
(2001) 07 MP CK 0030
In the Madhya Pradesh High Court
Case No : Writ Petition No. 747 of 2001

S.P. Anand and Another

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 30-07-2001

Acts Referred:

Constitution of India, 1950 — Article 226, 334

Citation : AIR 2002 MP 51 : (2001) ILR (MP) 914 : (2002) 1 JLJ 163 : (2002) 1 MPHT 520 : (2002) 1 MPLJ 213

Hon'ble Judges : Bhawani Singh, C.J.;Rajeev Gupta, J

Bench : Division Bench

Advocate : Party in person, for the Appellant;

Final Decision : Dismissed

Judgement

Bhawani Singh, C.J.

Petitioners have preferred this writ petition against respondents challenging Constitutional validity of insertion of "60 years" in Article 334 Constitution of India in place of "50 years" by the Constitution 79th Amendment Act, 1999 from 25-1-2000. They claim to be persons dedicated to the rule of law, therefore, want that this matter be entertained as Public Interest Litigation.

Registry of this Court has pointed out certain defects in the writ petition, one such being that petitioners have not deposited Rs. 2000.00 by way of security as per Division Bench of this Court in S.P. Anand Vs. The State of M.P. and Others, . They claim that their petition be heard without asking them to remove the defect as to non-deposit of security amount on the ground that this is illegal and without jurisdiction. They cited decisions of Apex Court in East India Commercial Co. Ltd., Calcutta and Another Vs. The Collector of Customs, Calcutta,), Smt. Kausalya Devi Bogra and Others Vs. Land Acquisition Officer, Aurangabad and Another,), State of Rajasthan Vs. Prakash Chand and Others,), Assistant Collector of Central Excise, Chandan Nagar, West Bengal Vs. Dunlop India Ltd.

and Others,] and decision of this Court in Ratanlal Agrawal v. State of M.P. (1967 J.L.J. 103).

We are not impressed by the submissions of the petitioners. Petitioner 1 has been filing large number of petitions (PILs) in this Court from time to time. Therefore, he has to remove defects pointed out by the Registry. While dismissing the Writ Petition No. 982 of 1999 by order dated 9-9-1999 : S.P. Anand Vs. The State of M.P. and Others, , certain guidelines have been laid down when it was noticed that the real purpose of PIL is being abused consistently by various so called social spirited litigants by invoking extra-ordinary jurisdiction of this Court. While proceeding to lay down the guidelines, the learned Judges of Division Bench took guidance from the important observations of the Apex Court in the case of S.P. Anand Vs. H.D. Deve Gowda and others,) which are to the following effect:--

"18. Before we part, we can not help mentioning that on issues of Constitutional laws, litigants who can lay no claim to have expert knowledge in that field should refrain from filing petitions, which if we may say so, are often drafted in a casual and cavalier fashion giving an extempore appearance not having had even a second look. This is the impression that one gets on reading the present petition, It is of utmost importance that those who invoke this Court's jurisdiction seeking a waiver of the locus standi rule must exercise restraint in moving the Court by not plunging in areas wherein they are not well versed. Such a litigant must not succumb to spasmodic sentiments and behave like a knight-errant roaming at will in pursuit of issues providing publicity. He must remember that as a person seeking to espouse a public cause, he owes it to the public as well as to the Court that he does not rush to Court without undertaking a research, even if he is qualified or competent to raise the issue. Besides, it must be remembered that a good cause can be lost if petitions are filed on half-baked information without proper research or by persons who are not qualified and competent to raise such issues as the rejection of such a petition may affect third party rights. Lastly, it must also be borne in mind that no one has a right to the waiver of the locus standi rule and the Court should permit it only when it is satisfied that the carriage of proceedings is in the competent hands of a person who is genuinely concerned in public interest and is not moved by other extraneous considerations. So also the Court must be careful to ensure that the process of the Court is not sought to be abused by a person who desires to persist with his point of view, almost carrying it to the point of obstinacy, by filing series of petitions refusing to accept the Court's earlier decisions as concluding the point. We say this because when we drew the attention of the petitioner to earlier decisions of this Court, he brushed them aside without so much as showing willingness to deal with them and without giving them a second look, as having become stale and irrelevant by passage of time and challenged their correctness on the specious plea that they needed reconsideration. Except for saying that they needed reconsideration he had no answer to the correctness of the decisions. Such a casual approach to consider decisions of this Court even by a

person well versed in law would not be countenanced. Instead, as pointed out earlier, he referred to decisions having no bearing on the question, like the decisions on cow-slaughter cases, freedom of speech and expression, uniform Civil Code etc.; we need say no more except to point out that indiscriminate use of this important lever of public interest would blunt the lever itself."

