
(1997) 10 KL CK 0044
In the High Court Of Kerala
Case No : O.P. No. 13716/97G

Sujadevi

APPELLANT

Vs

Sharad Yadav and Another

RESPONDENT

Date of Decision : 09-10-1997

Acts Referred:

Constitution of India, 1950 — Article 226, 226(1), 226(2), 51A

Citation : (1997) 10 KL CK 0044

Hon'ble Judges : K.A. Abdul Gafoor, J

Bench : Single Bench

Advocate : A. Balasubrdmanian, H. Subkalakshmi and A. Bindu, for the Appellant;

Final Decision : Dismissed

Judgement

K.A. Abdul Gafoor, J.—The Petitioner, a housewife has approached this Court seeking a writ of quo warranto or for appropriate writ, order or direction, to the second and third Respondents to show cause under what authority they are holding the seat of the Members of the Parliament after violating the oath of office and further seek to disqualify them from holding the office of Members of Parliament. Though 2nd and 3rd Respondents are mentioned in the relief portion, there are only two Respondents in the Original Petition, they are Mr. Sharad Yadav, working president of Janata Dal, New Delhi and Mr. Tasleemuddin, Member of Janata Dal, New Delhi. Both of them are Members of Parliament residing in New Delhi, not residing within the jurisdiction of this Court. There are no other Respondents in the Original Petition than these two Members of Parliament. The Petitioner submits that when a bill was introduced in the Parliament in order to provide reservation in elected posts for women in India, these two persons prevented the bill being Introduced in the Parliament. The Petitioner got this knowledge from Ext. P-1 paper report. The Petitioner submits that Article 51A(e) enjoins on every citizen a fundamental duty to renounce practices derogatory to the dignity of women and that the first Respondent has

proved that his practice is against it. It is submitted that the duty of every member when a bill is introduced is to pass or object it and shall not obstruct it. Therefore it is submitted that the Respondents have violated their oath of office and failed to uphold the unity, integrity of the nation speaking against women in Parliament and by preventing bill crucial importance from being moved for discussion, debate and approval. By their conduct and demeanour the Respondents have committed breach of oath of allegiance the constitution and due discharge of the duties of their at which they hold and thus have lost their claim to hold their respective seats and office in the Parliament. In its basis the Petitioners seeks a writ of quo warranto against the Respondents for violating the oath of office.

2. Full Bench of this Court in K.C. Chandy v. Balakrishna Pillai 1985 KLT 62 held as follows:

Breach of oath requires a termination of the tenure of office, his power can be exercised by the appointing authority under the constitution and according to the procedure, if any, prescribed therein. termination of that tenure is not the function of a Court; and it is not be appropriate to exercise jurisdiction under Article 226 in Proceedings under Article 226 in such cases do not lie. said;

Security is in the possession of a written constitution a blank paper by construction.(Government p. 304).

whether there was breach of oaths of office and a Minister is outside judicial review under constitution. It is to be decided in other approaches of the Minister in a State, if falls within of Chief Minister, and or the Governor.

That dictum apply to this case also. The only ground on which the Petitioner seeks the writ of quo warranto is the violation of oath which this Court cannot decide upon.

3. The Petitioner also seeks a direction to disqualify the Respondents from holding the office of the Members of Parliament. That is not a function enjoined on this Court exercising the power under Article 226. Apart from that this Court has no jurisdiction to entertain this Original Petition. Article 226(1) provides that:

Every High Court shall have power throughout the territories relation to which it exercises jurisdiction, to issue to any person authority,...within those territories directions, orders or writs.

The address of the Respondents shown in the petition shows that they are residing outside of the territories relation to which this Court exercises its jurisdiction. Constituencies which the Respondents represent are also mentioned in the Original Petition. This Court can take judicial notice of the notification regarding election of Members of Parliament from the Constitution within the State of Kerala. The Respondents do include

among the Members of Parliament from this St(sic); On that ground also they cannot be said to be per(sic) within the territories in relation to which this C(sic) exercises jurisdiction. Under Article 226(2), the po(sic) conferred under Sub-article (1) to issue writs may also (sic) exercised by any High Court if the cause of action (sic) or in part arises within the territories in relative (sic) a High Court exercises jurisdiction,(sic) contained in the Original Petition reveal(sic) of action alleged had arisen outside the Court. Thus this Court has no (sic) against the Respondent. On these reas(sic) Petition is liable to be dismissed.

Original Petition fails and is dismissed.