

Sub-Committee of Judicial Accountability

Vs

Union of India and Others

I.A. No. 4 of 1991 in Writ Petition No. 491 of 1991

(B.C. Ray, L.M. Sharma, M.N. Venkatachaliah, J.S. Verma JJ)

30.08.1991

ORDER

1. In the main writ petition petitioners allege an actionable inaction on the part of the Union Government in the matter of providing facilities to the Inquiry Committee constituted by the Speaker of the Lok Sabha under the Judges (Inquiry) Act, 1968, after admitting a motion presented by 108 Member of that House for presentation of an address to the President for the removal of a Judge. Petitioners seek the issue of an appropriate writ or direction the government to act in aid and furtherance of the Speaker's decision and to provide requisite and necessary facilities to the Inquiry Committee to enable it discharge its statutory functions. There are also certain prayers - said to be incidental to the main relief - to the effect that during the pendency of the proceedings of the Inquiry Committee the Judge be restrained from discharging judicial functions.
2. The writ petition is being argued. Several issues as to the jurisdiction of the Court to decide matters said to fall within the exclusive parliamentary area; questions of justiciability and the like are raised in defence and are under serious debate.
3. In the midst of the hearing of the writ petition, petitioners have come up with the present application - I.A. No. 4 of 1991 - seeking an interim direction that the Registry of this Court be directed not to list matters of those advocates-on-record and of the parties who do not wish to have their matter heard and decision by the learned Judge, before a bench in which the learned Judge is a member.
4. We are afraid, having regard to the nature of the controversy and the nature of the issues arising in the main matter it appears to us, in the particular circumstances of this case, to abstain from making an interlocutory order which has the effect, or tends to be susceptible, of an inference of pre-judging some of the important and delicate issues that require to be decided in the main matter. We, therefore, think we should abstain at this stage from considering the prayer on the strength of the case sought to be made out in the main writ petition.
5. Even if the prayer is examined as if it were an independent substantive proceeding, the tests apposite to such a situation would also not render the grant of this relief permissible. The considerations against grant of this prayer are obvious and compelling. Indeed, no co-ordinate bench of this Court can even comment upon, let alone sit in judgment over, the discretion exercised or judgment rendered in a cause or matter before another co-ordinate bench. If a request is made that a Judge should refuse to hear a matter either on the ground that there was a reasonable apprehension or likelihood of bias or on any similar or other grounds, the decision on it is exclusively that of the particular Judge on the bench of which he is a member. At that stage, another co-ordinate bench

cannot be invited to examine and pronounce on this question for that bench alone to decide that question. Judicial propriety and discipline as well as what flows from the circumstance that each division bench of this Court functions as the court itself renders any interference by one bench with a judicial matter before another lacking as much in propriety as in jurisdiction.

6. However, different considerations might apply to the prayer according as the final outcome of the main writ petition. At this stage it would be premature to predicate such outcome.

7. For these reasons, we decline to consider the prayer in I.A. No. 4 of 1991 at this stage. I.A. No. 4 of 1991 is dismissed.

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