

(1985) 12 RAJ CK 0023
In the Rajasthan High Court
Case No : Civil Writ Petition No. 710 of 1985

Social Work and Research Centre, Banswara and Another	APPELLANT
Vs	
State of Rajasthan and Others	RESPONDENT

Date of Decision : 19-12-1985

Acts Referred:

Constitution of India, 1950 — Article 226, 39, 41, 42, 47
Evidence Act, 1872 — Section 115

Citation : AIR 1987 Raj 26 : (1986) RLW 179 : (1986) 1 WLN 297

Hon'ble Judges : S.N. Bhargava, J

Bench : Single Bench

Advocate : C.K. Garg, for the Appellant; M.I. Khan, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

S.N. Bhargava, J.—Mrs. Srilata Swaminathan, petitioner 2 had sent a letter dt. 17th April, 1985 addressed to Justice Mr. G. M. Lodha. Justice Lodha treated that letter as a writ petition and ordered that it should be registered as such. He also admitted the same and ordered that the notices be issued to the State of Rajasthan, Chief Secretary to the Government of Rajasthan, Special Secretary to the Government of Rajasthan (Special Schemes Organisation), Jaipur, Commissioner for Tribal Areas and Director, Social Welfare. Justice Lodha further requested Justice Mr. B. L. Mehta, Chairman, Legal Aid Board to provide financial legal aid by engaging a counsel for this matter.

2. The Chairman of the Legal Aid Board did not sanction any financial legal aid to the petitioners. Mr. C. K. Garg, Senior Advocate offered his services voluntarily to help the petitioners without charging any fees and so, he was appointed as Amicus Curiae on behalf of the petitioners. Shri C. K. Garg filed a detailed writ petition on 16-7-1985. The respondents were served and they have filed reply of the writ petition on 1st Aug. 1985. A rejoinder has also been filed by the petitioners on 19-11-85.

3. According to the petition, Social Work and Research Centre, hereinafter referred to as the "Centre", is a voluntary organisation working primarily for the welfare of tribal people residing in remote and backward area known as "People Khunt" in District Banswara since 1978 with its Project Director, Smt. Srilata Swaminathan, petitioner 2. The main aims and objects of the Centre are to work amongst the tribals in order to solve their socio-economic problems, protect them against exploitation, make them self-sufficient; educate them and to give them a sense of pride in their own culture, heritage and tradition. The details are given in Annx. 2 filed along with the writ petition. The work of the Centre has been appreciated widely by Government and non-governmental quarters. The petitioner 2, Project Director of the Centre, has been awarded a three years Fellowship of Rs. 500/- per month by Jamnalal Bajaj Foundation in the year 1980. A letter of appreciation by the Collector, Banswara, dated 26th January, 1984 has also been annexed with the petition as Annex. 3. The progress report of the Centre for the years 1981-82, 1982-83 and 1983-84 has been annexed with the writ petition as Annex. 4. Micro Project carried on by the Centre has benefited 45 tribal families. Vocational Centre under "TRYSEN" is also being run for self-employment of tribal women where weaving, spinning and tailoring are being taught. A letter by Smt. Sonia Gandhi wife of Prime Minister Shri Rajiv Gandhi, dt. Nov. 10, 1984, has also been placed on record, which runs as follows : --

"Dear Srilata.

Rajiv and I were touched by your words of comfort at our tragic loss. For us she was everything and life without her will just not be the same.

I do remember meeting you. I have heard about your and your husband's work amongst the very poor and I admire you both for it."

4. The respondent 2 has also placed on record an order of the Supreme Court, dt. 13th May, 1985 passed by Hon"ble Justice Mr. P. N. Bhagwati, as he then was, and Justice Rangnath Misra wherein Smt. Srilata Swaminathan was appointed as a Commissioner to visit the Village Vadgan and other two villages to be selected by them and report about the same to the Supreme Court. The petitioner 2 comes from a very respectable family and she is a social activist. She is a Bachelor of Arts and has got four years' experience of Theatre Arts in London. Before taking up this voluntary organisation, she had worked as a Free Lance Director in various Theatre Groups in Delhi as also on Delhi T.V. and Radio programmes.

