

Gulshan S/O Kallu and Others

Vs

Zila Parishad, Etawah, Uttar Pradesh and Another

Special Leave Petition (Civil) No. 1900 of 1981

(P.N. Bhagwati, O. Chinnappa Reddy JJ)

12.08.1981

ORDER

1. When Special Leave Petition (Civil) No. 1900 of 1981 came up for hearing before us on April 27, 1981, we made an order directing the State of Uttar Pradesh to inform the Court as to how many centres have been set up in Etawah district under the Model Scheme for Carcass Utilisation at Village Panchayat Level (sic) Annexure II to the affidavit in reply filed by Shri Ram Naresh Pande, where they are situated, what are the activities which are being carried out by these centres and what is the extent of such activities and how many persons are taking advantage of these centres. It is surprising that though a period of more than three months has elapsed, the State of Uttar Pradesh has not supplied this information to us. We fail to understand this inaction of the part of the State Government in complying with the order of the court. The only inference which we can draw from the failure of the State Government to give us this information is that the Model Scheme for Carcass Utilisation at Village Panchayat Level has remained merely a paper scheme and it has not been implemented in the Etawah district. If this be the correct situation, it is a matter of regret that the Model Scheme for Carcass Utilisation at Village Panchayat Level should not have been implemented. We fail to appreciate why any scheme of social welfare should be put forward by a Government unless it is intended to be implemented, because otherwise an impression may be created in the public mind that the scheme is put forward only in order to beguile the masses and that would be injurious to democracy and the rule of law. We would however give one more opportunity to the State Government to supply us this information before we draw any adverse inference against the State Government and we would therefore direct that this information should be given to the Court in an affidavit to be filed by the appropriate officer on or before August 17, 1981. The information should also contain particulars in regard to any skin flayers cooperative societies set up or organised under the Model Scheme for Carcass Utilisation at Village Panchayat Level. We would direct that similar information in regard to Kanpur, Hardoi and Muzaffarnagar districts should also be supplied to the Court on or before August 21, 1981.

2. We also directed the State Government by our Order dated April 27, 1981 to inform us as to how many cooperative societies have been formed for the purpose of "charma shodhan", what are the categories of persons who are members of such cooperative societies and whether any persons who were originally carrying on business of skinning dead animals are members of such cooperative societies. Pursuant to this direction given by us, Ram Naresh Pande has filed an affidavit giving particulars in regard to twelve cooperative societies/institutions working under the Khadi and Village Industries Board, Uttar Pradesh which are engaged in different aspects of leather industry. Through it is not so specifically stated, we may take it that these are the cooperative societies formed for the purpose of charma shodhan. But the affidavit of Ram Naresh Pande does not state as to whether any skinning centres have been set up by the State Government or by the these

cooperative societies/institutions under the Khadi and Village Industries Board; what are the categories of persons who are members of these cooperative societies/institutions and whether any persons who were originally carrying on business of skinning dead animals are members of such cooperative societies or institutions. The State Government has failed to supply this information to us despite the specific direction contained in our Order dated April 27, 1981. We would however give one more opportunity to the state Government to comply with this direction and we would therefore direct the State Government to supply this information to the Court on or before August 17, 1981.

3. We also gave a direction in our Order dated April 27, 1981 that the Zila Parishad of Etawah should inform the Court whether at the time of auction or subsequently any condition was imposed on the contractor with regard to the persons he must employ for the purpose of actually carrying out the skinning of carcasses and whether any minimum rates of wages payable by him to such persons are fixed and if whether not so fixed, why has not that not been done. The Zila Parishad of Etawah has also failed to supply this information to the Court even though a period of more than three months has passed since the marking of our Order. It is a matter of regret that local self-governing authorities like Zila Parishad should not bother to carry out the order of this Court and should not even show the ordinary courtesy of expressing regret to the Court for not complying with the order. The State Government and the local-self governing authorities should in fact set the standard for other litigants in the matter of compliance with the orders of the Court, because otherwise the rule of law will remain merely a meaningless phrase and an empty formality. We would however give one more opportunity to the Zila Parishad of Etawah and direct that the Zila Parishad, Etawah should supply the required information to the Court on or before August 17, 1981. The Zila Parishad, Etawah will also inform the Court since how many years it has been giving this work on contract by holding auction and produce the contracts, if any, for the earlier years for perusal by the Court.

