

Dasarathi Vs. State of Andhra Pradesh

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Court : Andhra Pradesh

Decided On : Jul-13-1984

Reported in : AIR1985AP136

Judge : P.A. Choudary, J.

Acts : [Constitution of India](#) - Articles 14, 18, 51A, 154, 226, 310 and 311; Service Law; Evidence Act, 1871 - Sections 115

Appeal No. : W.P. No. 4981 of 1983

Appellant : Dasarathi

Respondent : State of Andhra Pradesh

Advocate for Def. : Govt. Pleader for ;Education and ;Adv. General

Advocate for Pet/Ap. : Y. Sivarama Sastri, Adv.

Judgement :

ORDER

1. The State of Andhra Pradesh, by its G.O.Ms. No.862 dated August 19, 1977, had appointed the petitioner as poet Laureate in Telugu with effect from 15th August 1977. Initially the appointment was limited for a period of five years and carried an honorarium of Rs.6,000/- per annum. But the State Government had, by a subsequent order made in G.O.Ms.No.1155 of 4th December, 1978 raised the

honorarium payable to the petitioner from Rs.6,000/- to Rs.12,000/- per annum in addition to allowing him free use of motor car with a monthly allowance of Rs.250/- for its running and free telephone facility and the services of an attender. Within a few months thereafter, the Government issued G.O.Ms.No.514 of 30th May, 1981 converting the petitioner's limited term of appointment into one of life appointment. Normally, the petitioner would have continued as Telugu Poet Laureate of the State for the rest of his life drawing an annual honorarium of Rs.12,000/- and enjoying free use of a motor car, telephone facility and the services of an attender. But, with the assumption of office by a new Government that came into power in January, 1983, all that was changed. The new Government had terminated the petitioner's appointment as Poet Laureate. The fundamental difference in thinking of the new Government on the subject is wholly responsible for the making of this order. The new Government thought that the appointment of Poet Laureate would be constitutionally bad economically undesirable and morally indefensible. It took the view that appointing a particular person as Poet Laureate would be acting contrary to the ideals of building an egalitaial society and would not be conducive to the maintenance of austerity urgently called for by the poor state of economy, and above all, amounts to showing gross disrespect to the cherished ethical values. The State also noted on a minor key that the petitioners appointment might be even injurious to the reputation of the petitioner himself by calling for uncalled for comments and unfavourable comparisons. The State Government , therefore, decided to terminate the appointment of the petitioner as Poet Laureate. Here it may be mentioned that decision of the State Government to terminate the petitioner's appointment is not in any way peculiar to the petitioner. The decision to terminate appointments, motivated by the above thinking, is applied to all those appointed along with or like the petitioner as poet Paureates or Asthan Vidwan. Reflecting this thinking, the Minister for Education first wrote on 1-4-1983 to the petitioner inviting him to voluntarily relinquish his appointment as Poet Laureate and the perquisites attached to it. That letter of request reads, in parts, thus:-

'My deal Dasarathi,

Ever since we have assumed responsibility of Government we have, through our decisions and actions, conveyed to the people, who have reposed such great

confidence in us, that we are determined to maintain austerity and economy in expenditure respect high ethical values and build an egalitarian society. While it is a matter of pleasure to all of us that you have attained excellence in your field, you will agree that State's recognition of it through a title like 'poet Laureate in Telugu' (Asthana Kavi) is of little additional consequence. On the other hand, such sanctions take away much of the dignity and evoke uncalled for comments and comparisons in view of certain perquisites being given. We feel that in our endeavour to encourage talent and pursuit of various arts by large number of citizens of our State and country, the present practice of grant of distinctions and perquisites to few persons is incorrect and we must need, therefore, to discontinue it.'

The above Letter ended with making the following appeal to the petitioner:

'I trust, as an eminent person in your field but interested in encouraging large number of aspirants, you will also have no hesitation in relinquishing both the distinctions of 'poet Laureate' in Telugu and the perquisites that go with it and also help us in evolving a new cultural policy for the State Government. With kind regards,

Yours sincerely,

P. Ananda Gajapathi Raju,

Minister for Education.

As the petitioner was one among many whose appointment as Poet Laureate etc., was proposed to be terminated, the above letter has been addressed to each one of those appointed.

