
(1992) 01 BOM CK 0041
In the Bombay High Court
Case No : Writ Petition No. 69 of 1992

V.M. Bhandari

APPELLANT

Vs

The State of Maharashtra and Others

RESPONDENT

Date of Decision : 14-01-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1992) 2 BomCR 58

Hon'ble Judges : K. Sukumaran, J;B.P. Saraf, J

Bench : Division Bench

Advocate : J.I. Mehta, S.N. Vimadalal and N.V. Adhiya, for the Appellant; S.M. Shah, for respondent No. 1, E.P. Bharucha, instructed by Nanu Hormusji and Co., for the Respondent

Final Decision : Dismissed

Judgement

K. Sukumaran, J.—A public grievance is sought to be ventilated in this writ petition. It concerns the allotment of the Cross Maidan of Bombay for the conduct of an exhibition , to Adivasi Seva Samiti of which, the 3rd respondent, a Cabinet Minister in the Government of Maharashtra, is the Chairperson.

2. The guide-lines for allotment are those contained in the annexures to Exhibit "D" to the writ petition.

3. The 2nd respondent is a Public Trust registered under the Public Trusts Act. It therefore, comes within the enumerated categories of persons who could be allotted the use of the Maidan, under Rule 3. The return has given particulars to establish that no eligible person in Clauses (i) to (vi) of Rule 3 was available for allotment. The petitioner does not have a case about such categories having been available for allotment.

4. The substantial contention is about overlooking of priority as postulated in the guidelines. The dispensing order of priority is indicated in Rule 16. They are:---

- "16. (i) Applicants engaged in sports;
(ii) Applicants engaged in welfare of physically handicapped persons;
(iii) Applicants engaged in welfare of children;
(iv) Applicants engaged in welfare of women.
(v) Applicants engaged in welfare of Backward Classes;"

(The rest are not indicated as not material for this case) It is contended that the 2nd respondent will only come within the category 5, whereas Army Wives Welfare Association would be in the superior category No. 4. Here again, the return has given satisfactory answer about the assignment of priority to the 2nd respondent. The 2nd respondent is the society devoted "to the upliftment and welfare of the Adiwas and Scheduled Tribes". Its objects include "promotion of the welfare of Scheduled Tribes children by opening Ashram Shalas, Balmandirs etc., and the advancement of Adiwas backward class women". It is not merely in its objects that the nobler goal finds a place; the organization runs a large number of schools and educational institutions. As an organization engaged in the welfare of women and children, the respondents would rightly claim inclusion in the categories the Numbers 3 and 4 viz, "applicants engaged in welfare of children" and "applicants engaged in welfare of women" respectively. The allegation about the violation of the priority indicated in Rule 16 is also, therefore, unsubstantial and unsubstantiated.

5. It was contended that it was impermissible to allot the Maidan for an exhibition, on the ground it has only a commercial motive.

6. There could be, of course, difference in the views on any subject, "exhibition" included. The educative content of the exhibitions cannot now be doubted or disputed. The World-wide exhibition which opened in April, 1967, catching the eyes and ears of all people all over the World, is well-known. Judge Gerald Sparrow refers to the favourable impression formed about the World's Fair at Chicago. Of course, there could be seen abrasive remarks like:

"these exhibitions are of little value for industry and art and are more for the benefit of hotel-keepers and such people. They are good for those who feel bored, who want a new sensation, new amusements, and have money enough to gratify their inclinations and afford themselves such pleasures."

(See "The Great Prosecutors"- Judge Gerald Sparrow, page 383).

7. We are unable to deprecate the value of such exhibitions and the public utility they have in enlightening the masses of people. They have more than ordinary significance in an underdeveloped country, where considerable sections still remain uninitiated into the achievements and accomplishments of modern world.

8. Now, on the priorities:

We do not in any way under-rate the services rendered by the organization of the

Army Wives. The valour of the Indian Army ever since its regular formation in 1746, has received international acclaim .They keep vigil over the Nation, in inclement climes and in indifferent terrains. The Jawan is at his post, whether it be in the snow capped Leh or the turbulent waters off Sri Lanka. The wives of the Officers and men of the Indian Army have also rendered valuable services particularly in the social and charitable segment of India's life. It is, however, significant that the organization of the Army Wives has not questioned the allotment to the 2nd respondent. They have gracefully stepped back from the que, presumably sensing a greater priority in an organization of the Adiwasi with well spread activities, intended to cater to the needs of women and children in the lower layers of the social strata.