5. The State of Rajasthan sanctioned a grant to the Centre for a sum of Rs. 17,750/- in the year 1982 for meeting its administrative and functional expenses for conducting the government schemes of helping 50 tribal families through Micro Pilot Project and the Centre was supposed to see that the Micro Pilot Project was rightly implemented and the funds were not wasted or misused and that the benefit of the scheme actually reached the tribal people. The Centre had

also been running a non-formal education school for tribal children since 1979. A project report for the grant by the State Government for the school was submitted to the Tribal Commissioner (Annex. 5). Similarly another project proposal (Annex.-6) for increasing agricultural income for small and marginal tribal farmers was also submitted. Both these proposals for two years had been sanctioned by the Government vide orders dt. 8th Nov. 1983 (Annex-7 and Annex-8) for a sum of Rs. 31,350/- and Rs. 25,000/- respectively. Since the sanction was given sometime in the month of November, 1983, the actual grant for the year 1983-84 in the case of non-formal school project was reduced to Rs. 7,500/- and for agricultural project to Rs. 14,675/-. Annexures 9 and 10 are the copies of the sanction in this connection. These grants were received by the Centre and utilisation certificate of the grant received was also submitted to the Government. The Government did not find any fault with the utilisation of the amount sanctioned to the Centre and granted further administrative and financial sanctions for agricultural project for a sum of Rs. 15,675/- vide Annex. 11, dt. 12-9-84. The Centre in anticipation of receiving the amount had been executing this agricultural project from the very beginning and had been spending money on this account. In spite of the sanction, the grant was not received by the Centre and therefore, the petitioner 2, Smt. Srilata Swaminathan, Project Director of the Centre, wrote a letter to the Commissioner, Tribal Area Development, Udaipur on 5-11-1984 requesting that a cheque for a sum of Rs. 15,675/- in view of sanction dt. 12-9-84 be sent at an early date and also to release sanction for the other project of non-formal education school which was also being run regularly in view of Annex.-8 which was sanctioned for two years i.e. 1983-84 and 1984-85.

6. To the petitioners' surprise, a letter dt. 9-11-84 (Annex.-13) was received enclosing therewith a letter dt. 31-10-84 (Annex.-14), informing that the sanction had been cancelled vide government order dt. 26-9-1984 (Annex. 26) and that the grant in case of non-formal education centre also could not be released in the light of abovementioned government directions.

7. The petitioner 2 addressed letters dt. 9-11-84 (Annexure 15), again on 28th Nov. 1984 (Annex.-16) and 28th Nov., 1984 (Annex. 17) and 28th Nov., 1984 (Annex.-18) to Tribal Commissioner, Chief Minister, Chief Secretary and Home Commissioner respectively. She addressed yet another letter in January, 1985 (Annex.-19) to the Chief Secretary, Home Commissioner (Annex. 20) and also to the Governor in February, 1985 (Annex. 22) but with no result and hence, she wrote a letter to Hon'ble Judge of this Court which was treated as a writ petition and later, Shri C. K. Garg, Senior Advocate has filed a detailed writ petition in that connection.

8. The respondents 1 to 4 have filed a very short reply submitting that some assignments relating to tribal area development works and training of rural youth for self-employment (TRYSEN) were given to the petitioner and for those sanctioned work, the grant was also given in full. With regard to the agricultural