2. However, the petitioner did not find it possible to accept the Minister's suggestion to relinquish his distinction as Poet Laureate and the perquisites attached to it. The petitioner, on his behalf and on behalf of some of the appointees, wrote back to the Government strongly deprecating the correctness of the stand of the new Government and extolling the virtues of the office of Poet Laureate and eminence of those appointed as Poet Laureates. He minimised the

importance of the State's arguments based on economy, equality and democracy. The petitioners reply reads thus:-

'The institution of Asthana Kavi or Asthana Vidwan was established long ago in democratic set up by persons of high caliber and respecters of democracy and was never, during all these years, been treated in the light, it is now being done by the Telugu Desam Government. We fail to understand, how an established distinction bestowed on a few in view of their eminence in their respective fields can undermine the aspirations of the rising talent. In fact, existence of a recognised distinction is always a guiding light for all those who are treading the path of cultural achievements.

As regards economic aspect of the case, you will agree with us that the expenditure involved is negligible compared to the total exchequer of the State.

We are sorry to say, we are not convinced with the view expressed in your D.o.letter cited.'

Yours sincerely,

sd.-

Now the Government was faced with a hard choice of either continuing the old policy or terminating the appointments of all either as Poet Laureates or Asthana Vidwans etc., The Government chose the latter course and terminated the petitioners' appointment as Poet Laureate by G.O.Ms.No.250 dated 26th May, 1983 alongwith the appointments of all others. The impugned order says, that the appointment of the petitioner as Poet Laureate together with the honorarium and perquisites attached to it should cease to be operative with immediate effect. As a result, the petitioner ceased to be a Poet Laureate and was made to lose the none too inconsiderable economic benefits of honorarium, use of telephone facility and the services of an attender.

3. It is this order of the government made in G.O. Ms.No.250 dated 26th May,1983 that is impugned in this writ petition.

4. In this writ petition filed for restoration of petitioners position as poet Laureate with the perquisites attached to it the following contentions have been raised and argued.

1. G.O.Ms. No.250 is mala fide and retrograde and is unreasonable.

2. G.O.Ms. No.250 is invalid, because it removed the petitioner from the post of poet Laureate without abolishing the post of poet Laureate.

3. G.O.Ms. No.250 is invalid as it had put as end to the lifetime appointment of the petitioner as poet Laureate.

4. It is argued that under G.O.Ms. No. 862 read with G.O.Ms. No. 1155, the petitioner had acquired a vested right which cannot be taken away by an executive order.

5. It is also argued that G.O.Ms.No.250 is liable to be struck down on the ground that it has violated the promises made earlier by the Government in appointing the petitioner as Poet Laureate.

6. On the other hand, the learned Additional Advocate General appearing for the State Government argued that the State Government had decided to adopt a new cultural policy of doing away with the post of poet Laureate and the State Government has in fact abolished the post of Poet Laureate . The learned Advocate General argued that this is not a case where one person was removed and another was appointed as Poet Laureate. As the post of Poet Laureate itself is abolished and every one of the appointees was removed, the question of continuing the petitioner for his lifetime, according to the learned Advocate General, does not arise. The learned Advocate General also argued that the principle of promissory estoppel does not apply to the facts of this case. Above all, he contended that there were no mala fides and that the action of the State Government cannot be described as unreasonable.

7. Considering the validity of the first argument of the petitioner, it must be admitted that any action of the State Executive which can be described to be either mala fide or unreasonable or both, is liable to be set aside by this Court.

Under our Constitution, the powers of every organ of the State are derived either immediately or mediately from our constitution. It is axiomatic that these vast powers derived from the High constitutional source can be exercised by the various State Organs only for the purposes of furthering public good. Hood Philips, in his 'Reform of the Constitution wrote, (at page 2)

'Authority is vested in a person for the benefit of Society, and not for the benefit of that person himself.'

It follows, that the exercise of State power for nakedly corrupt or deliberately malicious reasons or for promotion of thinly disguised private ends would be set aside by this court. Equally, arbitrary or unreasonable exercise of State Power lacking either in basic fairness of procedure or in minimum of rationality of substance would be set aside as ultra vires of the powers of the State authority. The State Executive exercise all State power. The classic statement of law on this topic by Lord Greene, M.R. in the celebrated case of Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn. (1948) (1948) KB 223 hints at the possibility of all these grounds of attack an State action being subsumed under one broad head of ultra vires. Lord Greene said:

'I am not sure myself whether the permissible grounds of attack cannot be defined under a single head. It has been perhaps a little bit confusing to find a series of grounds set out. Bad faith, dishonesty those of course, stand by themselves unreasonableness, attention given to extraneous circumstances, disregard of public policy and things like that all been referred to according to the facts of individual cases, as being matters which are relevant at the question. If they cannot all be confined under one head, they at any rate, I think overlap to a great extent.'

Our Supreme Court indicated its general acceptance of this suggestion in Irani's case : [1962]2SCR169 and also in Pratap Singh's case. : (1966)ILLJ458SC Yet, consideration of the fine degrees of differences in these various grounds of attack against State action may be still open to us.

