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Court : Delhi

Decided On : Jul-25-1974

Reported in : AIR1975Delhi79; 11(1975)DLT234a

Judge : T.V.R. Tatachari and; V.S. Deshpande, JJ.

Acts : Press Council Act, 1965 - Sections 12; [Constitution of India](#) - Article 226

Appeal No. : Civil Writ Petition No. 870 of 1974

Appellant : The State of Bihar

Respondent : Press Council of India and ors.

Advocate for Pet/Ap. : Balbhandra Prasad,; Birendra Pd. Sinha and; U.P. Singh,

Judgement :

V.S. Deshpande, J.

(1) Has the Press Council of India the Jurisdiction to consider the complaint of the editor of a newspaper against the Government with a view to help the newspaper to maintain its independence Can the Council give the Government an opportunity to rebut the complaint if the Government so desires These questions are raised by the present writ petition.

(2) The petitioner is the State of Bihar. The three respondents respectively are the Press Council of India, the Editor of 'The Searchlight' a daily newspaper published from Patna-and the Secretary, Press Council of India. The Government of Bihar constituted what it called the Food Committee giving the members of the said Committee the status of cabinet ministers with all the facilities and perquisites A attached to such status in doing the work of the Committee in the State of Bihar. The Editor of the 'Indian Nation', another English newspaper of Patna and Shtt Shambhu Nath Jha, Assistant Editor of the Searchlight were appointed members of the Committee along with other persons including, it is said, members of the Opposition. The Editor of the Searchlight wrote to the Chairman of the Press Council emphasising that this action of the Government was a new dimension of the governmental pressure on the press and that it amounted to bribing the press by giving an editor and an assistant editor of newspapers the status of cabinet ministers with their perquisites. He requested the Press Council to consider whether this leads to the erosion of freedom of the press and journalists by accepting such offices and violates journalistic ethics. The Secretary of the Council forwarded a copy of this letter to the Government of Bihar. The Government wrote back to say that their action did not amount to interference with the freedom of the press as the Committee was serving the cause of the people of the State. -Further, the Assistant Editor of the Searchlight resigned from the Committee. The Editor of the Searchlight, however, persisted in his request for an enquiry by the Press Council into this matter. According to him, the resignation of his Assistant Editor did not close the chapter because the Editor of the Indian Nation still continued to be a member of the Food Committee and a larger issue was involved for consideration. He, therefore, sought a ruling of the Press Council on this question of principle because Government may set up similar other committees drafting working journalists as members of the same. He also pointed out that before becoming a member of the Committee, his Assistant Editor had criticised the Government policy of the wheat takeover in accordance with the views of the newspaper Searchlight. But after becoming a member of the Committee, the said Assistant Editor championed the policy of the Government and did propaganda for it. In other words, it was so tempting that notwithstanding his own earlier stand he agreed to join the Committee. The Editor complained that this was nothing but

bribery of the press by the Government. The Press Council, therefore, invited the Government of Bihar to reply to this complaint and informed them that an enquiry into the matter would be held by the Council and that the Government of Bihar may, if they so desire, appear before the Council at the enquiry and may adduce such evidence, oral or documentary, and make such oral submissions as they may deem necessary in support of their case.

(3) The State of Bihar has filed the present writ petition contending :-

'(1) That the jurisdiction of the Press Council to make an enquiry A was limited by section 13 of the Press Council Act, 1965 (hereinafter called the Act) to enquiries against the newspapers under section 13; and (2) that the Press Council had no power to require the Government of Bihar to explain its conduct and to insist upon their attendance before the Council.'

(4) The Press Council was brought into existence for discharging the functions enumerated in section 12 of the Act. The performance of these functions may entail inquiries into complaints (a) made against the newspapers or (b) made by the newspapers. The inquiry into complaints against the newspapers is the subject-matter of section 13 of the Act. But this does not exhaust all the inquiries which may be held by the Council. Section 12(2) (a) says that the Council may, in furtherance of its objects, perform the following functions, namely, (a) to help newspapers and news agencies to maintain their independence. The Preamble of the Act also states that the Press Council was being established for the purpose of preserving the freedom of the press and of maintaining and improving the standards of newspapers and news agencies in India. The same object is reiterated in the Statement of Objects and Reasons which accompanied the Bill which later became the Act. Section 14 enumerates the general powers of the Council. It says:-'For the purpose of performing its functions or holding any inquiry under this Act, the Council shall have the same powers throughout India as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908.' It is significant to note that the powers of the Council are to be exercised both for the performances of its functions or for holding inquiries. It is implicit in it that an inquiry, if necessary, may be held by the Council in the course of performing the

functions, and the powers mentioned in section 14 may be exercised in that connection. Similarly, the words 'any inquiry' are broad enough to cover not only inquiries under section 13 but such other inquiries as may be held in respect of the discharge of its functions under section 12 of the Act.

