jaipur as Republic day. The main celebrations for this Republic day are held in the morning of 26th January at the SMS Stadium Jaipur and in the after-noon at the Raj Bhawan. The celebrations at the SMS Stadium Jaipur comprises of unfurling of National Flag by the Governor and the playing of National Anthem. Other important items at these celebrations are march-past & parade by the contingents of the Army, Police, NCC and other institutions, mass PT and drill and the staging of Tableaux of different departments and institutions. At this public celebration, the public and citizens of Jaipur and nearby adjoining areas assemble in the stadium and witness and participate in the function.

3. It has been further alleged that the public celebrations of 26th January in the morning are arranged by the State Government. For this purpose, they have adopted and taken steps to enforce a system of arrangement whereby the citizen and public are divided into two groups. First, those who are VIPs Officers and elites. Second, those, who are non VIPs non-Officers and non-elites i.e. commoners. According to the petitioner, the State Government has created a preferential, privilege treatment and superior status to the persons falling in the first group by issuing the special invitation cards in green, red, yellow and white colours. Each colour of the card represents and has been assigned a distinguished group of superior persons according to their status and salary. Green cards for the super-ranked VIPs and Super-ranked officers, red card is for the second rank of senior officers; yellow is for MLAs and MPs and the like and the white is for III ranked junior officers. The above cards are not issued to any other citizen or member of the public.

4. It has also been alleged that persons falling in the first group have been allotted a separate, privileged and specially advantageous passage of entry and they have been allowed reserved accommodation and seats on luxury, cushioned sofas and chairs. This enclosure is specially provided with a Shamiyana to protect from bad weather and such persons are positioned near the flag post to enable them to witness the celebrations from better angle. Other citizens like the petitioner who have no invitation cards are prohibited to enter or have access to this specially segregated area and enclosure. It has been further alleged that the ordinary citizen has thus been discriminated in the matter of access, accommodation and to take equal advantage of the arrangements made on 26th January. There is no arrangement of separate Shamiyana, nor chairs or sofas for the public in general and they have to remain standing in an open space and

have to brave all the inclemencies rough weather. It has been further alleged that His Excellency the Governor holds a function of citizens meet and. At home at the Raj Bhawan in the after-noon at 4 30 p.m. in which tea, coffee and other snacks are served at the cost of the public exchequer. The invitation cards are issued exclusively to the persons belonging to the first group and they alone have the privilege of meeting the Governor and enjoy the At-home at the Raj Bhawan. The petitioner or any other person of his category falling in the second group have not been issued any invitation card for the Raj Bhawan function and thus, the petitioner has been made to suffer unjust differentiation and discrimination. The petitioner appellant had sent an application dated January 15, 1984 to the Secretary to his Excellency the Governor requesting him to issue the invitation card but the petitioner received no response. Under the above circumstances the writ petition was filed on January 21, 1984 claiming the above mentioned relief.

5. The learned Chief Justice, who beard the writ petition dismissed the same by passing the following order:

Date of order-23-1-1984.

Mr. Sumer Chand Bhandari for the petitioner. Heard learned Counsel for the petitioner. The writ petition is dismissed.

Sd/- P.K. Banerjee

Thus, aggrieved against the dismissal of the petition this special appeal has been filed by the petitioner.

6. Mr. Bhandari learned Counsel for the petitioner, First contended that the learned Single Judge has not given reasons for dismissing the writ petition and the impugned order being not a speaking one is liable to be set aside Reliance in support of the above argument is placed on Smt. Swaran Lata Ghosh Vs. H.K. Banerjee and Others, and G.D. Hans Vs. High Court of Punjab and Haryana and Others, . We find no force in this contention, If a learned Single Judge finds no merits at all in the writ petition, the same can be dismissed without a detailed order. It is not mandatory requirement for the learned Single Judge to mention the facts and discuss the grounds in case he feels that there was no substance at all to even mention such grounds. Smt. Sworn Lata Ghosh's case (supra) was a case where a suit had been filed in the High Court of Calcutta on the original side claiming certain amount against Swaran Lata and Arun Kumar widow and minor son respectively of deceased Virendra Krishna Ghosh. The suit was contested by Swaran Lata by filing a written statement. The plaintiff examined 4 witnesses in support of his case and thereafter the learned trial Judge decreed the suit by passing the following orders:

There will be a decree for Rs. 15000/- with interest on judgment on Rs. 15000/- at 6 percent per annum and costs. No interim interest allowed.

