

Videowala Vs. Union of India and ors.

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Court : Chennai

Decided On : Jan-08-1986

Reported in : AIR1987Mad52

Judge : Natarajan, Adv.

Acts : [Constitution of India](#) - Article 226; Madras High Court Rules - Rule 6

Appeal No. : W.M.P. Nos. 15682 and 16394 of 1984 in W.P. No. 9745 of 1984

Appellant : Videowala

Respondent : Union of India and ors.

Advocate for Def. : R. Thiagarajan and ;N.R. Chandran, Adv.

Advocate for Pet/Ap. : V.P. Raman, Adv. for ;P.S. Raman, Adv. and ;P. Chidambaram, Adv.

Judgement :

ORDER

1. Both these petitions have been filed by the Film Federation of India, represented by its President, D. Ramanujam. In the former petition the prayer is for vacating the interim stay granted in W.M.P. 15682 of 1984 and in the latter petition the prayer is for the impleadment of the petitioner as a respondent.

2. The impleadment of the petitioner as a party-respondent in the writ petition is opposed by Messrs Videowala, who have filed W.P. 9745 of 1984 and obtained orders of interim stay. The said writ petition has been filed under Art. 226 of the Constitution to seek the issue of a writ of declaration to declare certain provisions of the Copyright (Amendment) Act, 1984 (hereinafter referred to as the amendment Act) insofar as they relate to the petitioner - Video Library, as void and unconstitutional.

3. Having regard to the limited question for consideration in the W.M.P. 16395 of 1984, it is not necessary to set out the provisions of the amendment Act, which are challenged, and the grounds on which the validity of the provisions are questioned. The Film Federation of India seeks impleadment in the writ petition on the ground that the Act has been passed to safeguard the interests of the producers, distributors and exhibitors of films as well as the public exchequer, that as such, the film producers, distributors and exhibitors are as much interested as the Government in the validity of the Amendment Act being upheld, that since the Federation has been formed to safeguard the interests of the film producers, distributors and exhibitors it has locus standi to get itself impleaded in the proceedings and put forth the case of its members and that its right to get impleaded in such matters has already been recognised by this Court in an earlier writ petition, W.P. 753 of 1984. (See : AIR1984 Mad278).

4. The third respondent herein, viz., the petitioner in the writ petition, opposes the claim of the petitioner herein (Film Federation) and has filed a counter-affidavit traversing the several averments contained in the affidavit filed by the Federation.

5. Mr. P. Chidambaram, learned counsel for the Federation, contended that the impugned legislation has been enacted to safeguard the interests of the film producers, distributors and exhibitors, that on an earlier occasion, the State Government had passed the Tamil Nadu Exhibition of Films on Television Screen through Video-Cassetts Recorders (Regulation) Act, 1984, that the said Act was challenged by some of the persons having Video Libraries, that this Court upheld the validity of the said Act except in so far as Ss. 9(2) and 10(2) of that Act are concerned, that thereupon the Federation has taken up the matter in appeal to the

Supreme Court and has obtained orders of stay, that the present legislation has been passed by Parliament to obviate any State amendment of a Central Act, to wit, the, Copyright Act, being challenged on the ground of legislative incompetence and therefore, for an effective adjudication being made in the writ petition, the Federation should be impleaded as a respondent in the writ petition. Mr. Chidambaram further stated that the Constitution ensures every citizen a right of access to Court and as such, the Federation has an indisputable right to seek impleadment in the proceedings, especially when the Act challenged is of vital concern to the members of the Federation. In support of his contentions, Mr. P. Chidambaram places reliance on *State of Madras v. V. G. Row*, : 1952 CriLJ966 ; *Pathumma v. State of Kerala*, : [1978]2SCR537 ; *Fertilizer Corporation v. Union of India*, : (1981)ILLJ193SC and *National Textile Workers Union v. P. R. Ramakrishnan*, : (1983)ILLJ45SC .

