

A. Sreenivasacharlu and Others Vs. State of Karnataka and Another

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Court : Karnataka

Decided On : Jun-15-1990

Reported in : AIR1991Kant61; 1990(2)KarLJ125

Judge : H.G. Balakrishna, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W.P. No. 15102 of 1982

Appellant : A. Sreenivasacharlu and Others

Respondent : State of Karnataka and Another

Advocate for Def. : Sateesh M. Doddamani, Govt. Pleader

Advocate for Pet/Ap. : Rangavittalachar, Adv.

Judgement :

ORDER

1. The grievance of the petitioners is that despite a request in writing made to the Chairman, Land Tribunal, Sandur, dated 28-1-1982 vide Annexure-B supported by a medical certificate of 23-1-1982 seeking an adjournment of the case since the petitioner A. Sreenivasacharlu was suffering from Dirarhoea and unable to go to the office, the Tribunal ignored the application and proceeded to dispose of the case on merits.

2. The point for consideration is, whether such an order of the tribunal is opposed to principles of natural justice, particularly since the person concerned cannot be represented by a counsel before the Tribunal and the party had to contend in person.

3. The answer is not difficult to find. I refer to a decision of this Court reported in the case of K. Sathyashankara Shetty v. Mangalore University, ILR 1990 Kant 1064. This Court took the view as under :

'27. Administrative Justice contemplates certain requirements to be fulfilled if the hearing is to be regarded as fair. One of them is adequate notice of hearing. The notice must be of sufficient length to enable the defence of the case to be prepared; In R. V. Thames Magistrates' Court, ex Polcmis (1974 (2) All ER 1219), conviction was quashed for breach of natural justice since the defendant was not afforded sufficient time to prepare his defence. This was considered to be more important than the apprehension that the defendant might leave the jurisdiction of the Court.'

28. In R.V. south West London' supplementary Benefit Appeal Tribunal, Ex. p. Bullen (1976 (120) Sol Jo 437) it was held that to fail to accede to a request for an adjournment may amount to a failure to give a hearing and thus to a failure of natural justice or fairness.

29. In Priddle v. fisher & Sons (1968(3) All ER 506), the applicant was given forty-eight hours notice to attend a hearing. He immediately told the Tribunal that the time of hearing coincided with an interview for employment. This was confirmed by a third party. He asked for an adjournment. The Tribunal said the reason was insufficient to justify an adjournment or to explain the failure to attend, and made a direction in the applicant's absence. The direction was quashed. The right to a hearing was restored.'

4. The same principle enures to the benefit of the petitioners in the facts and circumstances of the case. I am satisfied that the order of the tribunal deserves to be quashed for violation of principles of natural justice. Hence, the following order :

The writ petition is allowed and the impugned order of the Tribunal dated 28-1-1982 vide Annexure-D is quashed. The Tribunal is directed to hold a fresh enquiry and afford a reasonable opportunity of hearing to the petitioners and to the other concerned parties and pass an order on merits and in accordance with law expeditiously.

5. Petition allowed.

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