

J. Jayalalitha

Vs

Government of Tamil Nadu and Others

Civil Appeal No. 4990 of 1998

(CJI M. M. Punchhi, G. B. Pattanaik, A. P. Mishra JJ)

24.09.1998

ORDER

1. Issue notice.

2. The respondents are in caveat. Shri Ashok H. Desai, learned Senior Counsel represents the first and the second respondents, the State of Tamil Nadu and the Sports Development Authority, respectively. Shri V. R. Reddy, learned Senior Counsel, represents the third respondent, the Tamil Nadu Film Producers' Association.

3. Heard learned counsel for the parties.

4. Leave granted. The matter is being disposed of finally in the following manner.

5. The minimal facts are these :

There is a stadium known as the Nehru Stadium in the city of Chennai owned by the Government of Tamil Nadu but in the care of the Sports Development Authority of Tamil Nadu. Its permissible user is fairly restricted. As far back on 9-11-1982 vide GOMs No. 2481, total ban has been imposed for conducting in the said stadium activities other than sports and games and this ban is not only applicable to the said Stadium but to other stadia in the State as well. The imperative need of keeping the Stadium isolated from illegitimate use had further been reinforced by DOLr No. 7646/72/91 dated 13-2-1997 whereby it has been emphasised that the instructions that sports stadia should not be lent for any other purpose like holding public meetings, cultural programmes, exhibitions etc. should be scrupulously followed. Now, when the present Chief Minister M. Karunanidhi is in his 71st year and the third respondent is keen to have his Platinum Jubilee celebrations, it has approached the State Government with the request that the Stadium be lent over to it on payment of certain charges for honouring the Chief Minister in the presence of a large gathering of invites. The date proposed for the purpose is 27-9-1998. Since the place would require a face-lift by means of decoration and otherwise, its possession is sought on 25-9-1998. This prayer has been accepted by the Secretary concerned to the Government vide order dated 28-8-1998 by observing as follows :

"The Government considered the said request. There is a general policy decision to the extent that the Stadium cannot be allowed to be used other than sports events. However, in order to raise flood relief funds at an earlier occasion, it was permitted as a special permission. On the same lines, to honour the Hon'ble Chief Minister in view of his Platinum Jubilee celebrations as requested by the said Association, the

Stadium may be handed over to them from 25-9-1998 onwards for the purposes of erection of stage, erection of arches, decorative entries apart from beautifying the stage. This special permission is granted so as to do the above and conduct the function on 27-9-1998."

6. This aroused Selvi Jayalalitha, the appellant-public interest litigant herein, to question the step of the Government in ignoring the ban and permitting illegal use of the Stadium in the manner proposed and its view in letting it happen even when there was likely to be a lot of damage and despoliation to the place and in particular to the turf - natural as also synthetic, while erecting stage, arches etc. when beautifying the place. The writ petition filed by her before the Madras High Court was admitted by a Division Bench but on the prayer for interim relief, permission was granted to such user which virtually meant that the State could have its way on assurances given for the safety and ultimate upkeep of the place. That interim order is now the subject-matter of challenge in this appeal.

7. We have heard learned counsel for the parties at great length. Shri Ashok Desai has placed before us a map of the Stadium which we take as part of the record. A bare look at that plan discloses that at the centre of the Stadium is a lawn or ground which has a natural turf. The same is surrounded by a synthetic-turfed track shown in orange colour in oval shape. It is given out by the State that both the turfs would be permitted to be used to the minimum and that basically, the audience would be seated on the lower and upper galleries which are on the outer circumference of the synthetic-turfed track. The place where the rostrum was expected to be built by pre-fabricated material touches that track and has been shown in purple. The plan also reveals that there is an iron-meshed fence close to the outer circumference of the synthetic turf but at a small distance. In a manner of speaking, if we were to prohibit crossing over that fence in order to isolate both the turfs, i.e., natural as well as synthetic, much of the damage anticipated by wrong user could be avoided. In other words, the function to be held on 27th instant could be permitted to confine itself on the lower and the upper galleries without letting any person or any activity being done within the said fence.

8. We put this suggestion to learned counsel and after some persuasive discussion, looking to the sensitivity of the matter, they have agreed to such proposition. We must hasten to add that this solution came after it was made clear to the parties' counsel that in the face of the ban imposed, we saw no justification for letting out the Stadium to any person to conduct activities other than sports and games or activities subservient, ancillary, or consequential to these objects. The step we have devised is just to save embarrassment to all concerned because we are told that a lot of money has been spent in printing invitations to the invitees and as otherwise, this would lead to a lot of confusion to dignitaries who might have plans to come to participate in the celebration. We make it clear that the instance referred to in the letter of permission and the counter-affidavit filed by the respondents pertaining to a one-time user of the Stadium by the present appellant when a Chief Minister, would in no event be permitted to be quoted as a precedent or creating any right in favour of anyone to ever claim the Stadium for the purposes other than those mentioned earlier so long as the ban continues and we see no reason why the ban should not continue ever after. We are told that crores of rupees have gone to erect such a Stadium which meets international standards. It goes without saying that it was the taxpayers' money which went to build the Stadium. The taxpayers have a right to its being maintained as such and not to be treated as just any other public place for being hired at convenience by anyone. The justification sought here that the State would be richer by two lakhs of rupees as rental for the day does not convince us a wee bit. That understanding is totally alien to the purpose for which stadia are built and most of all, the present one.

9. Thus, for the aforereasoning and understanding, we permit just this once, and not ever hereafter, partial use of the Stadium for holding the function confining the user only to the space occupied by the lower and upper galleries, totally isolating the area within the fence above described saving the turfs, natural as well as synthetic. To this extent, the impugned orders of the High Court as also the terms and conditions on which permission has been granted would stand modified. The order of this Court would rule over other orders.

10. The appeal is allowed in this manner and to the extent afore-indicated.