

Sabia Khan and Others

Vs

State of U.P. and Others

Writ Petition (C) No. D 2117 of 1998

(Dr. A. S, Anand, B. N. Kirpal, V. N. Khare JJ)

30.07.1998

ORDER

1. Refusal to grant a new licence for sawmills by the Regional Director, Social Forestry, Forest Range, Rampur, to the petitioners vide communication dated 18-1-1998, based on the injunction issued by this Court on 12-12-1996 [(1997) 2 SCC 267] and 4-3-1997 [(1997) 3 SCC 312] in T. N. Godavarman Thirumulkpad v. Union of India has been put in issue in this writ petition. Mr Sharma, learned counsel for the petitioners, submits that the authority was not "required" to go by the orders of this Court, which according to him were not judicial verdicts but "ad hoc orders". We are at a loss to appreciate the submission. Learned counsel apparently overlooks the mandate of Article 144 of the Constitution read with Article 141.

2. While projecting a grievance against the order dated 4-3-1997 [(1997) 3 SCC 312] passed by this Court, the petitioners in para 13 of the grounds say thus :

"....the order in question dated 4-3-1997 [(1997) 3 SCC 312] passed by the Hon'ble Supreme Court did not come within the purview of the said Section 2 of the Forest (Conservation) Act, 1980 nor did any other law authorise the Hon'ble Supreme Court to pass the said order nor could the Hon'ble Supreme Court pass the said order on the general ground that the said order protected forest and environment which fell within the Directive Principles of State Policy finding place in Part IV of the Constitution of India which only allowed the competent legislature to enact laws for enforcing the said Directive Principles and which did not by themselves have the force of law under which the Hon'ble Court could pass the order in question dated 4-3-1997 [(1997) 3 SCC 312]."

Again the petitioners aver in para 26 thus :

"BECAUSE an ad hoc order like the order in question passed by the Hon'ble Supreme Court on 4-3-1997 [(1997) 3 SCC 312] infringing the fundamental right of the petitioners under Article 19(1)(g) of the Constitution of India could not be passed by the Hon'ble Supreme Court even in PUBLIC INTEREST LITIGATION, because the only manner permitted by the Constitution for interfering with the fundamental right of a citizen under Article 19(1)(g) was by passing some law under Article 19(6) of the Constitution and any interference with such right in any other way, including by an order under public interest litigation would amount to an amendment of Article 19(6) of the Constitution for making which amendment a special procedure under Article 368 of the Constitution had been provided and the Hon'ble Supreme Court, it

is respectfully submitted, could not bring about such amendment by merely passing some order in a PUBLIC INTEREST LITIGATION."

3. The relief claimed by the petitioner, in this petition, is as follows :

"(i) to issue a writ of mandamus or writ, direction or order in the nature thereof or any other writ, direction or order directing the respondents not to interfere with the fundamental right of the petitioners to continue to run and operate their sawmills as licensed operators thereof as has continuously been shown in the respondents' own records for the last several years and to grant/renew their licences for the year 1998 without, in any manner, being influenced by the orders passed by the Hon'ble Supreme Court dated 12-12-1996 [(1997) 2 SCC 267] and 4-3-1997 [(1997) 3 SCC 312] in Writ Petition (Civil) No. 202 of 1995, T. N. Godavarman v. Union of India.

(ii) to grant such further or other order as the Hon'ble Court may deem fit to pass in the special circumstances of this case.

(iii) to award costs of this petition to the petitioners."

4. After hearing Mr Sharma, learned counsel for the petitioners, it is obvious that the petition is misconceived and based on a total misconception. It is an obvious attempt to question the correctness of the orders of this Court through a writ petition under Article 32, which is not permissible. The objection with regard to the office report is also not tenable. Filing of such a petition is an abuse of the process of the Court and waste of time of the Court. We do not find any merit in this petition which is dismissed with costs assessed at Rs. 10,000.

5. The costs shall be deposited in the account of the Supreme Court Legal Services Committee within four weeks.

Court Masters