

Dr. Mukul Gupta Vs. Management Development Institute and Anr.

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Court : Delhi

Decided On : Jan-27-2015

Judge : Valmiki J. Mehta

Appellant : Dr. Mukul Gupta

Respondent : Management Development Institute and Anr.

Advocate for Def. : Mr. Rajat Arora, Ms. Ritu Arora

Advocate for Pet/Ap. : Ms. Jyoti Singh, Mr. Lokesh Bhola, Mr. Anubhav Ray

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + % DR. MUKUL GUPTA W.P.(C) No.7944/2014 27th January, 2015 Petitioner Through: Ms. Jyoti Singh, Sr. Adv. with Mr. Lokesh Bhola & Mr. Anubhav Ray, Advs. versus MANAGEMENT DEVELOPMENT INSTITUTE & ANR..... Respondents Through: Mr. Rajat Arora and Ms. Ritu Arora, Advs. CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not?. VALMIKI J.

MEHTA, J (ORAL) 1. No doubt, courts at Delhi seem to be a favoured destination of certain litigants and lawyers, however, this favoured destination if the same is approached, has necessarily to be only if whole or part of the cause of action arises as per Article 226(2) of the Constitution of India for the writ petition to be filed before this Court. The only other alternative as per which this Court can entertain the writ petition is, even if the cause of action, whole or part does not

arise within the jurisdiction of this Court, provided the authorities against which the writ has to be enforced are situated within the jurisdiction of this Court. Merely because certain instructions or executive orders or similar aspects are passed at the registered or any other office of the employer in Delhi, this Court on that basis would not have territorial jurisdiction unless and until the said executive instruction or order has also to be implemented at Delhi. With this preface let us turn to the facts of the present case.

2. Petitioner is admittedly residing in Gurgaon, Haryana. Petitioner is employed with the respondent no.1 viz Management Development Institute (MDI) at its office at Gurgaon. Petitioner has served i.e rendered services with the Management Development Institute (MDI) at Gurgaon. Petitioner has never worked with the employer-Management Development Institute (MDI) at Delhi. In this writ petition, the only prayer which is claimed is for quashing of the impugned termination letter dated 28.10.2014 by which the services of the petitioner as Director of the respondent no.1 were terminated, and admittedly, even this letter has been issued by the respondent no.1 from its Gurgaon office and it has been issued to the petitioner at his Gurgaon address.

3. I have had an occasion to consider the aspect of territorial jurisdiction of Courts for filing of writ petitions under Article 226 of the Constitution of India in W.P.(C) No.1851/2013 titled as Bharat Electronic Technical Cadre Association & Anr. Vs. Union of India & Ors. decided on 12.4.2013 and in which judgment, I have referred to the earlier judgments of the Supreme Court in the cases of Eastern Coalfields Ltd. & Ors. Vs. Kalyan Banerjee (2008) 3 SCC456 and Kusum Ingots & Alloys Ltd. Vs. Union of India (2004) 6 SCC254. The relevant paras of the judgment have been referred to show that every fact is not part of the cause of action but only those facts which are co-relatable to the reliefs claimed in the writ petition, and are therefore an essential part of the cause of action, would be facts which if arise within the jurisdiction of this Court, would give territorial jurisdiction to this Court. The judgment of the Supreme Court in Kusum Ingots & Alloys Ltd. (supra) is referred to and which states that merely because a registered office of the employer is situated at Delhi, and which issues an executive order or instruction, would not confer territorial jurisdiction of this Court only because of the situs of the

office of the maker thereof.