8. IN the case before us, it is not suggested by the petitioner that there is any personal ill-will or malice towards him cherished or exercised by anyone in the State Government in making the impugned order. No foundations of fact were laid by the writ petitioner either in his pleading or argument. In view of the settled policy of the new Government to terminate all appointments which was uniformly applied to all Poet Laureates and Asthana Vidwans previously appointed, it may not be possible, certainly it cannot be reasonable for the petitioner, to suggest any personal animosity against any of the Government officials as a ground for passing the impugned G.O. what the petitioner contends is that the policy of terminating the appointments of Poet Laureates itself is unreasonable as to be bad, because it lacks in minimum of rationality. The petitioner write in his reply letter asserting that the institution of Poet Laureate is useful to confer recognition merit and that it is not inconsistent with promotion of equality or democracy. The petitioner argued that the Poet Laureateship was first inaugurated in Madras and latter continued in Andhra Pradesh without any one doubting its democratic sanctify or its egalitarian sanity.

9. In answering this argument of the petitioner it becomes unavoidable for this court to examine the nature of poetry and the history of the institution of Poet Laureateship in England from where we borrowed this institution. But, we look into the nature of poetry and into the history of Poet Laureateship not from the point of view of an academician but for the purpose of finding out whether in law the termination of Poet Laureateship can be said to be unreasonable in the opinion of a reasonably well-informed and well-qualified people. Whether abolition of Poet Laureateship can be regarded to be so unreasonable as lacking totally in minimum of rationality.

10. The British Royal tradition of appointing Poets to the Royal Household as Poet Laureates was officially inaugurated by Charles II with his appointment of Dryden as the first Poet Laureate of England. But even before them, King James in his times, appointed Ben Jonson to his Royal Household and Charles I appointed William Davenant to his Royal Household to perform the same duties. This monarchical tradition which was so begun by employing Poets to the Royal Household is continuing to this day in Great Britain, but not without from the

beginning being subjected to better criticism and biting derision.

11. The Poet Laureate in legal conception is merely one of the salaried members of the Royal Household and is paid out of the Civil List and is placed under an obligation to produce New Year and Birthday Odes. Poet Laureate is thus, in essence, a Royal mirthmaker. Sweet are the uses of solemn flattery even for the kind. This tradition was condemned even in monarchical Britain as repudiation of true nature and function of poetry. There is British evidence to show that almost from the beginning the appointment of Poet Laureate was treated by well-meaning people not as conferring recognition on merit, but as heaping humiliation on the person appointed as Poet laureate. Considering the nature of appointment and the duties of the person appointed to be Poet Laureate, any one appointed to that office can never hope to escape from the fate of earning this ignominy. Poet under payment cannot but be object of ridicule. Offer of Poet Laureateship was rejected for this reason by several Great English Poets. On the death of Cibber, when the Poet Laureateship was offered to Thomas Gray (1716-1771) the immortal poet of Elegy in a country churchyard, Gray had contemptuously rejected that offer by comparing a Poet Laureate to a Royal rat-catcher, Gray wrote:

'I very well know the bland emollient saponaceous qualities both of sack and silver yet if any great man would say to me. 'I make you rat-catcher to His Majesty, with a salary of .300 a year and two butts of best Malaga; and though it has been usual to catch a mouse or two, for form's sake in public once a year, yet to you, sir we shall not stand upon these things. 'I cannot say that I should jump at it; nay, if they would drop the very name of the office, and call me Sinecure to the King's Majesty, I should still feel a little awkward and think every body I saw smelt a rat about me.'

(See Nick Russell: Poets by Appointment' P.79)

Similarly , Byron (1788-1824) poured ridicule and scorn on the dullness and boredom of Robert Southey (1774-1843) as Poet Laureate and criticised Pye, another Poet Laureate, an eminently respectable in everything but his poetry. In advising Walter Scott (1771-1832) to reject the royal offer of Poet Laureateship made to him his friend expressed the following contemporary view of Poet Laureateship:

'I shall frankly say that I should be mortified to see you hold a situation which by the general concurrence of the worlds, is stamped ridiculous.'

