

V. Srihari Vs. State of A.P.

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Court : Andhra Pradesh

Decided On : Dec-13-2000

Reported in : 2001(1)ALD283; 2001(1)ALT1

Judge : S.B. Sinha, CJ and; B. Subhashan Reddy, J.

Acts : [Constitution of India](#) - Articles 21, 47, 133-A and 226

Appeal No. : WP No. 8214 of 1997

Appellant : V. Srihari

Respondent : State of A.P.

Advocate for Def. : Government Pleader for Civil Supplies, Adv.

Advocate for Pet/Ap. : Mr. Prathipati Venkateswarlu, Adv.

Judgement :

ORDER

S.B. Sinha, CJ.

1. The petitioner in this writ application, which is in the nature of public interest litigation, has inter alia prayed for issuance of a writ or direction in the nature of mandamus declaring G.O. Ms. No.455, Food, Civil Supplies and Consumer Affairs - C.S.IV, Department, dated 30-7-1996 as unjust, unfair and violative of Articles 21 and 47 of the [Constitution of India](#) and continue the scheme introduced through

the fax message dated 23-12-1994 from the Commissioner of Civil Supplies and Ex-Officio Secretary to Government, as also for a direction to the State not to increase the price on subsidy rice supplied under public distribution system through the fair price shops to the white card holders.

2. The petitioner in this writ application, inter alia, has submitted that by reason of the impugned Government Order the prices of the essential commodities have unjustly been raised. The learned Counsel appearing on behalf of the petitioner, however, had confined his argument only with regard to grant of excess ration cards to people, who are not below the abject poverty line. The learned Counsel relying on the basis of the decisions reported in *Francis Coralie v. Union Territory of Delhi*, AIR 1981 SC 746, and in *Bandhu Mukti Morcha v. Union of India*, : [1984]2SCR67, would urge that only 66 lakhs of people are below the poverty line, whereas 1.64 crore families have been issued white ration cards. The learned Counsel would urge that the subsidy granted to a larger number of people, who are not below the abject poverty line, is violative of Article 47 of the [Constitution of India](#). It was submitted that having regard to the wide spectrum of Article 21 of the [Constitution of India](#), this Court must hold that nutrition of the children being a matter falling therein, issuance of excess ration cards is arbitrary.

3. It is now a well settled principle of law that the writ Court in exercise of its jurisdiction under Article 226 of the [Constitution of India](#) will not normally interfere with a policy decision, particularly affecting the fiscal measures adopted by the State. The question at what price the essential commodities should be supplied to the citizens of India and what class of citizens of India would be entitled thereto, is entirely a matter for the Executive to decide and not for the Court. Such a policy decision, particularly when the same has been adopted by the State, unless held to be arbitrary, cannot be interfered with. There cannot be any dispute that, having regard to the interpretation by the Apex Court of Article 21 of the [Constitution of India](#), life would not only include mere animal existence but also other things affecting the life as has been explained by the Apex Court in a recent decision reported in *Dr. Ashok v. Union of India*, : AIR 1997 SC2298, wherein the decisions referred to by the learned Counsel, viz., *Francis Coralie (supra)* and *Bandhu Mukti Morcha (supra)*, had been noticed.

4. It is also well settled that every policy decision cannot be allowed to be questioned in a proceeding under Article 226 of 'the [Constitution of India](#). The decision of the Apex Court reported in Delhi Transport Corporation v. D.T.C. Mazdoor Congress, : (1991)ILLJ395SC , has been taken note of by the Apex Court in Ashok Kumar Gupta v. State of U.P., : [1997]3SCR269 , wherein the Apex Court has held that the policy decision adopted by the State should not normally be interfered with. In M.P. Oil Extraction v. State of M.P., : (1997)7SCC592 , the Apex Court has clearly held that the State's policy decision to extend the protection to a class of persons or for a particular period is unless patently arbitrary, no interference therewith is called for at the hands of the Court.

5. Having regard to the afore-mentioned latest pronouncements of the Supreme Court of India, we are of the opinion that in a litigation of this nature, this Court should not exercise its discretionary jurisdiction under Article 226 of the [Constitution of India](#) to interfere with a policy decision adopted by the State, particularly when the same affects the fiscal measures undertaken by it. Furthermore, Article 47 of the [Constitution of India](#) and Article 21 thereto, in the facts and circumstances of the present case, in our considered view, cannot be said to have any application whatsoever. This writ petition is, therefore, dismissed without any order as to costs.

6. After the judgment was pronounced, the learned Counsel appearing on behalf of the petitioner made an oral prayer for grant of leave to prefer an appeal before the Supreme Court of India in terms of Article 133A of the Constitution. Having regard to the fact that the decision of ours is based upon the latest pronouncement of the Supreme Court of India and further no question of general public importance having been raised, such a prayer is refused.