4. The relevant paragraph of the judgment in the case of Bharat Electronic Technical Cadre Association (supra) are paras 8 to 11 and "8. A reading of the prayer clauses shows that the reliefs which have been claimed are against the employer-respondent no.3. The respondent no.3 is not situated in Delhi and the petitioners are not serving the respondent no.3 in Delhi but at Ghaziabad. Prayer in the petition is for quashing of the letter dated 12.5.2009, and which is a letter issued by the employerrespondent no-3, not at Delhi but at Bangalore, for revision of scales of pay and allowances of the executives. Other reliefs with respect to restoring of benefits and for refunding of amounts are also the reliefs which are claimed against the employerrespondent no.3. Merely because the employer/respondent no.3 will have to implement the notifications issued by the respondent no.1 will not mean that Delhi High Court would have jurisdiction because the notifications have been issued in Delhi because in this case there is no challenge for quashing of the notifications, but reliefs are claimed for implementation of the notifications, and which implementation necessarily will have to be done either at Bangalore where the respondent no.3 is situated or at the place of work of the petitioners which is at Ghaziabad i.e not Delhi.

9. In fact, the judgment which is relied upon by the petitioners answers the issue of territorial jurisdiction squarely against the petitioners and paras 7 and 8 are relevant and they read as under:

7. 'Cause of action', for the purpose of Article 226(2) of the Constitution of India, for all intent and purport, must be assigned the same meaning as envisaged under Section 20(c) of the Code of Civil Procedure. It means a bundle of facts which are required to be proved. The entire bundle of facts pleaded, however, need not constitute a cause of action as what is necessary to be proved is material facts whereupon a writ petition can be allowed. The question to some extent was considered by a Three-Judge Bench of this Court in Kusum Ingots & Alloys Ltd. v. Union of India and Anr. MANU/SC/0430/2004 :

2004. 186)ELT3(SC) stating:

18. The facts pleaded in the writ petition must have a nexus on the basis whereof a prayer can be granted. Those facts which have nothing to do with the prayer made therein cannot be said to give rise to a cause of action which would confer jurisdiction on the Court. As regards the question as to whether situs of office of the appellant would be relevant, this Court noticed decisions of this Court in *Nasiruddin v. State Transport Appellate Tribunal* MANU/SC/0026/1975 : [1976].1SCR505 and *U.P. Rashtriya Chini Mill Adhikari Parishad, Lucknow v. State of U.P. and Ors.* MANU/SC/0422/1995 : AIR 1995 SC2148 to hold:

26. The view taken by this Court in *U.P. Rashtriya Chini Mill Adhikari Parishad* that the situs of issue of an order or notification by the Government would come within the meaning of the expression "cases arising" in Clause 14 of the (Amalgamation) Order is not a correct view of law for the reason hereafter stated and to that extent the said decision is overruled. In fact, a legislation, it is trite, is not confined to a statute enacted by Parliament or the legislature of a State, which would include delegated legislation and subordinate legislation or an executive order made by the Union of India, State or any other statutory authority. In a case where the field is not covered by any statutory rule, executive instructions issued in this behalf shall also come within the purview thereof. Situs of office of Parliament, legislature of a State or authorities empowered to make subordinate legislation would not by itself constitute any cause of action or cases arising. In other words, framing of a statute, statutory rule or issue of an executive order or instruction would not confer jurisdiction upon a court only because of the situs of the office of the maker thereof.

27. When an order, however, is passed by a court or tribunal or an executive authority whether under provisions of a statute or otherwise, a part of cause of action arises at that place. Even in a given case, when the original authority is constituted at one place and the appellate authority is constituted at another, a writ petition would be maintainable at both the places. In other words, as order of the appellate authority constitutes a part of cause of action, a writ petition would be maintainable in the High Court within whose jurisdiction it is situate having regard to the fact that the order of the appellate authority is also required to be set aside and as the order of the original authority merges with that of the appellate

authority.

