
(2008) 06 GAU CK 0048
In the Gauhati High Court

State of Tripura and Another, etc.

APPELLANT

Vs

Indian Forest Service Association and Another, etc.

RESPONDENT

Date of Decision : 05-06-2008

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2008 Guw 132 : (2008) 3 GLT 207

Hon'ble Judges : H.N. Sharma, J;Asok Potsangbam, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Asok Potsangbam, J.—Heard Mr. B. Das, learned senior counsel assisted by Mr. S. Chakraborty, learned Counsel for the appellants and also heard Mr. K.N. Bhattacharjee, learned senior counsel assisted by Mr. S. Roy, learned Counsel for the respondents.

2. This appeal is directed against the judgment and order dated 11-6-2001 passed by the learned single Bench of this Court in W.P. (C) No. 565 of 1999. The writ petitioner, the Indian Forest Service Association, Tripura Unit, represented by its General Secretary, challenged the following notification dated 1-3-1999 under No. 3235-3310/ SP(T)/RSV-44/98, notification dated 12-4-1999 under No. F.8(2)-TRANS/83(L), notification dated 30-1-1999 under No. F.26(12)-SA/76(P) and notification dated 27-11-1998 under No. F. 13(2)-TRANS/94, on the ground of arbitrariness and discrimination. The notification dated 11-3-1999 had been super-ceded by the notification dated 12-4-1999 which was issued by the Government in exercise of powers given under Sub-rule (iii) of Rule 108 of the Central Motor Vehicles Rules, 1989, wherein the list of dignitaries entitled to use red lights in front of the car and the vehicles escorting such vehicles have been identified and specified. The relevant rule enabling the Government to specify the high dignitaries is as follows:

108. Use of red, white or blue light - (1) No motor vehicle shall show a red light

to the front or light other than red to rear:

Provided that the provisions of this rule shall not apply to:

(i). (ii) ...

(iii) a vehicle carrying high dignitaries as specified by the Central Government or the State, as the case may be, from time to time;.

3. According to Mr. Das, learned Counsel for the appellant, by the aforesaid Rule, respective State Governments and Central Government have been given the discretion to specify the vehicles carrying the dignitaries to be fitted with red lights by taking into various consideration like constitutional position of the office, administrative hierarchy, responsibility attached to the post/office, nature of duty and functions to be discharged etc. While doing so, submits by Mr. Das, the authority has also kept in mind the respective orders of precedence prepared by the Central Government and the State Government.

4. Thus, inclusion or exclusion of any office or posts in the list of dignitaries specified under Sub-rule (iii) of Rule 108 of the Rules, does not violate any law or right of an individual nor does it deprive the right of any person, leave alone the right of any member of the petitioner's association. Secondly, it is also submitted that the notification dated 30-11-1999, referred to above, is only a guideline for providing accommodation in the Government Houses/Bhawans outside Tripura, keeping in view the limited availability of Suites/VIP Rooms in the Government houses and the post of Principal Chief Conservator of Forests has been included in the category of officers entitled to occupy suite. This notification does not give any right to any individual officer, dignitary, constitutional office holder and Government employee nor does it take away any right from any of them. The third notification dated 27-11-1998 relates to priority seats in Indian Airlines flights from Agartala to Kolkata. The issue raised in this notification has become redundant in view of the availability of several flights connecting Agartala with the rest of the country and both the parties have not pressed this issue and, as such, this issue does not merit further consideration of this Court.

5. Challenge to the aforesaid notifications have been made by the petitioner on the ground that an incumbent holding a post under All India Services like Indian Forests Service is no inferior to the service status of IAS/IPS Officers and particularly to those IAS officers holding the posts of Secretary to the Government of Tripura and District Magistrates and those IPS Officers holding the post of DIGP or Superintendent of Police and, as such, a direction was sought in the writ petition from this Court for directing the respondents to treat the Indian Forests Service Officers at par or equally with IAS/IPS Officers for the purpose of entitlement and concessions covered by the aforesaid notifications. The writ petition was contested by the State Government by filing affidavit-in-opposition and the learned single Judge disposed of the writ petition by quashing the notification dated 12-4-1999 with a direction to issue a fresh notification and by directing to provide accommodation to members of the Indian Forests Service in

VIP rooms of Tripura Bhawans, subject to availability etc. Aggrieved by the aforesaid directions and findings recorded by the learned single Judge, this writ appeal has been filed by the State of Tripura.

