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**The Scheduled Caste and Weaker Section Welfare Association (Regd.) and Others Vs. State of Karnataka and Others**

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**Court : Supreme Court of India**

**Decided On : Apr-02-1991**

**Reported in : AIR1991SC1117; JT1991(2)SC184; (1991)2SCC604; [1991]1SCR974; 1991(1)LC628(SC)**

**Judge : A.M. Ahmadi and; M. Fathima Beevi, JJ.**

**Acts : [Industrial Disputes Act, 1947](#) - Sections 10(1); [Land Acquisition Act, 1894](#) - Sections 4(1), 6 and 48; General Clauses Act - Sections 21; [Constitution of India](#) - Articles 14 and 136; Karnataka Slum Areas (Improvement and Clearance) Act, 1973 - Sections 3(1) and 11; Mysore Slum Areas (Improvement and Clearance) Act, 1958**

**Appeal No. : Civil Appeal No. 1401 of 1991**

**Appellant : The Scheduled Caste and Weaker Section Welfare Association (Regd.) and Others**

**Respondent : State of Karnataka and Others**

**Advocate for Def. : A.B. Rohtagi, ; M. Veerappa, ; R.L. Bhardwaj and Vishnu Mathur**

**Advocate for Pet/Ap. : S.R. Bhat and; Prabir Chaudhury (NP), Advs**

**Prior history :** From the Judgment and Order dated 26.10.1987 of the Karnataka High Court in W.A. No. 607 of 1982

**Judgement :**

ORDER

**M. Fathima Beevi, J.**

1. The Karnataka Slum Areas (Improvement and Clearance) Act, 1973, which received the assent of the President on 1st October, 1974, is an Act to provide for improvement and clearance of slums in the State of Karnataka. Section 3 of the Act empowers the Government to declare certain areas as slum areas. If the Government is satisfied that any area which is likely to be a source of danger to health, safety or convenience of the public of that area or of its neighbourhood by reason of the area being low-lying, insanitary, squalid, over-crowded or otherwise, the Government may by notification declare the areas as 'slum area'. Under Section 11, when the Government is satisfied on a report from the competent authority that the most satisfactory method of dealing with the conditions in the area is the clearance of such area and demolition of the buildings in the area, it may, by notification, declare the area to be the 'slum clearance area'.

2. The Notification No. HMA 59 MCS 76 dated 17.1.1977 was issued by the Karnataka Government declaring an extent of one acre in Timber Yard slum by the side of Main Road, Cottonpet, Bangalore, as 'slum area'. After considering the objections, another notification dated 30.12.1977 was issued under Section 11(1) of the Act declaring the entire land as 'slum clearance area'. However, on January 20, 1981, the Government issued notification under Section 3(1) cancelling the earlier notification dated 30.12.1977 and re-declaring an extent of 14 1/2 guntas only as 'slum area'. The notification dated 20.1.1981 had been challenged by the appellants mainly on the grounds that it is in violation of the principle of natural justice and Article 14 of the Constitution has been violated. It was contended that slum dwellers who are affected by the Government's action have not been given an opportunity of being heard and they have been denied equality by denying basic human needs since a major part of the slum area has been excluded from

the operation of the scheme.

3. The single Judge of the High Court took the view that the appellants had no locus standi to challenge the impugned notification and even on merits there was no case. The Division Bench of the High Court agreed on the question of locus standi and without going into the merits confirmed the judgment.

4. The appellants have approached this Court under Article 136 of the [Constitution of India](#). We have granted special leave to appeal.

5. The learned Counsel for the appellants relying on the decisions of this Court in *S.P. Gupta v. Union of India*, : [1982]2SCR365 and *Olga Tellis v. Bombay Municipal Corporation*, vehemently contended that the High Court has erred in holding that the petitioners have no locus standi. He also submitted that in view of the purpose of the legislation and the scheme contemplated thereunder once action has been taken declaring a larger area as 'slum clearance area', any change thereafter which would directly affect the slum dwellers could not be taken without giving the affected persons an opportunity of being heard and, there is, therefore, the clear violation of the principle of natural justice. It was also urged that there is no specific provision under the statute enabling the Government to rescind the notification and assuming that it exists, there was no proper exercise of the power.

6. Mr. Rohtagi, counsel appearing on behalf of the 3rd respondent, submitted that the first notification dated 17.1.1977 was challenged by the owners of the land in a writ petition as they were not heard as required and the fresh notification have been issued on the assurance given before the Court that they would be heard. It was pointed out that there was no need to hear the owners or occupiers at the stage of issuing the notification under Section 3(1) of the Act and Section 11 does not confer any Statutory right to the occupiers. Relying on Section 21 of the General Clauses Act, it was maintained that the power to withdraw or rescind the notification was inherent and the authority who is empowered to issue the notification is entitled to rescind the same. It was also pointed out that there had been dispute over the title of the land in question that civil litigation was in progress and that the earlier declaration was made without proper basis. Action

has been taken by the owners against the tenants for eviction, and orders have been obtained in their favour and the petitioners have no case and are not entitled to any relief. The counsel for the State adopted these arguments.

7. The first question that falls for consideration is whether the appellants can challenge the action of the Government. This question need not detain us when the law is now settled that in such situation even a public interest litigation would lie. The first appellant- Association represents the interests of the slum dwellers and the second appellant himself is one of the residents in the area. The action of the Government on the averments made affects a class of persons and if that group of persons is represented by the Association, they have a right to be heard in the matter. Where a member of the public acting bona fide moves the Court for enforcement of a fundamental right on behalf of a person or class of persons who on account of poverty or disability or socially or economically disadvantaged position cannot approach the Court for relief, such member of the public may move the Court even by just writing a letter as held by this Court in *Bandhua Mukti Morcha v. Union of India and Ors.*, : [1984]2SCR67 . We are, therefore, of the view that the High Court was wrong in concluding that appellants were incompetent to invoke the jurisdiction of the Court.

8. We shall now consider the argument that the State Government had no power to rescind the notification issued under Sections 3 and 11 in the absence of any specific provision in the Act. Section 21 of the General Clauses Act is in pari materia with Section 10 of the Karnataka General Clauses Act. This Section reads:

21. POWER TO ISSUE TO INCLUDE, POWER TO ADD TO, AMEND, VARY OR RESCIND NOTIFICATIONS,

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