

Fasih Chaudhary

Vs

Director General, Doordarshan and Others

Special Leave Petition (Civil) No. 9814 of 1988

(M. H. Kania, S. Ranganathan, Sabyasachi Mukharji JJ)

28.09.1988

JUDGMENT

SABYASACHI MUKHARJI, J. –

1. This petition is for special leave to appeal from the decision of the High Court of Delhi dated July 13, 1988. By that said order the High Court dismissed the writ petition filed by the petitioner. In the said writ petition, the petitioner had asked for a direction to the Union of India and/or the Doordarshan to accept the script of the petitioner and eventually to give him the contract. The High Court in its order recorded that there was no substance in the allegation that Shri Gulzar, respondent 2 herein had been preferred over the petitioner by practicing discrimination. There was a proposal to produce T.V. serials based on national integration, communal harmony, against exploitation of child labour, equal status for women etc. etc. and the last date for submitting such projects was May 7, 1986. It was further announced by the Doordarshan that the project should be completed in terms of the guidelines issued by the Doordarshan, respondent 1. The said guidelines for sponsored programme to be produced by sponsor indicate certain requirements for the proposal. The guidelines, inter alia, state in clause (2) that the proposals for sponsored programmes should consist of the following :

- (a) break-up of the story in episodes and broad line of treatment;
- (b) complete synopsis of each episode;
- (c) detailed scenario script of at least one episode; and
- (d) confirmed names and addresses of Director, Cameraman,

Music Director, Script/Dialogue Writer, Main Artists etc.

2. Clause (3) of the said guidelines indicated further that all proposals received by the Doordarshan will be given a reference number and acknowledged. In case proposals not accompanied by and of the foregoing documents mentioned aforesaid are received, a suitable indication would be given by the Doordarshan to the Producer along with the acknowledgment. It further indicated that a proposal would be considered "complete" only after the required number of copies of the document mentioned aforesaid were supplied. It appears, therefore, that a proposal though not containing all the particulars would still be a proposal but not a "complete" proposal but the proposal will be complete only after the required number of copies of all the documents mentioned here in before are supplied. The theme with which the petitioner was concerned and with which also the proposal of

respondent 2 was concerned, was the life and history of the great Urdu poet Mirza Ghalib. It was the case of the petitioner that before the last date for the project on May 7, 1986 though the petitioner had submitted his project, respondent 2 had not.

3. The High Court did not accept the aforesaid allegation. We have examined the records and the acknowledgment sheets in original which were produced in the court for our satisfaction and it appears to us that the High Court was right on this point and the petitioner was not. Respondent 2 submitted, it appears, the theme of the matter by a letter dated February 4, 1986. This was not undoubtedly a complete project. It was only on the scheme of the project, namely, the life and history of the great poet Mirza Ghalib. The petitioner, however, by a letter dated March 13, 1986 submitted the proposal with 13 episodes giving the entire idea of his project depicting the life of Mirza Ghalib and his contribution to the national integration. The final decision to award the project to respondent 2 was taken, it appears, some time in November 1986 after considering three complete proposals on the project. It appears to us from the records that the Doordarshan authorities found that the project submitted by the petitioner was not "attractive or interesting". It appears further from the letter that the Doordarshan authorities did not find the proposal of the petitioner to be "attractive or interesting" enough. There was one more proposal given by another person apart from the petitioner and respondent 2. It is, however, not clear what that proposal was. It appears that the Doordarshan authorities did not find that proposal of that person to be any more attractive or interesting than that of the petitioner. In the meantime, respondent 2 had submitted his proposal and the Doordarshan, though the proposal was not complete, added respondent 2, it was examined by the Committee. It was asserted on behalf of respondent 2, and it appears to be corroborated by the records that before the proposal of respondent 2 was considered, the script and the proposal of the petitioner as well as that of the other person were considered and not found to be "attractive or interesting" enough. Therefore, it appears that though the idea was presented by respondent 2 by a letter but the matter was decided only after the entire proposal had been submitted by respondent 2. It appears, therefore, that all the proposals were duly considered by the Committee. If further appears that respondent 2 had submitted his proposal before his script was accepted by the Doordarshan authorities.

4. The conduct of the Doordarshan in awarding the opportunity of serialising the script to respondent 2 was challenged as arbitrary and mala fide.

5. It is well settled that there should be fair play in action in a situation like the present one, as was observed by this Court in *Ram & Shyam Co. v. State of Haryana* ((1985) 3 SCC 267, 268-69). It is also well settled that the authorities like the Doordarshan should act fairly and their action should be legitimate and fair and transaction should be without any aversion, malice or affection, nothing should be done which gives the impression of favouritism or nepotism. See the observations of this Court in *Haji T. M. Hassan Rawther v. Kerala Financial Corpn.* ((1988) 1 SCC 166, 173, para 14 : AIR 1988 SC 157, 161)

6. While, as mentioned hereinbefore, fair play in action in matters like the present one is an essential requirement, similarly, however, 'free play in the joints' is also a necessary concomitant for an administrative body functioning in an administrative sphere or quasi administrative sphere as the present one. Judged from that standpoint of view, though all the proposals might not have been considered strictly in accordance with order of precedence, it appears that these were considered fairly, reasonably, objectively and without any malice or ill-will.

7. Respondent 2, it further appears, has a long record of steady and successful performance in

direction, script writing recognised by the conventional yardstick of the society. If, having regard to such a record, certain latitude in taking up for consideration was shown to take proposal submitted by respondent 2, in our opinion, respondent 1 did not transgress the limits of fair play in action. All the proposals were, as mentioned hereinbefore, duly considered. These were considered by a Committee of eminent persons. Our attention was drawn to the names of the members of Committee. As mentioned herein before, the committee did not find the proposal of the petitioner and the person either attractive or interesting enough in awarding the T.V. serial on the aspect of national integration of the lifetime of Mirza Ghalib. After it was so found, the idea of respondent 2 was considered and the proposal was duly considered. We have satisfied ourselves from the records produced at the time of the hearing and from the affidavits filed before us that there was objectivity in the actual consideration of the different proposals and that there was fairness in the decision and that no malice or ill-will coloured the decision making process in this case. The petitioner was not refused proper consideration because what respondent described the petitioner as one who is a 'maverick'.

8. In the aforesaid light and in the facts of this case and the principles of law that are applicable, we are satisfied that the High Court was right and the decision of respondent 1 does not call for any interference. The special leave petition must fail and is, therefor, dismissed accordingly.

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