project, it was submitted that the sanction issued was withdrawn by the State Government by letter dt. 31st Oct., 1984 and the petitioners were informed accordingly. As regards non-formal education, it was submitted that this scheme was never sanctioned by the State Government for the year 1984-85, though the grant for the year 1983-84 was released. Similarly, for the third project, TRYSEN, it has been submitted that the scheme was never sanctioned by the State Government and the petitioner was informed by the D. R. D. A. Banswara, by letter dt. 23-11-1984 that they should not start the scheme without prior approval of the D.R.D.A. and since the D.R.D.A. did not approve, the scheme was not sanctioned and hence, no grant could be released to the Centre and the Centre was informed vide letter dt. 5-1-85. It has further been submitted in the reply that since the activities of the petitioner 2 and her husband as per the intelligence reports were found prejudicial to the interest of the State and since the petitioner 2 was practising her designs in the disguise of rural social development activities, the government decided not to give further works to the petitioner Centre. It was further submitted that the grant for social work to the voluntary social organisation is a concession by the government and the petitioners have no vested legal or fundamental right for such grants and therefore, no writ petition is maintainable under Article 226 of the Constitution. Moreover, the present case cannot be covered by the concept of public interest litigation.

9. In rejoinder filed by the petitioners, it has been submitted that the grant had been stopped in mala fide manner as the orders were passed for irrelevant and extraneous considerations. The activities of the petitioner 2 have not been specified and in public interest, wide publicity should be given to the activities of the petitioner if there was a grain of truth in Govt. reply. Orders were passed without affording any opportunity to the petitioners which is in clear violation of the fundamental principles of natural justice and they have also invoked the principle of promissory estoppel and equitable relief.

10. I have heard Shri C. K. Garg as also Shri M. I. Khan on behalf of the respondents and have also gone through various documents submitted by the parties. The respondents in their reply have not challenged the credentials of petitioner 2 even remotely except that her activities were found prejudicial to the interest of the State and that she was practising her own designs in the disguise of the rural social development activities. The learned Government Advocate has also shown me the original file of the enquiries held by the Government with regard to the activities of petitioner 2 to which a serious objection was taken by learned counsel for the petitioners. He has argued that the Courts should not look into any document unless the petitioners are also given a copy of the same and since the government has not claimed any privilege with regard to these documents the petitioners should be supplied a copy of those documents. I do not think it necessary to dwell upon this objection as the documents shown to me were of secret nature and have no bearing on the merits of the case. It is true that a formal application claiming privilege has not been filed, but I do not

think it necessary to ask the Government to give a copy of these reports to the petitioners as the writ petition can be decided even without going through the file as it has no bearing on the merits of the case. The Centre was registered as early as in the year 1972 vide Annex.-1. Annexure 2 has given in detail about the programme and the aims of the tribal development project under the signatures of Project Director, petitioner 2 in June, 1978. It is not denied that the petitioners have been carrying on tribal development work in the area and the Collector, Banswara gave a Commendation Certificate to petitioner 2, on 26th Jan., 1984 for the social work which she was doing in the tribal area for public awareness. The petitioners had been carrying on their activities particularly in Peepal Khunt, District Banswara since 1981 as per the progress report Annex. 4, dt. 20th July, 1984. The petitioner 2 submitted a project proposal for non-formal education school in Village Chantali, District Banswara (Rajasthan) in February, 1983 vide Annex.-5 mentioning therein that the activities were started since November, 1978 with a view to helping the tribals for their social upliftment and to make them more self-reliant and aware. Since the rate of literacy was very low in the tribal areas and most children do not go to the school as they are expected to help and support their parents for their livelihood, therefore, they started a school for a non-formal education in 1979 which is being run regularly in spite of many odds. A grant of Rs. 37,500/- was sought for three years vide Annex.-5. The non-petitioner 2 submitted another project proposal for increasing agricultural income for small and marginal tribal farmers and demanded a sum of Rs. 48,025/- for three years. The district administration recommended both these projects and therefore, the Commissioner, Tribal Area Development, Udaipur issued administrative as well as financial sanctions vide notification dt. 8-11-83 (Annex, 7), accepting the project for two years 1983-84 and 1984-85, amounting to Rs. 31,350/- in all for agricultural project, whereas it also accorded sanction for spending a sum of Rs. 14,675/- during the year 1983-84 and the conditions imposed for this sanction read as under:--

(Matter in vernacular omitted -- Ed.)

