

B. Krishna Bhat Vs. State of Karnataka

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Court : Karnataka

Decided On : Mar-06-2003

Reported in : 2003(3)KarLJ329

Judge : N.K. Jain, C.J. and ;V.G. Sabhahit, J.

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

Appeal No. : Writ Petition No. 3597 of 2003

Appellant : B. Krishna Bhat

Respondent : State of Karnataka

Advocate for Def. : M.N. Sheshadri, Government Adv.

Advocate for Pet/Ap. : Puttige R. Ramesh, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

N.K. Jain, C.J.

1. The petitioner B. Krishna Bhat claiming to be senior citizen and an agriculturist by profession and a tax-payer alleges that he has filed several writ petitions involving issues of public importance. It is stated that by reading an article,

Annexure-C appeared in Deccan Herald in its issue dated 29-12-2002 under the caption 'Krishna Clears Legislators Asian Jaunt' and as the Chief Minister has cleared about 290 Legislators to go abroad on Government exchequer, has filed this Public Interest Litigation petition on 30-1-2003.

2. This Court on 6-2-2003 directed the learned Government Advocate to take notice and to file returns by 14-2-2003 and the matter to be listed on 17-2-2003. The learned Government Advocate could not satisfy the Court that the so-called visit abroad is for the betterment of the administration and in the welfare of the State nor any reply was filed. On the submission of the learned Counsel for the petitioner that despite notice 29 Legislators have left for foreign tour on 11-2-2003 and others were likely to go, if no interim order restraining them to visit abroad is granted, this Court considering the respective arguments of the parties, while observing that anybody can visit abroad, restrained the persons undertaking a visit abroad for study tour as per the scheme, if any, on the expenses of the State till 10th March, 2003 as per the order dated 17-2-2003. The matter was placed on 24-2-2003 and subsequently it has come up today.

3. In response to the notice, the respondent-State has filed its counter on 21-2-2003 denying the allegations made in the petition. It is stated that merely on the basis of the newspaper report dated 29-12-2002, without verifying the fact, the petitioner has filed this petition that too after one month of the publication and the same is not maintainable. It is also stated that no material particulars are made in the writ petition, rather the petitioner has misrepresented the facts before this Court that sanction has been granted and a group of 29 Legislators have already left for visit abroad, which is totally false, and on the basis of false averments made by the learned Counsel for the petitioner the interim order was granted. After obtaining the interim order the petitioner has given wide publicity in the print and electronic media with an oblique motive referring to some facts which have no nexus or relevance to the issues involved in the above petition. The petitioner, without making any investigation or study with regard to the real facts has filed this petition only for publicity. On merits it is stated that various Committees have been constituted after assessing and evaluating in an objective manner that the Committees can visit several States to apprise themselves of the factual aspects

including field knowledge and experience of their counterpart/sister concerns. Such tours are part of their official functions and are permissible. It is also stated that if any Legislator or group of Legislators intend to go abroad for any such further study, it is not at the behest or sponsorship of the Legislature and such tours are considered as private tours or individual visits. The learned Government Advocate submits that the object of the petitioner is nothing but to interfere with the legitimate right of the Legislators and to diminish the image of the representatives of the people in the eye of public. He has relied on the decisions of the Supreme Court in *S.P. Anand, Indore v. H.D. Deve Gowda and Ors.*, : AIR 1997 SC272 and *BALCO Employees' Union (Registered) v. Union of India and Ors.*, : (2002)ILLJ550SC

4. A rejoinder was filed on 22-2-2003 in reply to the statement of objections filed by the respondent-State. It is stated that the press and media can cover various matters of public importance and the petitioner has stated only those which were contained in the writ petition and not his comments, whereas, the learned Government Advocate has commented upon the petitioner and his conduct even before filing the statement of objections. It is also stated that the petitioner was under a bona fide impression that the newspaper report may not be true and to know the correctness of the said report, he addressed a letter to the Chief Secretary on 14-1-2003 but as no reply was received, filed the writ petition.