4. We also directed the State Government by our Order dated April 3, 1981, to put forward a scheme under which the petitioners and others carrying on the work of skinning dead animals are not deprived of their means of subsistence and do not become the victims of exploitation by any contractor. We also directed the State Government by our Order dated April 27, 1981 to instruct the Registrar of cooperative societies that he should take immediate steps for the purpose of organising the petitioners and other persons who are or originally were carrying on the occupation of skinning dead animals in the villages, to form into cooperative societies that the Zila Parishad can give contracts for skinning dead animals to such cooperative societies within the area of their operation and thus eliminate the middle man. Neither of these two directions seems to have been carried out by the State Government through a period of over three months has elapsed. We are told by Mrs. Dixit on behalf of the State Government that the Registrar of Cooperative Societies has submitted a report through the Collector but no such report has been received by the Court. We would therefore direct the State to ensure that if there is any report prepared by the Registrar of Cooperative Societies pursuant to the direction given by us, it should be filed in Court on or before August 14, 1981 and copies of such report should be immediately furnished by the office to the Commission consisting of Dr. Upendra Baxi and Mr. Krishna Mahajan as also to the learned counsel appearing on behalf of the petitioners. We also direct the State Government to comply with the direction given by us in our Order dated April 3, 1981 without any avoidable delay. We find that similar direction was given by us Writ Petitions 1869-70 of 1981 by our Order dated April 16, 1981 and this direction must also be carried out by the State Government as early as possible.

5. We may point out that it is not merely the State Government and the Zila Parishad, Etawah which

have been in default in carrying out the directions given by us. We also directed the learned counsel appearing on behalf of the petitioners by our Order dated April 27, 1981 to furnish to the Court on or before May 5, 1981 the names of the persons who according to the petitioners are carrying on the occupation of skinning dead animals in the villages of Dhanopur, Rasulabad, Ahripur and Kalghara in Etawah district and also directed the petitioners and others represented by them to offer their full cooperation on the Registrar of Cooperative Societies in forming into cooperative societies and to put forward a scheme for this purpose at the next hearing of the special leave petition. But we find that this direction has not been carried out by the petitioners or the learned counsel appearing on their behalf. Though more than three months have elapsed, we do not have the names of the persons who according to the petitioners are carrying on the business of skinning dead animals in the four specified villages in Etawah district nor has any scheme for forming these persons into cooperative societies been put forward before us by the learned counsel appearing on behalf of the petitioners. It appears that neither the petitioners nor the State Government and Zila Parishad seem to be really anxious to take any constructive steps for the purpose of protecting the interest of the petitioners consistently with public interest in hygienic skinning and disposal of dead animals and it is only the Court which seems to be worried about these matters. But the Court cannot effectively give relief to the petitioners without jeopardizing public interest, unless it is assisted by the parties on both sides. We would therefore direct the learned counsel appearing on behalf of the petitioners to furnish to the Court on or before August 17, 1981, the names of the persons who according to the petitioners are carrying on the occupation of skinning dead animals in the villages of Dhanopur, Rasulabad, Ahripur and Kalghara in Etawah district, failing which the interim stay granted by this Court will stand vacated expect in regard to the petitioners themselves.

6. Since there was a dispute between the parties as to what is the correct position in regard to the work of carrying out skinning of dead animals in the Kanpur district, we made an Order on May 1, 1981 appointing a Commission of Dr. Upendra Baxi and Mr. Krishna Mahajan to visit two specific areas in Sarsol Block of Kanpur district with a view to ascertaining as to what is the matter in which skinning of dead animals is being carried out in those specific areas and who carry out this work and whether they receive any payment for the work carried out by them and from whom and what would be the impact of giving out this work to contractors on the livelihood of those who have been originally carrying out this work and also how the contract system has operated and with what effect. We directed the State of Uttar Pradesh to deposit a sum of Rs. 1500 in the Court by May 4, 1981 in order to meet the cost of this sociological (sic socio-legal) investigation ordered by us, and we requested the Commission to carry out this assignment and to make a report to us on or before May 7, 1981 But, unfortunately, the amount of Rs. 1500 which we had directed the State Government to deposit for meeting the expenses of the Commission was not deposited by the State Government perhaps because the time given was too short and then the vacation intervened with the result that on July 27, 1981, when these cases came up for hearing, the learned Advocate appearing on behalf of the State of Uttar Pradesh applied for extension of time to deposit the amount of Rs. 1500 and we accordingly granted time and the amount of Rs. 1500 was deposited by the State Government on the same day. We also by our Order dated July 27, 1981, extended the area of investigation by the Commission and directed that the Commission should immediately visit one or more of the three palaces, namely, Kanpur, Etawah and Hardoi and make its report to the Court within ten days. We also reiterated our direction that the report which the Registrar of Cooperative Societies was required to make should be filed in Court by the State of Uttar Pradesh within the same period of ten days. We have already pointed out how this direction given by us has not yet been carried out by the State Government. When these cases again came up for hearing on August 7, 1981, Mr. Krishna Mahajan appearing on behalf of the Commission pointed out that it was not