11. Similarly, Commissioner, Tribal Area Development, Udaipur vide Annex. 8, gave administrative as well as financial sanction for both the years 1983-84 and 1984-85 for non-formal education scheme amounting to Rs. 25,000/- in all, but for the year 1983-84, only a sum of Rs. 7,500/- was sanctioned and similar conditions were imposed and in pursuance of these sanctions, demand drafts for Rs. 14,675/- and Rs. 7500/- were sent to the petitioners vide Annexures 9 and 10. On 12-9-1984, Commissioner, Tribal Area Development, Udaipur in pursuance of earlier sanction dt. 8-11-83 (Annex. 8) issued administrative and financial sanction for a sum of Rs. 15675/- for the year 1984-85 vide Annexure-11. The petitioner 2 vide letter dt. 5th Nov., 1984 (Annx. 12) requested the Commissioner, Tribal Area Development for releasing the amount of Rs. 15,675/- for the agricultural project and also for the non-formal education scheme as they were running both these projects since April, 1984, to which a reply was received by non-petitioner 2 vide letter dt. 9-11-84 (Annx. 13)

enclosing therewith a copy of the order dt. 31st Oct., 1984 (Annexure 14) by the Commissioner, T.A.D. cancelling the sanction issued on 12-9-84 in pursuance of the order received from the Government, dt. 26-9-84. Thereafter, petitioner 2 addressed several letters to various authorities including the Chief Minister, Chief Secretary, Home Secretary and the Governor, but with no result and ultimately, the petitioner 2 wrote a letter to a Judge of this Court for redress.

12. Under the assurances received from the authorities and in view of the sanctions Annexes 7 and 8, the petitioners had been carrying both the projects right from April, 1984. It was for the first time that the petitioners were told by letter dt. 5-11-1984 that the sanction accorded on 12-9-1984 for a sum of Rs. 15,675/- has been cancelled and State Government does not want to give any grant on account of non-formal education scheme. We are sovereign, socialist secular democratic republic and are governed by a written constitution to secure to all its citizens justice, social, economic and political, liberty . of thought, expression, belief, faith and worship; and equality of status and of opportunity and to promote among them all fraternity assuring the dignity of the individual and the unity and integrity of the Nation. The Constitution provides and guarantees fundamental rights in Part III of the Constitution, providing certain fundamental rights with regard to property, religion, speech, equality before law etc. whereas Part IV of the Constitution describes the directive principles of State policy which are fundamental guides for the governance of the country and it is the duty of the State to comply these principles while governing the country. Article 38 of the Constitution enjoins upon the State to secure a social order for the promotion of the welfare of the people. Article 38 of the Constitution, Sub-clause (2) was added by 44th Amendment Act of 1978 requiring the State to strive to minimise the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations. Article 39 enjoins upon the State to direct its policy towards securing-

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(d) that there is equal pay for equal work for both men and women;

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

Article 41 of the Constitution provides as under :--

""The State shall, within the limits of its economic capacity and development,

make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of underserved want."

13. Article 42 of our Constitution enjoins upon the State to make provision for securing just humane conditions of work and for maternity relief and Article 45 of our Constitution provides that the State should provide free and compulsory education for all children until they complete the age of 14 years and Article 46 specifically provides that the State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation. Article 47 of the Constitution enjoins duty on the State to raise the level of nutrition and the standard of living and to improve public health.

14. All these activities of the State cannot be run by the Government alone and therefore, Government, leaders and the Planning Commission have been emphasising the importance of role of voluntary organisations like the petitioner Centre. In fact, useful implementation of any government plan without the aid and assistance of such voluntary organisations is not feasible and therefore, both the Central as well as the State Govt. encourage people to involve themselves in the social, economic and welfare programmes, including removal of illiteracy and economic development specially amongst the tribal areas and other backward and weaker sections in the Society.