Therefore, to regulate the filing of Public Interest Litigation, the following guidelines have been prescribed :--

"(1) A "PIL" shall disclose petitioner's social public standing/professional status and his public spirited antecedents and specify the nature of cause and interest involved. It shall be supported by an affidavit on each averment/allegation and contain a statement/declaration that issue raised was not dealt with or decided and that a similar or identical petition was not filed earlier;

(2) It shall be accompanied by a security deposit of Rs. 2000/- and unless dispensed with on the recommendation of Registrar, shall not be processed for listing before the Court;

(3) It shall be scrutinised by the Registrar to ascertain the status/ standing of petitioner and the nature of cause disclosed in it and in case it was found wanting in either respect and was not supported by some prima-facie proof wherever warranted, Registrar shall return the petition for making up the deficiency to his satisfaction;

(4) If petitioner was aggrieved by the order of Registrar, he/she could take appeal to the Court on deposit of Rs. 500/-; and

(5) Media, both print and electronic are required to desist from publishing the subject matter of any "PIL" unless its cognizance was taken by the Court by issuing notice to respondents."

Petitioner 1 had filed PIL -- W.P. No. 1882 of 2000 and asserted that order of Division Bench, dated 9-9-1999 is nullity. By order dated 29-6-2000, the contention was repelled and it was said that-

"We, accordingly, granted time to the petitioner to advance arguments on this question. At the outset he has conceded that this order has not been subject-matter of challenge before the Supreme Court. Thus, it is clear that the order has attained finality. However, he contended that this order being a nullity is not required to be followed in subsequent public interest litigations filed by him. He has placed reliance on a judgment of the Supreme Court reported in Prem Chand Garg Vs. Excise Commissioner, U.P., Allahabad, . In this matter the Supreme Court was dealing with its own Rules known as Supreme Court Rules, 1950 which required deposit of security cost while entertaining a petition under Article 32 of the Constitution. He then placed reliance on yet another judgment of the Supreme Court reported in A.R. Antulay Vs. R.S. Nayak and Another, to contend that even without challenging the earlier order passed in W.P. No. 988/99 such directions can still be challenged subsequently in another matter.

However, after having heard the petitioner and after perusal of the judgment, we find ourselves unable to dispense with the deposit of security cost of Rs. 2000/- as per the directions given earlier in petitioner's petition. The said order is of a Co-ordinate Bench and judicial propriety requires to follow the same unless the same is set aside by a Larger Bench or by a Higher Court."

The two decisions of the Court (supra) were approved by the Division Bench again in the case of petitioner 1 S.P. Anand and Ors. v. State of M.P. (W.P. No. 1351 of 2001) decided on July 26, 2001. In Paragraphs 10 to 13 of the order, learned Judges have observed that-

"10, In the light of aforementioned quoted decisions expressly rejecting the submissions of the petitioner, which are pressed into service herein, the petitioner ought not to have even reiterated the same submissions time and again before this Court while arguing this writ petition. In our opinion, this amounts to sheer abuse of process of Court. Persuing an issue time and again before the same Court in different cases filed by the same petitioner even when the same has already been decided against him, is not allowed and can not be permitted.

Once a decision is rendered by a Court of competent jurisdiction and finding is given, it holds the field unless set aside by the Superior Court in its hierarchy. As a matter of fact even this issue was also decided against the petitioner in his own case when this Court dismissed petitioner's writ on 26-9-2000 (W.P. No. 1882/2000). It is not in dispute that the decision referred supra and rendered by this Court still continues to hold the field and are not set aside by the Supreme Court not only at the instance of this very petitioner but also at the instance of any other parties. We are thus bound by the decision so rendered by this Court and subsequently relied upon in all other writ petitions filed by several persons.

We can only while closing this debate here observe and reiterate that petitioner has simply abused the process of law rather than to respect it despite warning given by Supreme Court in his case referred supra, in para 19 of the decision.

Since petitioner has refused to comply the directions of this Court which has its application to all petitions filed as PIL. We have no option but to dismiss this petition on the ground of non-compliance of the directions issued by this Court."

Finally, the contention has been rejected.

Petitioners have advanced the same point again. The view taken by this Court in three decisions is absolutely correct and justified. After all, this kind of litigation has to be regulated so that it does not become a weapon in the hands of one for causing harassment to others. Therefore, one of the safeguards is to provide for deposit of security so that the person who is involved in the litigation unnecessarily and without justification is compensated by the Court at the end of litigation. Therefore, we find no justification to allow the submission of petitioners to dispense with this requirement and deal with this matter without

removing defaults pointed out by the Registry. Even on merits, the petition does not disclose case for consideration and determination. Consequently, the writ petition is dismissed.