5. The learned Government Advocate filed a memo and brought to the notice of the Court the judgments passed in W.P. No. 35764 of Nil, DD: 11-10-1995, W.P. No. 11568 of Nil, DD: 4-6-1996, and also the order of the Apex Court in W.P. (Civil) No. 34 of 1996 (SC) imposing cost of Rs. 10,000/- on B. Krishna Bhat and submitted that such rejoinder is a deliberate attempt to malign the action of the Legislative Members. He further submits that the additional affidavit filed by B. Krishna Bhat on 6-3-2003 explaining the conduct of the concerned Judge and the reason for imposing costs in a decided case against him is not befitting. As such on the basis of this affidavit action should be taken against him. However, learned Counsel for the petitioner tendered unconditional apology on behalf of his client and the petitioner has also filed additional affidavit stating that he has highest regard not only for the orders of this Court and the Apex Court but also for all the

Hon'ble Judges and expressed an unconditional apology for filing the earlier affidavit and prayed that the same may please be treated as not pressed.

6. We have heard Sri Puttige R. Ramesh, learned Counsel for the petitioner and Sri M.N. Seshadri, learned Government Advocate, perused the material on record, the respective affidavits and the case-laws.

7. The argument of the learned Government Advocate that the writ is not maintainable on the basis of paper news is not tenable though the news item is not conclusive proof. Though the Courts are taking cognizance, in appropriate cases, yet it will be appropriate for the media to ascertain the facts and to give correct picture while publishing such news item. So also if a person files a Public Interest Litigation petition on the basis of such reports of newspaper, it is his duty to ascertain the facts and the alleged Annexure-E is not sufficient endeavour to approach this Court to seek any relief. Be that as it may. It is within the competence of the Legislature to make policies. It can also make rules for the visits of its Members to different States or even abroad. The Government can take financial or economic decisions in exercise of their administrative power. This Court generally will not interfere unless it is arbitrary, mala fide or violates the statutory provisions of the Constitution. No doubt, any Legislator or State employee can go abroad. However, if he accepts foreign hospitality, prior permission from the Central Government is necessary as per the provisions of the relevant Act. This Public Interest Litigation is filed on the ground that at the fag-end of the term of the present Assembly, the Chief Minister has given clearance to 290 Legislators to go abroad when State is facing drought and financial crisis. The petitioner has not been able to show any violation. The question is whether the petitioner has come out with sufficient, true and correct facts. He has not been able to substantiate his case and as per the counter they are denied. It is stated that tours within the country are permissible and if they intend to go abroad, the tours are considered as private tours or individual visits. Under the circumstances and in absence of correct facts and any violation shown, the petitioner is not entitled for any relief prayed for in this Public Interest Litigation, though this Court in an appropriate case can issue directions if there is any violation of fundamental right, or if the issue touches the conscience of the Court, but not for any personal

gain, publicity or for political motive.

8. The learned Government Advocate emphasised that in the affidavit filed by the petitioner in reply to his statement with regard to the levying of costs by the Apex Court in one of the cases against the petitioner, the petitioner has made allegation against the then Judge that in all fairness the Judge would not have heard the case and that the petitioner had to file an affidavit disabling the Judge to hear the said appeal. The petitioner has made some allegations in the rejoinder also. For these reasons, action should be taken against the petitioner including imposition of exemplary costs.

9. The petitioner has tendered an unconditional apology in another affidavit filed today after lunch break as already stated. We do not think it proper to go into this issue at this stage. However, we deprecate such unfounded averments. To our mind, one cannot explain the circumstances and reasons for which costs were imposed in a case already decided by the High Court as well as by the Apex Court. Considering the unconditional apology tendered before us we do not propose to take any separate action on the statements, as we are dismissing this petition on the ground that the petitioner has not placed true facts with the other averments, which have no nexus with the issue while obtaining the order dated 17-2-2003 and has given wide publicity on the basis of the averments of the writ petition. Therefore, this Public Interest Litigation petition is liable to be dismissed with costs of Rs. 5,000/- to be paid by the petitioner. The learned Counsel Mr. Puttige R. Ramesh for the petitioner submits that instead of paying the costs to the Government, Mr. B. Krishna Bhat, petitioner will deposit the same in the High Court Legal Services Committee within three weeks from today. Ordered accordingly. In case costs are not deposited, the same may be recovered as per law.

In view of what we have stated above, this Public Interest Litigation petition is dismissed.