9. Counsel repeatedly urged that the organization of the 2nd respondent is one in which the Minister is a Chair-person and that consequently the allotment is vitiated. We do not find anything per se objectionable in a Minister of the State functioning as a Chair-person of such an organization. No disqualification is attached to an applicant merely because the Chair-person of an applicant happens to be in the Council of Ministers. Nor is there any bar, in any such organization, being given the allotment, if otherwise eligible and deserving.

10. In any democracy, it is the popular will that rules the country. From amongst those who are elected, a Council of Ministers is formed under the constitutional scheme. It is the power and privilege of such a Council of Ministers to look into the problems of the country and the people, and to find solutions therefore, and lead the country to the path of prosperity. A Minister, so long as he functions within the limits of propriety, will rise or fall in the esteem of the electorate, dependant on his deeds and attitudes. If, otherwise, the constituency will re-act to him appropriately at the end of the term. We do not think it permissible to presume anything against a Minister or proceed against him with a feeling of prejudice. Each action of the Minister individually or the Council collectively will be tested on well settled principles of law when it comes to the Court. As has been observed by a judicial mind with political experience-" A good Minister must always be looking beyond his Department and even Parliament to the people whose servant he is." (See "The Political Adventures"-by Barl Kilmuir, page 321). Human nature being what it is, there will be different types of persons amongst Ministers Some like Bevan may not relish the drudgery "which is nine-tenths of the life of a Minister". (Ibid page 145). Some are like Gladwin a man of action, while some others like Disraeli, a man of thought. By its very nature a Minister is expected to move with the public and work for their weal. In relation to such activities, he has necessarily to take some initiative and share some responsibility. "A prudent minister certainly would not recklessly enter into any responsibility; but a minister who is afraid to enter into any responsibility, is....., not a prudent minister." (See "The Earl of Beaconsfield by Harold E. Forst, page 204). Looked at from the requirements of law, there is no objection in the Minister functioning as the Chairman of the 2nd respondent. It is indeed a commendable role for a Minister if he could invest his time and energies in

activities intended to promote the interests of such weaker sections.

11. The petitioner recklessly made allegations about the Minister, without supportive particulars. That of course, must be looked upon as an occupational hazard by a pragmatic politician. Such has been the experience of Ministers in a country which has progressed much in democratic experiments. Viscount Grey of Falladon K.G. has observed:

"A minister be set with the administrative work of a great Office must often be astounded to read of the carefully laid plans, the deep, unrevealed motives that critics or admirers attribute to him. Onlookers free from responsibility have time to invent, and they attribute to Minister many things that Ministers have no time to invent for themselves, even if they are clever enough to be able to do it." (See "25 Years 1892-1916" by Viscount Grey of Falladon K.G. page 6).

12. The allegations made by the petitioner are totally baseless. We have no hesitation in repelling them.

13. The petitioner has portrayed himself as a person projecting a public cause. He has assumed that role even on earlier occasions. This Court saw in his scheme and his action those of a motivated person, more after selfish interest. Daud, J., was forthright in his remarks, when on an earlier occasion he came to the Court, seeking to project a similar cause in relation to the very same Cross Maidan. These are the words of the learned Judge:

"No wonder that Bhandari is accused of colluding with MMM and worse. Injunctions interim or perpetual-originate from the equity jurisdiction of Courts. Litigants acting belatedly and to favour or at the behest of a business crony are not entitled to any indulgence. Whatever be the failings in the order of allotment, Bhandari does not even have a fig leaf covering to move this Court for relief."

The present case has only confirmed that view. The petitioner is only vexatious litigant and not one bona fide prosecuting a public cause. We disapprove of his action.

14. We are also constrained to make comments on the conduct of the petitioner. The exhibition was to start on 15-1-1992. The decision was taken as far back as on 2-8-1991. Yet he has chosen to file a writ petition only on 10-1-1992. This conduct also discloses lack of good faith and absence of diligence on his part. This is additional reason for rejecting the writ petition.

15. The contentions raised in the writ petition therefore, fail. The writ petition is liable to be rejected; and we do so.