8. Kusum Ingots & Alloys Ltd. (supra) has been followed by this Court in Mosaraf Hossain Khan v. Bhagheeratha Engg. Ltd. and Ors. MANU/SC/8067/2006 :

2006. riLJ1683 stating:

26. In Kusum Ingots & Alloys Ltd. v. Union of India 14 a three-Judge Bench of this Court clearly held that with a view to determine the jurisdiction of one High Court vis--vis the other the facts pleaded in the writ petition must have a nexus on the basis whereof a prayer can be made and the facts which have nothing to do therewith cannot give rise to a cause of action to invoke the jurisdiction of a court. In that case it was clearly held that only because the High Court within whose jurisdiction a legislation is passed, it would not have the sole territorial jurisdiction but all the High Courts where cause of action arises, will have jurisdiction.

(emphasis added) 10. A reading of the aforesaid paras show that the entire bundle of facts which are pleaded need not constitute a cause of action and what is necessary to be proved is material fact whereupon a writ petition can be allowed. It is clarified by the Supreme Court in the case of Eastern Coalfields Ltd.(supra) by reference to the earlier Three-Judge Bench judgment of the Supreme Court in the case of Kusum Ingots & Alloys Ltd. Vs. Union of India (2004) 6 SCC254 that facts pleaded in the writ petition must have a nexus to the prayers and on the basis of which reliefs can be granted. To the facts which have nothing to do with the prayers made, the same cannot be said to give rise to a cause of action which would confer jurisdiction on this Court. Therefore, it is quite clear that only those facts which would ultimately lead to the reliefs claimed in this writ petition would be the bundle of facts constituting the cause of action and not the other facts/bundle of facts. Stray facts which have to be alleged in the writ petition are not the material facts which only constitute the cause of action, and, only the material facts which constitute cause of action decides where the territorial jurisdiction arises.

11. Since, as already stated above, the reliefs which are claimed can only be granted either at Bangalore or at Ghaziabad and only implementation is sought of

the circulars of the Union of India which have to be implemented by the respondent no.3 either at Bangalore or at Ghaziabad, this Court would not have territorial jurisdiction on the basis that the circulars are issued by the respondent no.1/Ministry of Heavy Industries and Public Enterprises at Delhi.

(emphasis is mine) 5. No doubt, the decision with respect to termination of employment of the petitioner was taken at Delhi, but that decision will have to be implemented qua the services of the petitioner at Gurgaon and while the petitioner was posted. Thus mere situs of the maker of the decision as held by the Supreme Court in the case of Kusum Ingots & Alloys Ltd. (supra) will not confer territorial jurisdiction. I therefore cannot accede to the argument urged on behalf of the petitioner by placing reliance upon the language of Annexure P-14-termination letter dated 28.10.2014, that this will confer territorial jurisdiction of this Court because the same refers to the decision of the Board of Governors of MDI which took place at Delhi. As already stated above, mere situs of office/maker which takes a decision will not confer territorial jurisdiction once that decision has to be implemented at a different place, and which in this is where the petitioner has rendered services viz at Gurgaon. Consequently, the situs of the registered office of respondent no.1 at Delhi would not confer territorial jurisdiction of this Court as argued by the petitioner, and more so because an internal decision which is not communicated does not give rise to any rights vide Bachhittar Singh Vs. The State of Punjab, AIR 1963 SC395 6. Learned senior counsel for the petitioner sought to place reliance upon a recent judgment of the Supreme Court in the case of Nawal Kishore Sharma vs. Union of India & Ors. (2014) 9 SCC329 however, there is no dispute to the legal proposition laid in the said case with respect to that if cause of action arises in whole or part at a place, then the court at that place would have territorial jurisdiction, but the moot point is whether any cause of action in part or whole has arisen in this Court, and I am of the opinion that merely because the Board of Governors of the respondent No.1 sat at Delhi and took a decision, but that decision was communicated to the petitioner from the office of the respondent no.1 at Gurgaon and to the petitioner at Gurgaon, and which would be implemented at Gurgaon, and therefore, this Court would have no territorial jurisdiction to hear the present matter.

7. This writ petition is therefore dismissed, as this Court lacks territorial jurisdiction.
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