(See The Poet Laureate by Kenneth Hokins P.132)

When William Wordsworth (1770-1850) in the least days of his life reluctantly accepted Poet Laureateship he brought upon himself the ridicule and opprobrium of his life-long friends and admirers. He was called a slave and his acceptance was denounced by Robert Browning in 'Lost Leader' as an act of betrayal undertaken for earning a few silver pieces. Robert Browning wrote:

'Just for a handful of silver he left us, Just for a riband to stick in his cost-Found the one gift of which fortune bereft us, Lost all the others she lets us devots; They, with the gold to give, doled him out silver, So much was theirs who so little allowed: How all our coppor hand gone for his service: Rags-were they purple, his heart had been proud; we that had loved him so, followed him, honoured him, Lived in his mild and magnificent eye, Learned his great Language, caught his clear accounts Made him our Pattornto live and to die; Shakespeare was of us, Milton was for us, Burns, Shelly, were with us, they watch from their graves:

He alone breaks from the van and the freemen, He alone sinks to the rear and the slaves: ('A Treasury of Great Poems' by Louis Untermeyer, Vol.Two 859)

12. Such a high-minded Newspaper as the Times of London while editorially morning the death of William Wordsworth pleaded on 25th April, 1850 for the total abolition of the Post of Poet Laureateship on the ground that Poet Laureate is not an honour but a badge of ridicule and is an office entirely removes from the ideas and habits of our times. The great Newspaper even suspected that the aspirants to that post might be prostituting the divine gift' and wrote the following biting denouncement of the institution of Poet Laureateship.

'The title is no longer an honour but a mere badge of ridicule, which can bring no credit to its wearer. It required the reputation of Southey or a Wordsworth to carry them through an office so entirely removed from the ideas and habits of our time, without injury to their fame we know well enough that birthday odes have been

long exploded; but why retain a nick name, not a title, which must be felt as a degradation rather than an honour by its wearer?'

13. In a free society, a poet is honoured only so long as he is true to himself and remains an authentic and spontaneous spokesman of his inner voice. His craft is acclaimed and his voice is respected only so long as he gives expression to his true sentiments and genuine emotions and his deeply perceived vision of human life. A true poet cannot, therefore be a mercenary acting at the behest of his masters and writing for the latter's Pleasure or profit. He should act only according to his conscience. Keats said that 'if poetry comes not as naturally as the Leaves to a Tree it had better not come at all.' Unlike Faust, who sold his soul to Mephistopheless, a true poet cannot barter away his freedom of action and conscience for a sack of gold. The institution of Poet Laureateship is based upon purchasing allegiance. It is not consistent with the essential condition of Poet's freedom. The appointment of Poet Laureates on fixed salaries is calculated to rob from the poet not only his dignity but even his freedom to write according to his conscience. Poetry written to satisfy the commands of a well-educated monarch is no less feigned artificial and untrue, and therefore demeaning and degrading than poetry written to please and pander to the vulgar tastes of the less informed, but popularly elected officials. The destiny of poetry, therefore, cannot be fulfilled except by keeping the poet to the arduous path of truth and freedom. It is therefore clear that the institution of Poet Laureateship cannot be regarded as consistent either with the nature of poetry or with the democratic polity.

14. Arts, particularly poetry, cannot flourish under the bureaucratic tutelage of even democratic persuasion. By the rigid touch of the bureaucratic wand, all creativity will cease and wither away. Arts can hope to prosper and flourish only in free market conditions of perfect freedom and truthfulness. No word-smith wearing governmental blinkers and spinning alliterative phrases for ceremonial occasions and writing with an eye on his employment, can be regarded as a creative poet. The great Telugu Poets, Pothana, rejected the offer of royal patronage in order to preserve the freedom of his thought and expression. Again it is acting on this high principle that the conscience of a true writer should not be chained to anything except to his own social awareness that Satte rejected the Nobel Prize and

resigned even his teaching post. Albert Camus echoed this sentiment when he declared that 'a writer by definition, cannot serve today those who make history and that they must serve only those who are subject to it. 'It is only the artistically innovative and ideologically defiant that can be regarded as great poets.

15. It may be that the neighbouring State of Tamil Nadu was still continuing the policy of appointing Poet Laureate. But even there, I find that for a continuous period of ten long years between 1964 and 1974, no one had been appointed as Poet Laureate in that State. That only shows to what extent this institution is a mere reflection of the changing moods of Governmental Patronage. The basic policy of appointing Poet Laureate is founded not upon the theory of conferring recognition on merit but upon rewarding the faithful and the favorites. It is for that reason Gray refused to see any eminence in the post of Poet Laureate and even called Poet Laureate a 'rat catcher'. I cannot overlook the whole history associated with the institution of Poet Laureate , and hold merely on the basis of the somewhat uncertain practice of Tamil Nadu State that appointment of Poet Laureate is consistent either with the nature of poetry or democracy. The above survey of thought on the subject clearly supports the view of the London Times that Poet Laureateship is ill-suited to the temper of our times and habits and is a more badge of ridicule than of honour. Examining the controversy before me in the light of the history above set out. I find it impossible to call the termination of Poet Laureateship as unreasonable within the meaning of that term in law. Abolition of Poet Laureateship can be supported both on the basis of common though of the Great poets like Gray, Byron, Scott and Browning and the independent views of such prestigious and serious minded newspaper like the London Times. Such an action of the State that receives support from such varied and impeccable sources of knowledge cannot be invalidated on the ground of its being unreasonable. I think that by abolishing Poet Laureateship, the State Government may be paying an unintended homage to the evergreen memory of the Great Telugu Poet, Pothana.