possible for the Commission to proceed to make sociological investigation into the matters indicated by the Court unless two sets of bye-laws of the Zila Parishads before the Court were made available to the Commission and one set of the petitioner and other pleadings was also supplied to the Commission. We accordingly made an Order on August 7, 1981, directing the Zila Parishad of various districts which are respondents in these cases to supply two sets bye-laws to the Commission on or before August 10, 1981 and we also directed the petitioners to supply one set of the petition and other pleadings in these cases to the Commission on or before the same date. We also requested the Commission to submit to the Court their plan of action in regard to the place or places which they decided to visit and the shortest possible time within which they would be able to carry out the task entrusted to them. But somehow or the other, these directions were not fully carried out, with the result that on August 10, 1981 when these cases again came up for hearing, an application was made by Mr. Krishna Mahajan on behalf of the Commission for further directions in the matter. We are now proceeding to give the directions sought on behalf of the Commission.

7. The Commission has given an estimate of the amount of money which may be required for the purpose of carrying out the assignment entrusted to it and on a conservative estimate, it comes about Rs. 3000. The State of Uttar Pradesh has already deposited a sum of Rs. 1500 in Court and this means that the Commissions would like a further sum of Rs. 1500 to be deposited by the State go Uttar Pradesh. Therefore, keeping in mind the requirement of austerity and the need to spend the maximum available time on the sociological investigation in which all parties should be interested by virtue of the national commitment to the rule of law and with a view to preventing avoidable loss of Commission's time, we would direct that a further sum of Rs. 1500 be deposited by the State of Uttar Pradesh on or before August 14, 1981 in order to make up a total sum of Rs. 3000 in order to meet the expenses of the Commission in carrying out the sociological investigation ordered by us. This further amount of Rs. 1500 when deposited will be paid over to the Commission and after the assignment is completed, the Commission will submit statement of account in respect of the expenditure incurred out of the total amount of Rs. 3000 paid to it.

8. We may make it clear that in addition to the specific matters in which the Commission has been directed to enquire by our Order dated May 1, 1981, the Commission will also examine the operation and effect of the impugned bye-laws of Kanpur and Etawah Zila Parishads in the context of the Directive Principles set out in Articles 38, 39, 43, and 46 of the Constitution, the requirements of "public interest" and the decisions of this Court on the right to live with human dignity within the economic resources of the State. The Commission will also enquire into the market and exchange mechanisms between the various parties affected in these cases. The Commission will visit the villages of Dhanopur, Rasulabad, Ahripur and Kalghara in Etawah district and two specific areas in Sarsol Block of Kanpur district or such other place or places in the Kanpur and Etawah districts as it thinks proper and submit its report to the Court on or before August 26, 1981. We would direct that in order to enable the Commission to carry out its assignment within time, the Zila Parishads of Kanpur and Etawah will furnish to the Commission on or Before August 14, 1981 two sets of their respective bye-laws, whether they be in English or in Hindi. The petitioners in the Kanpur and Etawah cases will also supply to the Commission on or before August 14, 1981 one set of the petition and other pleadings in the respective cases, if they have not already done so. We also direct the office to supply to the Commission on or before August 14, 1981 two complete sets of orders passed by the Court from time to time in the Kanpur and Etawah petitions. The petitioners in the Etawah petition will also supply to the Commission on or before August 17, 1981 the names of the persons who according to the petitioners are carrying on the occupation of skinning dead animals in the village of Dhanopur, Rasulabad, Ahripur and Kalghara in Etawah district. We also direct the learned counsel appearing on behalf of the petitioners in Kanpur and

Etawah petitions to immediately instruct the petitioners and others represented by them to offer their full cooperation to the Commission and to supply whatever information is required by the Commission. We may point out if there is any non-cooperation by the petitioners and others represented by them in this matter, we would seriously consider vacating of the interim stay granted by us.

9. These cases will now come up for hearing before the Court on August 28, 1981.

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