15. In the present case, it has not been disputed by the Government that the petitioners have been carrying on their activities in the area since 1978 and have also opened a non-formal education school since 1979 in which children of the tribal people have been getting education. It has also not been contested that the petitioners have been carrying on these projects during the financial year 1984-85 or that they have violated any of the conditions mentioned in Annexure-7 or Annex.-8. It has also not been disputed that the petitioners were awarded sanction for work done by them in the year 1983-84 both for agricultural project as well as for non-formal education scheme. Since it is a continuous process, the petitioners were fully justified in carrying on their activities both for agricultural project as well as for non-formal education scheme in view of sanction (Annexures 7 and 8) and if the government wanted to discontinue their sanction, it should have informed the petitioners in the beginning of the financial year of 1984 well in advance so that they could decide whether they will like to continue their activities even in absence of the grant to be received from the Government. The very fact that the petitioners had submitted the utilisation certificate of both the schemes for the year 1983-84 and that they have not breached any of the conditions mentioned in Annexures 7 or 8, clearly entitles them to receive grant for both the schemes for the year 1984-85. Even the Commissioner, T.A.D. Udaipur vide its order (Annex.-11) sanctioned a sum of Rs. 15,675/- on account of agricultural project for the year

1984-85. It has not been brought on record as to what happened between 12-9-1984 and 26-9-84 when the Home (Gr. 5) Department vide Annex. 26 directed that the activities of the petitioners should not be encouraged and no further government aid should be given to them. Even after filing of the writ petition, the State Government has only submitted that as per the intelligence reports, the activities of the petitioner 2 and her husband were found prejudicial to the interest of the State and that the petitioner 2 was practising her designs in the disguise of the rural social development activities. These are all vague allegations and no concrete example or instance has been brought on record. Moreover, the principle of promissory estoppel and also equitable rights apply in the present case. The petitioners under the impression and bona fide belief that the Commissioner, T.A.D. has already issued to them administrative as well as financial sanction for both the projects (vide Annexures 7 and 8) continued their activities. It will not be fair and just to stop the grants in the middle of the financial year when the petitioners have been carrying on both these projects right from April, 1984. Such actions by the Government will not only discourage the social voluntary organisations who are helping the government in carrying on their plans and schemes in pursuance of the directive principles laid down in our Constitution.

16. Learned counsel for the petitioners in this connection has placed reliance on *Amratlal Ramanlal and Others Vs. The State of Gujarat and Others, and Union of India v. Anglo Afghan Agencies* AIR 1968 SC 718. It is true that the petitioners have no legal right or fundamental right to receive such grants nor there is any violation of its any statute, Act or the Rule as there are no Rules governing such grants by the State and it is purely discretionary but the Court cannot close its eyes and it is now too late to contend that the High Court should not interfere in writ jurisdiction under Article 226 of the Constitution unless there is violation of any legal or fundamental right. The Hon'ble Supreme Court in a number of cases has enjoined a duty on the High Court to see that the State Government functions in accordance with the principles of natural justice and acts fairly and in a just manner while passing its administrative or discretionary orders. In the present case, the petitioners were never given an opportunity to show cause as to why the grant should be stopped and the amount should not be released. If there was anything against the petitioners, it should have been brought to their notice before cancelling the grant and thus there is a clear violation of the basic fundamental principle of natural justice as well. When the grants were sanctioned and more so when the petitioners continued their activities in the earlier years for which the grant was released and they were continuing their activities for the year 1984-85 under the bona fide belief that the grants would be released in due course, it will be most unfair and unjust on the part of the government to cancel the sanctioned grant or not to release the grants for these projects.

17. In this view of the matter, I am inclined to allow this writ petition and direct that an amount of Rs. 15,675/- on account of agricultural project for the year 1984-85 should be released forthwith and the order dated 31-10-84 (Annx. 14)

is hereby quashed. The petitioners are also entitled to a sum of Rs. 12,500/- i.e. 50% of the amount sanctioned vide Annexure-8 for the year 1984-85 on account of non-formal education scheme which the petitioners had been carrying on even during the year 1984-85.

18. In the result, the writ petition is allowed without any order as to costs.