6. Mr. V. P. Raman, counsel for the writ petitioner however, argued that the writ petition has not been filed by way of adversary litigation or in order to secure personal relief with reference to contractual matters, but in exercise of a constitutional right to challenge the validity of an Act on grounds of arbitrariness, discrimination etc. offending Arts. 14 and 19 of the Constitution. The counsel took the stand that in litigation of this type, a private party has no locus standi to seek impleadment and attempt clothing the impugned legislation with vires over and above what the appropriate Government would itself have to offer. The further contention of Mr. Raman, was that as against the judgment of a Division Bench of this Court in W.P. Nos. 753. 1189 and 1587 of 1984: (reported in : AIR1984 Mad278) though the State Government had obtained leave of Court to file an appeal to the Supreme Court, it has not filed any appeal; but on the other hand, the Federation, taking advantage of the leave granted to the State Government, has filed an appeal to the Supreme Court and obtained orders of stay, Mr. Raman, therefore, argued that the impleadment of third parties in petitions filed to declare certain provisions of an Act as ultra vires would escalate the conflict and considerably alter the nature and character of the writ petition. Lastly, Mr. Raman submitted that if the Federation wants to have a say in the matter, it can obtain the permission of the Court and appear as an intervener or as an observer, but it cannot seek parity of status with the appropriate Government to defend the

legislation.

On a consideration of the matter, I think there is considerable force in the argument of Mr. V. P. Raman. It may be true that the Amendment Act has been passed in order to safeguard the revenue of the public exchequer as well as the interests of the producers, distributors and exhibitors of films and it may also be true that if the impugned provisions are struck down by the Court, the decision may adversely affect the interests and calculations of the film producers, distributors and exhibitors. Even so, the challenge made by the writ petitioner to certain provisions of the amendment Act is with reference to the constitutional validity of those provisions. It is not on the ground of hardship or equity the validity of the provisions are challenged. Once this basic factor is realised, then, it has to be necessarily held that it is only the concerned Government, which is entitled to defend a legislation made by the Union or the State Legislature attacked on the ground of unconstitutionality. Private parties, however much interested they may be in the outcome of the proceedings, cannot seek parity of status or treatment with the Government in such matters. At best, they can only be interveners or observers and they can render assistance to the Court in determining the question whether the provisions of an Act, which are impugned on the ground of vires, are vitiated in any manner. If a different view is to be taken, then it would mean that in every petition filed to challenge the validity of a Central or State Act, the beneficiaries under the Act would seek impleadment in the proceeding and take the litigation to a personal level between it or themselves on the one hand, and the petitioners, on the other. Take for example, a legislation made by a State to give some protection or to confer some rights to indebted agriculturists or cultivating tenants of lands. If a petition is filed to challenge the validity of the Act, then the Agriculturists' Association or the Tenants' Association would seek impleadment in the proceedings on the ground that the sustainment of the Act would be beneficial to them, and, therefore, they have as much right as the State to participate in the proceedings and contest the action. Therefore, I am of the view that the prayer of the Film Federation for impleadment cannot be granted. The fact that in the earlier petitions, W.P. 753 etc. batch of 1984, the Federation was impleaded as a party on its request, cannot be a finding judicial precedent. In fact, the anomaly that has resulted on account of the Federation being impleaded as a party in the previous

writ petition has been forcefully brought out by Mr. Raman. While the State Government has not preferred an appeal to the Supreme Court, the intervener, viz., the Film Federation has filed an appeal in the Supreme Court and obtained stay. Therefore, the argument of Mr. Raman that strange consequences would follow, if private parties are given recognition of status to defend the vires of a legislation, viz., a private party is allowed to breathe more life into a legislation than the very legislature which enacted it, cannot be brushed aside as a fanciful or imaginary contention. In such a situation, I am of the view that the request of the petitioner for impleadment as a party-respondent in the writ petition cannot be granted. At the same time having regard to the vital interest the members of the Federation have in the proceedings, it would not be proper or just to refuse an opportunity of representation to the petitioner. The proper course therefore, to be adopted is to follow R. 6, Appendix IV to the Rules of the Madras High Court, the Appellate Side. The said Rule reads as follows-

'At the hearing of the petition, any person who desires to be heard in opposition to the petition and appears to the Court to be a proper person to be heard, shall be heard notwithstanding that he has not been served with notice, and subject to such condition as to costs as the Court may deem fit to impose.'

It is accordingly held that the petitioner should be afforded the status of a proper person to be heard in the proceedings, but without a right to get itself impleaded as a party respondent. It is therefore ordered that the petitioner will be accorded the status of represent in the writ petition and afforded an opportunity to make its representation on the merits of the case when the writ petition is taken up for disposal.

In view of the above ruling, it follows that the petitioner will not have status in law to file W.M.P. 16394 of 1984 and seek the revocation of the interim stay granted in W.M.P. 15682 of 1984.

In the result W.M.P. 16395 of 1984 will stand ordered as above and W.M.P. 16494 of 1984 will stand dismissed. No costs.

7. Order accordingly.

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