(5) When the learned Advocate General for Bihar referred to section 13 as referring to the only inquiries which would be held by the Council, we invited his attention to sections 12 and 14 and pointed out to him that the Council had a statutory duty to help the newspapers to maintain their independence and in doing so the Council could exercise its powers under section 14. The learned counsel could not refute this legal position. He then complained that the Press Council seemed to assume that the Government of Bihar was like an accused and the Council purported to summon and enforce the attendance of the Government before it. The correspondence between the Council and the Government of Bihar, some of which is annexed to the writ petition, would show that the Council did not choose to exercise the power to summon and enforce the attendance of any officials of the Government of Bihar. On the other hand, the Council has expressly written to the Government of Bihar that the Government may, if it so desires, present its case before the Council. The option was expressly left to the Government whether it would choose to reply to the complaint and argue the matter before the Council or not. It is clear, therefore, that the Council did not treat the Government of Bihar as an accused in the case and did not even exercise its powers to summon and enforce the attendance of any Bihar Government official.

(6) The learned counsel briefly referred to the correspondence which passed between the Government of Bihar and the Press Council. This relates to the merits of the complaint made by the Editor of the Searchlight to the Press Council. While the Editor complained that the action of the Government tended to undermine the independence of the working journalists by offering to them blandishments, the Government of Bihar maintained that this was not their intention and the appointment of working journalists to the Food Committee was made by the Government with the best of intentions. The very fact that there is an honest difference of opinion between the Government of Bihar and the Editor of the

Searchlight as to the effect of the action of the Government on the independence of the newspapers and the working journalists would show that the matter requires consideration. The exclusive jurisdiction for the consideration of such a matter is vested by the Press Council Act in the Press Council. It is for that body to consider whether the action of the Government in any way undermines the press. For, it is the function of the Press Council to preserve the freedom of the press and to help the press to maintain its independence. The Press Council consists of eminent persons connected with the functioning of the press. It is constituted as an expert and a proper body for the consideration of such questions as the maintenance of the independence of the press. The primary jurisdiction for the consideration of such a question is, therefore, vested in that body. When a complaint avers that the action of the Government is such as to undermine the independence of the press, it is for the Press Council to determine whether a prima facie case was made out by the complainant. As the Press Council thought that a prima facie case existed, it decided to give the Government of Bihar an opportunity to put forward its own point of view. In doing so the Press Council merely observed the rule of natural justice that the action of the Government should not be considered at the instance of a complainant unless an opportunity is given to the Government to rebut the complaint and to justify their action. The learned Advocate General has not been able to show how the Government of Bihar is prejudiced by being given an opportunity of showing cause against the complaint made by the Editor of the Searchlight. If the Government of Bihar, does not wish to avail itself of this opportunity, the Council may or may not propose to summon and enforce the attendance of any of their officials at the inquiry. In the present case, the Council has left the Government free to take such stand in this matter as it likes. But the learned counsel has not been able to show that in considering the complaint the Council is acting beyond its jurisdiction. There are no preliminary collateral conditions which are to be satisfied before the complaint is considered by the Council. All that the Council has to see is that whether the complaint concerns any of the functions which the Council has to discharge under section 12. If the Council is prima facie of the view that the complaint is concerned with independence of the press, it is not for this Court to consider whether the prima facie view of the Council is right or wrong. All that this Court has to see under Article 226 of the

Constitution is whether the entertainment of the complaint by the Council was within its jurisdiction. Since it is the exclusive function of the Council to help the newspapers maintain their independence and since the Editor of the Searchlight has complained that the Government of Bihar tends to undermine the independence of the newspapers, it cannot be said that the matter is not relevant for consideration by the Council. This Court cannot substitute its own opinion on the merits of the complaint made by the newspaper against the Government of Bihar. It is for the consideration of the merits of the complaint that the Press Council has been formed. The powers and the procedure of the Press Council under section 14 are exercisable not only in respect of inquiries against the newspapers under section 13 but also in respect of inquiries held at the instance of the newspapers against the Government or against any other person. This is made clear by the Regulations made by the Press Council under section 23 of the Act. While the main body of the Regulations deal with the inquiry to be held against a newspaper under section 13, regulation 16 says that the procedure prescribed by these regulations in respect of complaints under section 13 of the Act shall apply mutatis mutandis to complaints received by the Council seeking its help to maintain the independence of newspapers and news agencies or in respect of any matter falling under section 12-(2) (a), (e) and (f), as also to the case of any inquiry in respect of any matter under clause (j) thereof. This shows that the inquiries made by the Council are not restricted to section 13 but they extend to other matters also including the discharge of the functions of the Press Council under section 12(2)(a).

(7) The Government of Bihar is, therefore, free to consider the matter further and to decide whether they would like to have their say regarding the complaint made against them by the Editor of the Searchlight. The Press Council has the jurisdiction to consider the said complaint. The Press Council has not chosen so far to use any coercive process against the Government of Bihar. The Government of Bihar cannot, therefore, have any legitimate complaint against the action so far taken by the Press Council.

(8) The writ petition is not tenable and is, therefore, dismissed in limine.

