

Bank of India and Another

Vs

Bank of India Officers' Association and Others

Civil Appeals Nos. 1259-60 of 1981

(S. P. Bharucha, S. B. Majmudar JJ)

20.02.1996

ORDER

In Civil Appeal No. 1260 of 1981

1. Upon the nationalisation of banks, the undertaking of the Bank of India Limited was transferred to the Bank of India, the first appellant. Section 19 of the Banking Companies' (Acquisition and Transfer of Undertakings) Act, 1970, empowered the Board of Directors thereof, after consultation with the Reserve Bank and with the previous sanction of the Central Government, to make regulations not inconsistent with the provisions of the Act to provide for all matters for which provision was expedient for the purposes of giving effect to the Act. In exercise of this power, the Bank framed the Bank of India Officer Employees' (Conduct) Regulations, 1976, and the Bank of India Officer Employees' (Discipline & Appeal) Regulations, 1976. These came to be challenged by the judgment and order under appeal. The provisions were upheld, except for Regulation 7 of the Conduct Regulations which read thus :

"7. Contribution to newspapers, radio, etc. - (1) No officer employee shall, except with the previous sanction of the competent authority, own wholly or in part or conduct or participate in the editing or management of any newspaper or any other periodical publication.

(2) No officer employee shall, except with the previous sanction of the competent authority or except in the bona fide discharge of his duties participate in radio broadcast or contribute any article or write any letter either in his own name or anonymously or in the name of any other persons to any newspaper or periodical or make public, or publish or cause to be published or pass on to others any document, paper or information which may come into his possession in his official capacity.

(3) No officer employee shall, except with the previous sanction of the competent authority publish or cause to be published any book or any similar printed matter of which he is the author or not or deliver talk or lecture in public meetings or otherwise :

Provided that no such sanction is, however, required if such broadcast, contribution or publication is of a purely literary, artistic, scientific, professional, cultural, educational, religious or social character."

2. In the writ petition filed by the Bank of India Officers' Association and others, the present

respondents, the challenge was restricted to the validity of clause (1) of Regulation 7 and it was contended that it encroached upon the fundamental rights of the officer employees. that the challenge was restricted to the said clause (1) is specifically pleaded in para 7 of the special leave petition and has not been disputed. In its judgment, the High Court discussed only clauses (2) and (3) of Regulation 7 and the proviso thereto, but it struck Regulation 7 down, excepting that part of clause (2) which relates to the restriction on publication of any document, paper or information coming into the possession of the officer employee in his official capacity. It did so on the ground that the said clauses (2) and (3) do not lay down the conditions on which sanction would be granted or refused and it could not, therefore, be held that the refusal of sanction would be relatable to matters referred to in Article 19(2). To recapitulate, only clause (1) of Regulation 7 was under challenge. The High Court has not dealt therewith. Clauses (2) and (3) of Regulation 7 were not under challenge. The High Court has dealt therewith. Upon the basis of its reasoning as applicable to clauses (2) and (3), the High Court has struck down Regulation 7 in its entirety. This it could, plainly, not have done.

3. We do not see how clause (1) of Regulation 7 can be validly challenged. It is eminently reasonable that an officer employee of a bank should not own, conduct, edit or manage a newspaper or other periodical publication that does not deal with literary, artistic, scientific, professional, cultural, educational, religious and social matters. The proviso applies, in our view, to all the three clauses of Regulation 7 and, indeed, learned counsel for the appellants has so submitted.

4. In the result, the appeal is allowed and the judgment and order of the High Court, insofar as it strikes down Regulation 7 of the Bank of India Officer Employees' (Conduct) Regulations, 1976, is set aside.

5. There shall be no order as to costs.

In Civil Appeal No. 1259 of 1981

6. This appeal by the original writ petitioners aforementioned impugns the order of the High Court insofar as it rejects their challenge to the two sets of Regulations aforementioned. Learned counsel for the appellants states that despite repeated attempts, he has received no instructions and is, therefore, not in a position to urge the contentions raised.

7. The appeal is dismissed. There shall be no order as to costs.