
(1978) 09 GAU CK 0004
In the Gauhati High Court

Sukhamay Sen Gupta

APPELLANT

Vs

State of Tripura and Others

RESPONDENT

Date of Decision : 12-09-1978

Acts Referred:

Commissions of Inquiry Act, 1952 — Section 3
Constitution of India, 1950 — Article 226

Citation : AIR 1978 Guw 63

Hon'ble Judges : C.M. Lodha, C.J

Bench : Division Bench

Final Decision : Dismissed

Judgement

C.M. Lodha, C.J.—By this petition under Article 226 of the Constitution of India the petitioner has challenged the legality and validity of the Government Notification marked "Annexure A-1" issued by the Government of Tripura in exercise of its powers u/s 3 of the Commissions Inquiry Act, 1952 (which will hereinafter for the sake of shortness be referred to as "the Act") and published in Tripura Gazette Extraordinary Issue dated Feb. 23, 1978.

2. The case came up for admission today but the Advocate-General for the Government of Tripura has put in appearance to oppose the admission of the rule. Consequently we have heard the learned Counsel for the petitioner as well as the learned Advocate-General.

3. Learned Counsel for the petitioner has led a two pronged attack against the Notification. It is argued, in the first instance, that the names of the persons, against whom inquiry into matters mentioned in the Notification is to be made are not given. The other contention of the learned Counsel for the petitioner is that the matters contained in the impugned Notification are not definite and, therefore, the Notification is bad. In support of his contention the learned Counsel has cited Krishna Ballabh Sahay and Others Vs. Commission of Inquiry and Others, (Krishna Ballabh Sahay v. Commission of Inquiry). At this stage, we may observe that the opposite parties have had no opportunity to file any

counter-affidavit on any points of fact but we do not consider it necessary to have any counter-affidavit as the points raised by the learned Counsel for the petitioner, in our opinion, can be decided without entering into facts.

4. In Krishna Ballabh Sahay and Others Vs. Commission of Inquiry and Others, (Krishna Ballabh Sahay v. Commission of Inquiry their Lordships were pleased to observe:

It cannot be stated sufficiently strongly that the public life of persons in authority must never admit of such charges being even framed against them. If they can be made then an inquiry whether to establish them or to clear the name of the person charged is called for. If the charges were vague or speculative suggesting a fishing expedition we would have paused to consider whether such an inquiry should be allowed to proceed. A perusal of the grounds assures us that the charges are specific, and that records rather than oral testimony will be used to establish them.

5. Some of the charges referred to in the judgment of the Supreme Court are exactly similar to the charges contained in the impugned Notification. We are, therefore, unable to come to the conclusion that the Notification is liable to be quashed on the ground of indefiniteness. To quote a few charges they are:

2. The terms of reference of the Commission shall be as follows:

(a) to inquire into the facts and circumstances relating to specific instance: of-

(iv) acquisition of assets or pecuniary resources disproportionate to legitimate sources of income during the aforesaid period,

(v) securing pecuniary or other benefits by abusing exploiting or taking advantage of official power or position during the aforesaid period;

(vii) Misuse, fraudulent use or misappropriation of money or property or funds belonging to State Government, statutory corporations or bodies, or Government Companies and undertaking during the aforesaid period.

It cannot, therefore, be said in the present case that the Notification is liable to be struck down on the ground that it lacks in definite matters of public importance. The matters mentioned in para 2 of the Notification are, in our opinion, definite matters of public importance.

6. Now coming to the other contention that the persons against whom the inquiry is to be conducted have not been specified, we may point out that even in the Supreme Court case, in para 2(d) of the Notification, it is mentioned that it would be open to the Commission to make inquiry regarding illegal gains, corruption, favouritism, abuse of power or other malpractices in respect of any other person or persons holding official position either as a member of Council of Ministers or otherwise besides the persons mentioned in the Notification.

7. Now, in the present case, the proviso to para 2 specifically mentioned that the

inquiry shall be in regard to conduct of political authorities, that is, any member of the Council of Ministers of the State of Tripura, any member of the Tripura Legislative Assembly or any other person holding any public office by reason of his political affiliation or association; public servants as defined in the Indian Penal Code; and friends and relations of such political authorities or public servants or other persons in whom such political authorities or public servants or other persons in whom such political authorities or public servants were interested,

8. In this connection reference may also be made to *M. Karunnnanidhi Vs. The Union of India and Another*, (*M. Karunanidhi v. Union of India*) relied upon by the learned Advocate-General, Kailasam, C.J. as he then was, speaking for the Court observed as follows:

At this stage, when the enquiry was ordered, the name and other particulars need not be mentioned. It is an enquiry into a matter of public importance relating to the allegations made by particular persons, As to who are the persons that are to be proceeded against will be decided at a later stage and if any person is aggrieved, he will have ample opportunity to defend himself before the Commission. The absence of mention of the names or the particulars of persons against them whom the enquiry is to be proceeded in the memo of 1-12-1975 will not vitiate the notification made u/s 3.

9. In the present case it may be pointed out that even though the particulars of persons against whom the enquiry would be proceeded are not mentioned but the categories of such persons have been mentioned in the proviso to para 2 of the notification,

10. Thus both the points canvassed by the learned Counsel are devoid of substance. The learned Counsel for the petitioner did not argue any other point.

11. This petition has no force and is hereby summarily dismissed.