

Centre for Legal Research and Another

Vs

State of Kerala

Writ Petition No. 463 of 1986

(CJI P. N. Bhagwati, V. Khalid. M. M. Dutt JJ)

02.05.1986

JUDGMENT

BHAGWATI. C.J. –

This writ petition raises a question as to whether voluntary organisations or social action groups engaged in the legal aid programme should be supported by the State Government and if so to what extent and under what conditions. There can be no doubt that if the legal aid programme is to succeed it must involve public participation. The State Government undoubtedly has an obligation under Article 39-A of the Constitution which embodies a directive principle of State policy to set up a comprehensive and effective legal aid programme in order to ensure that the operation of the legal system promotes justice on the basis of equality. But we have no doubt that despite the sense of social commitment which animates many of our officers in the Administration, no legal aid programme can succeed in reaching the people if its operation remains confined in the hands of the Administration. It is absolutely essential that people should be involved in the legal aid programme because the legal aid programme is not charity or bounty but it is a social entitlement of the people and those in need of legal assistance cannot be looked upon as mere beneficiaries of the legal aid programme but they should be regarded as participants in it. If we want to secure people's participation and involvement in the legal aid programme, we think the best way of securing it is to operate through voluntary organisations and social action groups. These organisations are working amongst the deprived and vulnerable sections of the community at the grass-root level and they know what are the problems and difficulties encountered by these neglected sections of Indian humanity. They have their finger on the pulse of the people and they know from their own experience as to what are the unmet legal needs of the people, what are the sources of exploitation and injustice to the under-privileged segments of society and what measures are necessary to be taken for the purpose of ending such exploitation and injustice and reaching social or distributive justice to them. We are therefore definitely of the view that voluntary organisations and social action groups must be encouraged and supported by the State in operating the legal aid programme. It is now acknowledged throughout the country that the legal aid programme which is needed for the purpose of reaching social justice to the people cannot afford to remain confined to the traditional or litigation oriented legal aid programme but it must, taking into account the socio-economic conditions prevailing in the country, adopt a more dynamic posture and take within its sweep what we may call strategic legal aid programme consisting of promotion of legal literacy, organisation of legal aid camps, encouragement of public interest litigation and holding of lok adalats or niti meals for bringing about settlements of disputes whether pending in courts or outside. The assistance of voluntary agencies and social action groups must therefore be taken by the State for the purpose of operating the legal aid programme in its widest and most comprehensive sense, and this is an obligation which flows directly from Article 39-A of the Constitution. But at the same time it is

necessary to point out that the State cannot be asked to encourage and support any and every voluntary organisation or social action group because there are types and types of voluntary organisations and social action groups in the country and if the State were required to encourage and support the voluntary organisation or social action group for operating the legal aid programme and particularly the strategic programme comprising legal aid camps and lok adalats, the possibility of abuse of such encouragement or support cannot be ruled out. It is therefor necessary to lay down norms which should guide the State in lending its encouragement and support to voluntary organisations and social action groups in operating legal aid programmes and organising legal aid camps and lok adalats or niti melas. We are of the view that the following norms should provide sufficient guidance to the State in this behalf and we would direct that the State Government shall, in compliance with its obligations under Article 39-A of the Constitution extend its cooperation and support to the following categories of voluntary organisations and social action groups in running the legal aid programme and organising legal aid camps and lok adalats or niti melas :

(1) Voluntary organisations and social action groups which are recognised by the Committee for Implementing Legal Aid Schemes set up by the Government of India or whose programme or programmes are supported by way of grant or otherwise by the Government of India or the State Government or the Committee for Implementing Legal Aid Schemes or the State Legal Aid and Advice Board.

(2) Voluntary organisations and social action groups which organise legal aid camps or lok adalats or niti melas in conjunction with or with the support of the Committee for Implementing Legal Aid Schemes or the Kerala State Legal Aid and Advice Board.

(3) Voluntary organisations and social action groups which are recognised by the State Government or the State Legal Aid and Advice Board on an application being made in that behalf.

Every voluntary organisation or social action group falling within clause (1), (2) or (3) above and to which cooperation and support are directed to be extended by the State Government shall furnish whatever factual information is required by the Central Government or the State Government or the Committee for Implementing Legal Aid Schemes or the State Legal Aid and Advice Board, but we may make it clear that such voluntary organisation or social action group shall not be under the control or direction or supervision of the State Government or the State Legal Aid and Advice Board because we take the view that voluntary organisations and social action groups operating these programmes should be totally free from any governmental control.

2. The writ petition will stand disposed of in these terms.

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