

(2008) 07 AHC CK 0118
In the Allahabad High Court
Case No : Writ Petition No. 3672(MB) of 2007

Sudarsha Awasthi

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 21-07-2008

Acts Referred:

Companies Act, 1956 — Section 217
Constitution of India, 1950 — Article 102(1)(a), 226

Citation : (2008) 07 AHC CK 0118

Hon'ble Judges : Pradeep Kant, J and Abhinava Upadhyay, J

Final Decision : Dismissed

Judgement

Pradeep Kant, J.—Heard the learned Counsel for the petitioner Sri H.S. Jain and on behalf of respondents Sri R.N. Trivedi, learned Senior Advocate, assisted by Sri Ritu Raj Awasthi, Sri Mansoor Ahmad and Sri Wasi Qadiri.

2. The petitioner has filed this petition in the nature of "Public Interest Litigation", for the following reliefs:

(a) Issue a writ, order or direction in the nature of mandamus commanding the Comptroller and Auditor General of India to conduct Special Audit for last four years of the Accounts of Steel Authority of India, appointing fresh Auditor under Section 619 of the Companies Act, 1956.

(b) Issue a writ, order or direction in the nature of mandamus commanding Steel Authority of India Respondent No. 3 to recover with 18% Compound Interest the entire amount illegally spent, for the use and comfort of Respondent No. 7 or at his official Bungalow at 12, Janpath, New Delhi and on any other official of the Department of Steel, Government of India.

(c) Issue a writ, order or direction in the nature of mandamus commanding Respondent No. 1 to refer "the question of disqualification incurred by Cabinet Minister Sri Ram Vilas Paswan for holding office of Profit under the provisions contained in Article 102(1)(a),

(d) Issue a writ, order or direction in the nature of certiorari quashing the order/ office memo issued by Chairman of the SAIL authorizing the two Executive Directors to incur over Minister and Officials of the Department of Steel after summoning the original from the concerned Respondent.

(e) Issue a writ, order or direction in the nature of mandamus restraining Steel Authority of India Respondent No. 3 from incurring any expenditure on any Ministers and officials of Government of India.

(f) Issue any other writ, order or direction as the Hon''ble Court may deem fit and proper to do complete justice with the citizens at large and to uphold the provisions of the Constitution of India under the facts and circumstances of the case.

(g) Allow the petition with costs".

3. The reason which persuaded the petitioner to claim the aforesaid reliefs is that Sri Ram Vilas Paswan who was sworn as Cabinet Minister after the general elections of the year 2004, was given the charge of the Ministry of Chemicals, Fertilizers and Steel, and was allotted a Bungalow at 12 Janpath, New Delhi as his official residence, maintenance of which was the responsibility of Central Public Works Department. The correspondence done between the Assistant Personal Secretary and the Officer on Special Duty with the Minister from June 2004 to 2006 to the Chairman Steel Authority of India shows that an expenditure of more than Rs. One crore was incurred for the use and comfort of the Hon''ble Minister, and in making alteration, addition in the residential Bungalow and providing various goods and articles. Such a news was also flashed in a News Channel on television.

4. A preliminary objection has been raised by Sri R.N. Trivedi, Senior Advocate on behalf of Steel Authority of India that this petition is not maintainable at Lucknow as this Court has no territorial jurisdiction to entertain a plea for which no cause of action has accrued within its jurisdiction. Submission is that no cause of action has accrued to the petitioner within the territorial jurisdiction of this Court nor any of the authority namely; the Steel Authority of India or the Ministry of the Department of Company Affairs were situated within the said jurisdiction nor the residential Bungalow of Minister was in the area of jurisdiction of the Court. The argument is that the petition is not maintainable and the same be dismissed on the ground of lack of territorial jurisdiction.

5. Sri H.S. Jain in response submitted that since the Minister was a Central Minister and that the Steel Authority of India has its branches all over the country including the State of U.P. and that misuse of the fund has been made by the Steel Authority of India, for improvement and making the constructions in the official residence of the Minister concerned in Delhi, out of the public fund, the petition can be filed anywhere in the country seeking reliefs aforesaid. However, we find that aforesaid section is not at all attracted in the present case.

6. In the alternative he also relied upon Section 217 of the Companies Act in support of his plea that the Court will have jurisdiction to entertain the petition.

7. After giving our anxious consideration to the arguments raised by the parties Counsel, we are of the view that this Court does not have territorial jurisdiction to entertain the petition. Under Article 226 of the Constitution a petition can be entertained by the High Court in case the cause of action or any part thereof has accrued to the petitioner within the territorial jurisdiction of the Court or where looking to the cause of action or any part of cause of action, accrued to the petitioner, the jurisdiction can be exercised by two High Courts, within whose territorial jurisdiction the cause of action arises, the same can be tried by either of the High Courts but where no cause of action or any part of cause of action has accrued, within the territorial jurisdiction of the High Court, it will not entertain the petition for want of jurisdiction.

8. Article 226(2) reads as under:

"The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories".

9. Article 226(1) and (2) of the Constitution clearly defines the territorial jurisdiction of the High Court and petition cannot be entertained, if it does not have the jurisdiction to entertain the petition.

10. In the instant case nothing has been spent by the Steel Authority of India for providing facilities of making alteration and improvements in the residential Bungalow within the territorial jurisdiction of this Court. The Minister's official residence was situated at New Delhi and the Steel Authority of India is also having its office at New Delhi and all other parties, impleaded to the writ petition for whom the direction is sought to be issued, are situated at New Delhi and they all are outside the territorial jurisdiction of the High Court. That being so, the petition is not maintainable at Lucknow.

11. The plea of the petitioner, since the action impugned is a very serious misuse of public funds, by a Central Minister, therefore, the petition can be filed anywhere in the country, thus cannot be an answer to the preliminary objection raised by the respondents.

12. For the reasons stated above, the writ petition is dismissed for want of territorial jurisdiction.