

State of M. P. and Others

Vs

Keshav

Civil Appeal No. 1494 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

02.01.1996

ORDER

1. Leave granted.

2. This appeal by special leave arises from the order of the M.P. High Court passed on 14-7-1986 in Civil Miscellaneous Petition No. 3382 of 1985. The facts are that the respondent while working as Agriculture Engineer in the Directorate of Agriculture is alleged to have committed misconduct. Consequently, after his retirement on attaining the age of superannuation on 31-7-1982, proceedings were sought to be initiated against him and notice therefor was issued on 28-7-1984. He filed a writ petition on 14-10-1985 calling in question the jurisdiction of the Government to initiate proceedings. The High Court in the impugned order held that the Governor has to personally satisfy himself of the necessity to initiate proceedings and since the Governor has not passed the order, the Government cannot go into the question and conduct disciplinary proceedings against the respondent. Hence, the writ petition was allowed.

3. The controversy is no longer res integra as in State of M.P. v. Dr. Yashwant Trimbak [CA No. 11536 of 1995], to which one of us Pattanaik, J. was a member, this Court elaborately had considered the controversy and had held that the Governor need not act on personal satisfaction. Under Article 166(3) of the Constitution, the Governor has made Business Rules for convenient transaction of the business of the Government and the question of sanction to prosecute in the case is dealt with by the Council of Ministers in accordance with the Rules of Business.

4. It is settled law that the Governor exercises the executive power of the Government with the aid and advice of the Council of Ministers. The executive power of the Government is carried on by Article 162 in accordance with the Rules of Business made by the Governor under Article 166(3). The Business Rules and Instructions issued thereunder allocate various subjects to the Ministers and cases be appropriately dealt with at different levels of the Government. All the decisions need not be circulated nor is the Governor saddled with matters of administrative routine except where the Constitution enjoins him to exercise his personal discretion. Since the action was initiated according to the Business Rules the competent authority, therefore, is within its power to proceed with the enquiry as contemplated under the Pension Rules. The enquiry would be conducted according to Rules as expeditiously as possible and orders would be passed soon thereafter. It may be done within one year from the date of receipt of the order.

5. The appeal is accordingly allowed, but in the circumstances, without costs.