

State of Gujarat

Vs

Consumer and Education Research Centre and Others

Bechar Bhai Jadavji

Vs

State of Gujarat and Others

Civil Appeal No. 1748 of 1981

(Syed M. Fazal Ali, A. Varadarajan, Ranganath Misra JJ)

08.02.1984

JUDGMENT

FAZAL ALI, J. -

1. This appeal by special leave is directed against a judgment of the Gujarat High Court quashing the notification dated March 17, 1981 issued by the Government of Gujarat by which an inquiry instituted by the Government was discontinued under Section 7(1) (a) of the Commissions of Inquiry Act, 1952 (hereinafter referred to as the 'Act') which had earlier been set up by the Government under the notification dated September 10, 1979.

2. We have heard counsel for the parties at length and have also gone through the judgment of the High Court. Dr. Singhvi, appearing for the appellant as also Dr. Chitale for the members of the public submitted that the action of the Government in discontinuing the inquiry was fully justified and the High Court had no reason to interfere with the same. Mr. Tarkunde, however, controverted the argument of the appellant on the ground that the order discontinuing the inquiry was tainted with malice. In our opinion the point involved in the appeal is a very short one and does not merit any detailed discussion of the facts of the case.

3. As stated above, the Government of Gujarat constituted an inquiry in 1979 commonly known as "Machu Dam II Inquiry" and appointed a sitting Judge of the High Court as the Commission of Inquiry. Subsequently, by the order impugned the inquiry was discontinued as the Government thought that it was wholly unnecessary. The learned Judges of the High Court in a very lengthy judgment found as a fact that there was no material to prove that discontinuance of the inquiry was factually mala fide. They, however, seem to have struck down the order of the Government on the ground that it was tainted with legal malice. In coming to this conclusion the High Court clearly held that counsel for the parties conceded that the order impugned was not actuated by any factual mala fide. In fact, even the counsel for the appellant before the High Court conceded that no factual mala fide was at all involved in the order passed by the Government. Moreover, the Government did not discontinue the inquiry merely by a casual or cavalier order but have given cogent reasons to show why the inquiry instituted in the year 1979 had become wholly unnecessary. These reasons are extracted in the judgment of the High Court from pages 107 to 108.

4. We are, therefore, unable to find any shred of legal malice in the order passed by the Government. The Government has rightly pointed out the Commission had already collected necessary materials which could be more effective and expeditiously examined by an expert officer for making necessary recommendations regarding reconstruction of the dam.

5. In these circumstances, we do not see any reason or justifiable cause to persuade us to come to a finding that the order of the Government was influenced by Collateral Considerations. The High Court was entirely wrong in quashing the order of the Government which was well grounded. Under Section 7(1)(a) of the Act, the Government had ample discretion to discontinue the inquiry if it is of opinion that continuance of the said inquiry was wholly unnecessary. Therefore, with due respect it was not at all necessary for the High Court to have examined the pros and cons of the matter by a lengthy judgment running into more than 100 pages which, in fact, amounted to all loves labour lost.

6. For these reasons, we allow the appeal, set aside the judgment of the High Court and restore the order of the Government discontinuing the inquiry. There will be no order as to costs.

7. In view of our decision in the civil appeal, SLP (Civil) No. 5177 of 1981 stands dismissed.

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