Pursuant to the above order a decree was drawn. Against the above decree

Swaran Lata appealed to the High Court under Clause 15 of the Letters Patent and raised several grounds in the memo of appeal on the merits. The High Court disposed of the appeal by short judgment and observed:

We think that the plaintiff sufficiently proved the case made in the plaint. On the 10th December, 1946, the plaintiff entrusted and deposited with Virendra Krishna Ghosh a sum of Rs. 6,000/- for the excess and specific purpose of investing the same to yield interest @6 per cent per annum. He also entrusted and deposited with Virendra Krishna Ghosh on February 17, 1948, a sum of Rs. 10,000/- for the express and specific purpose of investing the same to yield interest @ 7 per cent per annum.

It was thus, held that the trial Court had rightly decreed the suit. The High Court, however, modified the decree passed by the trial Court and declared that the liability of the defendants was not personal and was limited only to the assets and property of Ghosh received by them. Swaran Lata went to the Supreme Court by special leave against the judgment of Calcutta High Court. In the above context it was held by their Lordships as under:

Trial of a civil dispute in Court is intended to achieve, according to law and the procedure of the Court, a judicial determination between the contesting parties of the matter in controversy. Opportunity to the parties interested in the dispute to present their respective cases on questions of law as well as fact, ascertainment of facts by means of evidence tendered by the parties, and adjudication by a reasoned judgment of the dispute upon a finding on the facts in controversy and application of the law to the facts found, are essential attributes of a judicial trial. In a judicial trial the Judge not only must reach a conclusion which he regards as just, but, unless other wise permitted, by the practice of the Court or by law, he must record the ultimate mental process leading from the dispute to its solution. A judicial determination of a disputed claim where substantial questions of law or fact arise is satisfactorily reached, only if it be supported by the most cogent reasons that suggest themselves to the Judge; a mere order deciding the matter in dispute not supported by reasons is not judgment at all. Recording of reasons in support of a decision of a disputed claim serves more purposes than one. It is intended to ensure that the decision is not the result of whim or fancy, but of a judicial approach to the matter in content; it is also intended to ensure adjudication of the matter according to law and the procedure established by law. A party to the dispute is ordinarily entitled to know the grounds on which the Court has decided against him, and more so, when the judgment is subject to appeal. The Appellate Court will then have adequate material on which it may determine whether the facts are properly ascertained, the law has been correctly applied and the resultant decision is just. It is unfortunate that the learned Trial Judge has recorded no reasons in support of his conclusion, and the High Court in appeal merely recorded that they thought that the plaintiff had sufficiently proved the case in the plaint.

7. The facts of the above case clearly show that the above observations were

made by the Supreme Court in case of a suit filed on the original side of the High Court and have no bearing to the case of a writ petition dismissed in limine.

8. G.D. Hans" v (supra) was no doubt a case there the appellant G.D. Hans had gone to the Supreme Court by special leave against the judgment of High Court of Punjab and Haryana dismissing his writ petition at the stage of admission but the appeal was allowed by their Lordships of the Supreme Court, in the facts and circumstances of that case it was observed by the Supreme Court as under:

On going through the papers we are of the view that this was a fit case which should have been admitted by the High Court and disposed of by a judgment on merits. We, therefore, set aside the order passed by the High Court and remand the case to the High Court to dispose of the writ petition on merits.

Thus, in the above case the Supreme Court on merits after going through the papers was satisfied that the case ought to have been admitted and that is why it was remanded to the High Court for decision on merits. The order of the High Court was not set aside simply on the ground that it was a non-speaking order or had not discussed the grounds in detail.

9. We are thus not prepared to accept the contention of learned Counsel for the appellant that the order of learned Single Judge in the present case should be set aside merely on the ground that it is not a speaking order.