16. There is a suggestion that institution of Poet Laureateship promotes excellence in Telugu Poetry. I have no hesitation in holding that the wild celestial fire that ever burns in the mortal frame of man should not be quenched either by

indifference or mediocracy. Under Art. 51(A)(J) of our Constitution, we all owe a duty to ourselves to strive towards excellence in all spheres of individual and collective activity so that this nation may constantly rise to higher levels of endeavour and achievement. But when the State undertake to promote excellence it can do so only through the methods which our Constitution permits it to adopt. Rewarding of sycophancy only helps to retard the growth of efficiency and excellence. Conferment of Poet Laureateship which more or less looks like conferment of a title may be a constitutional anathema. As Brennan J., said in *Elrod v. Burns* (1976)⁴⁹ (Law Ed.2d 547) 'the cost of the practice of patronage is the restraint it places on freedoms of belief and association.' Constitutional Government consistent with its obligations under Arts. 14 and 18, in my opinion, cannot confer the title of Poet Laureateship on any one. In abolishing the Poet Laureateship, the State may be saving the Telugu poetry from the humiliation of governmental patronage. For all the above reasons, I reject the first and the major argument of the petitioner.

'The next argument of the petitioner is that G.O.Ms.No.250 is invalid, because it terminated the services of the petitioner as Poet Laureate without first abolishing the post of Poet Laureate. This argument of the petitioner is, in my opinion, based upon more than one error of assumption. The argument is no doubt inspired by the decisions drawn from the civil service jurisprudence. But in service law a post is treated as distinct and different from the holder of that post. The security of the tenure of such a holder of civil post is constitutionally protected under Art. 311 of the Constitution from arbitrary dismissal, removal or reduction in rank. The service law in its attempt to give content to the security of tenure to which a civil servant is entitled under Art. 311 hold that while the State is free to abolish a post it cannot dismiss or remove the holder arbitrarily. One fact of this rule is to forbid replacing one holder of a civil post by another person while keeping the post alive. The above principles of service jurisprudence would have no application to the facts of our case. There is no post of Poet Laureate which has been created independently of its holder. The post of Poet Laureate and its holder are indistinguishable. It follows, therefore, that the above service rule requiring a post to be abolished first before its holder is removed can have no application to the Poet Laureateship which does not, as a matter of law, exist independently at all. I am therefore,

unable to agree with this contention of the petitioner.

17. Even otherwise, a reading of the letter written by the Minister for Education to all the Poet Laureates on the abolition of the posts of Poet Laureates would clearly show that what State Government was doing is to abolish all the posts of Poet Laureates. The removal has nothing to do with the merits and demerits of the individual holders of the posts. The letter says, 'that in the interests of economy and expenditure and respect for high ethical values and for building and egalitarian society a new cultural policy is being inaugurated.' The grounds mentioned above are grounds which are germane for abolition of the post of Poet Laureate and not for the removal of any particular person. Thus understood, it must be taken that the State has enunciated a new policy to abolish the posts of Poet Laureates. For the above reasons, I also reject this contention of the petitioner.

18. The argument of the petitioner that he was appointed for lifetime and that he had acquired a vested right to that post would be of no avail to the petitioner against the decision of the State Government to abolish the posts themselves. It is settled law that no one has a vested right to government post. It is always open for the State, subject to the Constitution, to abolish a post. All that he can claim is to hold the post so long as it exists. I am unable to agree with this argument of the petitioner.

19. The last and final argument of the petitioner is based upon the doctrine of promissory estoppel. There is no case in my opinion made out in this case for the application of that much-invoked doctrine of promissory estoppel. The petitioner suffered no detriment by being appointed as a Poet Laureate. But in any case, the doctrine of Promissory estoppel will have no application to the abolition of a Governmental post. For this reason, I hold that the theory of promissory estoppel will not help the petitioner.

20. In view of the above, I dismiss this writ petition with costs, Advocate's fee Rs.250/-.

21. Petition dismissed.

