
(1998) 03 DEL CK 0063
In the Delhi High Court
Case No : C.W. No. 744 of 1998

Suresh Kumar Vasisth

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 05-03-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 46 DRJ 116

Hon'ble Judges : K. Ramamoorthy, J

Bench : Single Bench

Advocate : Vijay Hansaria and Jaya Kumari, for the Appellant;

Final Decision : Dismissed

Judgement

K. Ramamoorthy, J.—The writ petitioners were working in Modi Rubber Limited (Respondent No.8).

The services of the petitioners dispensed with in accordance with the terms of employment. The petitioners have challenged the order stating that the 8th Respondent Company without any notice and without any departmental enquiry had terminated the services of the petitioners. Exactly in the similar circumstances the point was considered by me in CW No.379 of 1998 on 09.02.1998 (V. Machinery Versus Union of India and ors. Learned counsel for the petitioner Mr. Vijay Hansaria submits that a few crucial aspects dealt with by this court in Kuldeep Mehta v. Union of India and Ors. 1993(2) DL 196 had not been considered in that case and having regard to the circumstances of this case and the management of the 8th Respondent Company by the government the entire position had changed and if they are considered the court may take a different view.

2. The learned counsel relying upon the judgment of the Supreme Court reported in People's Union for Democratic Rights and Others Vs. Union of India (UOI) and Others, submits that the petitioners right to livelihood is an important component

of Article 21 of the Constitution of India and when the fundamental rights guaranteed under Article 21 is violated this court can interfere vide Article 226, whatever the nature of the constitution of the Company (Modi rubber Co. Ltd.)

3. The learned counsel also relied upon the judgment of the Supreme Court in D.K. Yadav Vs. J.M.A. Industries Ltd., and also Air India Statutory Corporation, etc. Vs. United Labour Union and others [overruled], , for the proposition that the jurisdiction of this court under Article 226 is very wide and subject to parameters laid down by the Supreme Court.

4. We have to consider the dictum laid down by the Supreme Court in series of cases and the Supreme Court had to deal with the variety of circumstances and depending upon the facts of each case the Supreme Court had given guidelines to the courts in India which could be applied to the facts of a given case. The common credit that runs all the decisions in the Supreme Court is that the writ could be issued only to public authority or the authorities who to act as per the provisions of the particular statute which were commonly fall under statutory concern and the person acting under the provisions of the particular statute. In this case the Modi Rubber Company, Respondent No.8 is the Company registered under the Companies Registration Act, is not disputed. The Modi Rubber Company Ltd. had borrowed the money from the Financial Institutions and to recover the money paid to the Company, the Government of India has made some arrangement to retrieve the situation and it is only in that process the financial institution had come in and that not to perform the public duties but to conduct business so that the financial institution could recover some money from out of the business that it may do. The main thrust of the argument of Mr. Vijay Hansaria is that arrangement which was made by the financial institution would completely change the character of the institution and now the Company becomes amenable to the writ petition and I am unable to agree with the arguments of the learned counsel for the petitioner. I am of the view that such contention is contrary to the decisions of the Supreme Court.

5. The learned counsel also submitted that dispensing with the services of the petitioners by the 8th respondent Company is contrary to the judgment of the Supreme Court in Central Inland Water Transport Corporation Limited and Anr. v. Brojo Nath Ganguly and Ors. 1986 (3) SCC 756 which has been followed in D.T.C. v. D.T.C. Mazdoor Congress 1991 (1) Supp SCC 600.

6. The principle laid down by the Supreme Court in those cases do not apply to the facts of this case. The petitioner is well aware of the terms of the employment and Therefore, they cannot now seek relief under Article 226 of the Constitution against the 8th Respondent. I am of the view that the decision rendered on 09.02.1998 does not require any reconsideration.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.