6. After hearing the learned Counsel for both the parties at length, the following issues emerge for consideration of this Court:

(i) Whether the issuance of the executive orders/notifications, referred to above, are within the domain and wisdom of the State Government and, if so, whether judicial review would be available against such purely executive actions?

(ii) In the absence of violation of any statutory right or service conditions of the petitioners by the notifications, referred to above, whether the writ petitioners would have any locus standi to challenge those purely executive and administrative orders issued by the Government?

(iii) Whether the impugned judgment and order is sustainable in law?

7. With regard to the first issue, as formulated above, we are of the opinion that it is for the State Government to decide who to be allowed to use red lights, after taking into consideration various factors including the constitutional status of the office/posts involved, administrative hierarchy, high political posts and nature of the duties and responsibilities attached to the post and such consideration shall largely depend on the wisdom of the Government. As long as the notification dated 12-4-1999 has not violated any service condition or caused deprivation of any statutory rights of the members of the petitioner's association, the writ petitioners do not acquire any right nor are they aggrieved party entitled to invoke the discretionary jurisdiction of this Court, as provided under Article 226 of the Constitution of India and, as such, the notification dated 12-4-1999, which was issued specifying the office/posts of dignitaries of the State, is beyond the scope of judicial review and, moreso, when the petitioners have failed to point out any arbitrariness or violation of any service condition or statutory rights of the members of the petitioner. In this view of the matter, the learned single Bench ought to have restrained itself from exercising its extraordinary/discretionary jurisdiction as provided under Article 226 of the Constitution of India and this self restraint approach is based on clear cut theory of separation of power as has been reiterated in *S.C. Chandra and Others Vs. State of Jharkhand and Others*, . *Union of India (UOI) and Others Vs. Hiranmoy Sen and Others*, .

8. It is submitted by Mr. K. N. Bhattacharjee, learned senior counsel appearing for the respondents/writ petitioners that the claim of the writ petitioner is founded only on the basis of equality of pay/scale of Indian Forests Service Officers with that of the IAS/IPS Officers and, as such, inclusion of the members of the IAS/IPS officers in the list of dignitaries specified under notification dated 12-4-1999 while excluding the IFS Officers, is arbitrary. As discussed above, the use of red lights by dignitaries specified by the Government, differs from State to State, as noticed from the discussion made in the impugned judgment and it is a settled position of law that pay/scale cannot be the criteria for equation of posts

and entitlement thereto and, as such, the submission of the learned Counsel for the respondents/writ petitioners on the question of arbitrariness, has no leg to stand. The State Government taking into consideration all the relevant factors and upon valid consideration thereof having nexus of the object to be achieved has in exercise of its executive powers has exercised the jurisdiction to issue the aforesaid circulars and the same cannot be said to have been suffered from any irrelevant consideration or arbitrariness or otherwise. Accordingly, we are of the opinion that the writ petition is misconceived and the petitioners have failed to establish their locus to challenge the administrative notifications, referred to above. We again reiterate, as discussed above, that judiciary must exercise self restraint and not encroach into the executive and administrative domain unless there is violation of law and deprivation of rights of any individual.

9. In view of the discussion made above, we are of the opinion that the notification 12-4-1999 is a purely administrative order issued for administrative requirements and convenience and, as such, no interference is called for from this Court by way of Judicial review. In respect of notification dated 27-11-1998, as agreed upon by the parties that this issue has become redundant in view of subsequent development, and therefore, no further adjudication is called for.

10. Having considered the rival submissions made by the parties and upon perusal of the documents made available before the Court, we are of the opinion that the writ petition is misconceived and the learned single Bench had exceeded its jurisdiction in quashing the notifications, referred to above, which are purely administrative orders and interference in an area which the executive alone has domain is uncalled for and, as such, the impugned judgment and order dated 11-6-2001 is set aside and the Writ Petition (C) No. 565 of 1999 is dismissed as devoid of merit. No costs.