10. We shall now consider the arguments advanced by Mr. Bhandari on merits.

11. We have perused the circular Ex. A 3 issued by the Governor of Rajasthan dated January 20, 1984 relating to the function organised at the time of Republic day. In the above circular following categories have been made:

(1) Governor, Ministers, Speaker, Rajasthan Legislative Assembly, Loka Ayukta, Chief Justice and Judges of the High Court and other special invitees of the rank of Ministers, relations and guests of the Governor.

(2) Commissioners, Administrative Secretaries, Special Secretaries, Additional Secretaries, Members of All India Services, Members of Rajasthan Higher Judicial Service, Income Tax Commissioners, Accountant General, Deputy Secretaries, Chief Engineer and Additional Chief Engineer, Important Heads of Offices of Central & State Govt. Officers

(3) Other Heads of the Departments, Special invitees. Joint Heads of the Departments, Special Officers., Deputy Heads of the department.

(4) Ex-Ministers, Members of Parliament, Members of Legislative Assembly, Ex-Members of Parliament and Legislative Assembly, Freedom Fighters.

(5) Army Officers, NCC Officers, Officers of the Army, Navy and Air Force, Officers of Flying Coaching Institutions

(6) All gazetted officers, office bearers of all important organisations and institutions and social institutions, special invitees.

A perusal of the above categories clearly goes to show that the categories are based on a reasonable classification and form a distinct and separate class from that of the petitioner. All the above categories are founded on the basis of the public offices which they presently hold or had held previously or associated with some important organisations or institutions doing social service or service in other fields of the public. It is nowhere case of the petitioner that he has been denied access to enter inside the stadium or to the function held on 26th January. The petitioner cannot claim any equality in the matter of sitting at a particular place. It cannot be said that merely because the petitioner has not been issued any invitation card for the afternoon function held at Raj Bhawan at 4 30 pm any fundamental or legal right of the petitioner has been infringed. In the matter of public functions to be arranged on the Republic day, there is bound to be a distinction in the matter of seating arrangement and categories will have to be carved out and no equality can be claimed in this regard unless a person falls in the same category. Six categories mentioned in the circular are based on reasonable classification and the petitioner not falling under any one of those categories can claim no right of equality.

12. We have no hesitation in holding that every citizen of India is entitled to see function organised on the Republic day. That does not mean that every person may also have a legal right for being seated at a particular place. It cannot be disputed that arrangements of Shamiyana, Sofas and Chairs cannot be made in whole of the Stadium and in this sort of arrangement some persons have to see the function by remaining standing or by sitting in the open. Our country is still in a developing stage and we earnestly hope that the day would not be far when the Government may be in a position to provide chairs and sofas to every member of the public to witness the national functions like Republic day and Independence day.

13. Mr. Bhandari was unable to cite any case-law having a direct bearing on the point in issue. He, however cited the following cases which in our opinion only lay down the broad principles of the applicability of Article 14 of the Constitution of India: (1) Murli Singh and Another Vs. State Bank, Dholpur, Surendrakumar and Others Vs. State of Rajasthan and Others, (3) Ram Pratap v. The State of Rajasthan RLW 1979 426.

14. A plethora of case of law can be cited, which lays down that the underlying principle of Article 14 is that all persons and things similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed. Article 14 forbids class legislation but not classification which rests upon the reasonable grounds of distinction and for this purpose even one person or group of persons can be a class. Conditions to satisfy the test of permissible classification are:

- (i) it must be founded on untouchable differentiation which distinguishes persons and things that are to be put together from others left out of the group; and
- (ii) differentiation must have a rational relationship to the object sought to be

achieved by the Statute in question.

15. Mr. Bhandari also placed reliance on John Aeron et al v. William G. Cooper et al: 358 US 27, 3 Led 2d 1, 78 5 of 1397, Marian 8 Kotch, John L. Richards Adolph Clark et al v. Board of River Port Pilot Commissioners For the Port of New Orleans et al. 330 US 552 567, and Homer Adolph Plessy v. John H. Ferguson: SC US 1895, 1896 pp. 537-564.

16. The above cases are not at all relevant for deciding the controversy before us. The above authorities deal with the cases of discrimination based on colour i.e. between blacks and whites and have no relevancy at all.

17. In the result we find no force in this appeal and it is dismissed summarily.