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SooperKanoon Citation : sooperkanoon.com/822749

Court : Chennai

Decided On : Oct-28-1994

Reported in : (1995)1MLJ622

Appellant : R. Thillai Villalan

Respondent : The Government of Tamil Nadu Represented by the Commissioner and Secretary, Home Department and ors.

Judgement :

ORDER

Shivaraj Patil, J.

1. Heard the petitioner at length. The petitioner in this petition has sought for the following prayer;.to issue a writ of Mandamus or any other appropriate writ, order or direction in the nature of a writ, directing the first respondent herein to take immediate and suitable steps to issue orders refraining the second respondent herein with respondents 3 and 4 herein from entering the border of Tamil Nadu or travel into the different parts or towns in Tamil Nadu till such period or extended period the injunction orders obtained by various political parties and persons before this Hon'ble Court restraining, publishing, marketing and making public by media or any other mode or method of the book titled 'T.N. Seshan - An Intimate

Story' by the second respondent with the help of respondents 3 and 4, continue to be in force, to avoid unnecessary violence and creating law and order problem in the State of Tamil Nadu, and pass such other or further orders as this Hon'ble may deem fit and proper...

2. The petitioner is a former Member of Parliament, practising senior lawyer in the High Court. In the detailed affidavit filed in support of the writ petition in paragraphs 3 to 6, he has stated how he was closely associated with the late leader Dr. C.N. Annadurai. In paragraphs 7 to 11, he has stated about the Anti-Hindi agitation or movement. In paragraphs 12 to 14, he has stated about certain remarks said to have been made against late leader Dr. C.N. Annadurai, in the Book titled 'An Intimate Story'. In paragraphs 15 and 16 he has stated about the filing of the suit in respect of the said book and obtaining of orders of interim injunction. The other averments in the affidavit are with regard to the late leader and in what terms the people hold high respect and about the emotions of the people in regard to the said great person. As can be seen from the prayer made in the writ petition a mandamus is sought directing the first respondent to take immediate and suitable steps to issue orders refraining the second respondent herein with respondents 3 and 4 from entering the border of Tamil Nadu or travel into the different parts or towns in Tamil Nadu, till such period or extended period the injunction orders are obtained by various political parties.

3. The petitioner submitted that this Court can entertain a writ petition, having regard to the provisions of the Constitution, viz., Articles 14 and 19 read with Article 21 of the Constitution of India. Petitioner in his argument paid glowing tributes to the late leader Dr. C.N. Annadurai and also submitted how intimately he was connected with him. He commented and criticised about certain remarks alleged to have been made in the book titled 'An Intimate Story' regarding which a few civil suits are already filed in this Court, as stated by the petitioner himself. Orders of interim injunction were also passed in the said suits, putting restraint on the release of the said Book, which had run into the controversy with regard to certain passages said to have been made against the said leader. He contended that there is strong feeling in the minds of the people of Tamil Nadu against the second respondent with regard to the remarks made in the said book and that his

entry into Tamil Nadu may lead to violence and law and order situation. In this view, there is every need for entertaining the writ petition and granting necessary interim injunction. Petitioner further stated that this Court has wide powers under Article 226 of the Constitution of India to grant such orders. In support of his submissions, he relied on the decision in the case *Gurbachan Singh v. The State of Bombay* : 1952 CriLJ1147 . to contend that even an individual can be restrained from entering in a particular place. He finally submitted that in case the writ petition is not entertained and interim injunction as sought for by him is not granted, it may seriously affect the public interest.

4. I have carefully considered the submissions made by the petitioner. The second respondent is the Chief Election Commissioner, as can be seen from the description given in the writ petition itself and it is not disputed that the second respondent is a Constitutional functionary and he has to discharge certain functions assigned to him under the Constitution and in that regard he has jurisdiction throughout the territory of this country to move anywhere. Under Article 19(1) all citizens have the right to several freedoms enumerated therein and in particular and relevant to this case under Article 19(1)(d) and (e) all citizens have the right to move freely throughout the territory of India. The second respondent being a citizen of India, having such a right guaranteed under Article 19(1)(d) and (e), as already noticed above, is a constitutional functionary as well. Any restraint on the movements of the second respondent may amount to putting restraint on the discharge of the constitutional functions of the second respondent. Of course, these freedoms could be restricted or regulated in accordance with the law made by the competent Legislatures, which is clear from the said Article 19 itself. The decision cited by the petitioner relates to the validity of provisions relating to externment. In that case, the order fixing the place outside the State of Bombay for residence came up for consideration. If there is a law, enabling the authorities to place restrictions on the second respondent, it could have been considered. Looking at the scheme of Article 19, it is very clear that all the citizens shall have the 'freedom' stated there and such freedom could be restricted by law, provided those restrictions are reasonable. This position of law is not debatable. As regards the emotional aspects and enraged feelings of the people of this State, I must state that the cause for the grievance seems to be about the reference made in

the book, titled 'An Intimate Story,' regarding which I have already stated that it is a subject-matter of not one suit, but four suits and in those suits, there are orders of interim injunction and it is not for this Court to express and it is for the appropriate court to deal with the matter. I would like to notice yet another aspect, viz., the prayer made in the writ petition is too wide, in that it is prayed that the first respondent should take immediate steps to refrain the second respondent alongwith respondents 3 and 4 from entering into the border of Tamil Nadu or travel into the different parts or towns of the State of Tamil Nadu. If there is a question of safety or law and order at all or as a result of his entry into this State, some problems are created, the competent authorities, whose duty it is to maintain law and order shall have to essentially take care of the same, as and when such situation arises. Moreover, as on to-day, there are orders of interim injunction as stated above in regard to the release of the said book. Further, it is not possible for this Court to consider the case for granting any relief in such terms as prayed for by the petitioner in the writ petition.

5. In this view, I do not find any good ground or justification to entertain this writ petition. Accordingly, I reject the writ petition at the stage of admission.