

SUPREME COURT OF INDIA

Harendra Jha

Vs.

Ministry of Law through Secretary to Government of India

Crl.Misc.Petition No. 10058 of 2008

(Dalveer Bhandari and Harjit Singh Bedi JJ.)

26.08.2008

JUDGMENT

Dalveer Bhandari, J.

1. The petitioner in person has filed this petition.
2. We have carefully perused the petition and heard the petitioner-in-person at length, but we found it difficult to comprehend the real grievance of the petitioner against which he has approached this court.
3. It appears from the cause title of the petition that the petitioner perhaps is aggrieved by the Order dated 8.3.08 passed in Writ Petition No..... Diary No. 33998 of 2007 by the Registrar (Judicial) of this Court. The order dated 8.3.2008 reads as follows:

"Mr. Harendra Jha, petitioner-in-person, has on 22.11.07 filed Writ Petition (Crl.) No. bearing D. No. 33998/07 seeking the following reliefs:

- i) That the case may be put up before the nine Judges Bench for final hearing.
- ii) That Curative petition may be sustained with a certificate from petitioner.
- iii) That the Judges who decided & delivered the earlier Judgment ought not be associated with again in the proceeding to reconsider the same judgment/decision.
- iv) That the Curative Petition ought not to be circulated to the Bench & may admitted after hearing in open court.
- v) That in the event of petition found vexatious or without merit an exemplary cost may be imposed on petitioner, however on the contrary if the earlier order found otherwise, i.e. proved vexatious/harassing/biased or in contravention to the doctrine

of natural justice & equity after deliberation & reconsideration, the petitioner may be compensated by the Court (?)

vi) That if the allegation of business brought before your Lordship is proved/found justified, and may passed order as prior to 1858 in British regime in favour of public importance.

vii) That stay the further proceeding in Curative Petition diary No. 11467 of 2007 pending disposal of this writ petition and thereafter direct to respondents to take application on the certificate of the petitioner.

viii) That petitioner is a senior citizen & retired primary school teacher with elementary knowledge of English language having no command over it & as such there is possibility of hurting the feelings of your Lordship for which the petitioner begs to be pardoned/excused.

ix) That your Lordship pass such an order or orders as deemed just & proper."

It is seen from the averments made in the petition that he has filed the Writ Petition challenging the letter dated 18.04.07 issued by the Registry intimating him the defects noticed in the Curative Petition filed by him as Diary No. 11467/07 in Review Petition (Crl.) No. 909/05 in Writ Petition (Crl.) No. 266/05. It is also seen from the records that since the petitioner-in-person did not cure the mandatory defects noticed in the Curative Petition, the same was lodged vide order dated 04.12.07 passed by the Registrar.

In the instant Writ Petition, the petitioner has challenged the requirements to be complied with by him for moving a Curative Petition as provided in paragraphs 51 and 52 of the decision reported in *Rupa Ashok Hurra v. Ashok Hurra & Anr.*¹. He has alleged that the decision rendered in Rupa Ashok Hurra's case violates his fundamental rights. He has also questioned the necessity to obtain and produce a certificate from a Senior Advocate with regard to the fulfillment of the requirements specified in the said decision.

In this connection, it is relevant to mention that Writ Petition 334/05 filed by Shiva Kant Jha under Article 32 of the Constitution requesting this Hon'ble Court to have a re-look and reconsideration of the decision rendered by this Hon'ble Court in Rupa Ashok Hurra's case, was dismissed by this Hon'ble Court vide order dated 28.11.07. In the said order, this Hon'ble Court held as follows:

"We heard petitioner-in-person at length and learned Additional Solicitor General for India. Petitioner argued that all final decisions of this Court are subject to the remedy available under Article 32 of the Constitution. Petitioner contended that there may be occasions where the decisions of this Court may violate the fundamental rights of citizens and under those circumstances the aggrieved should have remedy under

Article 32 of the Constitution against such decisions. In support of his contentions, he referred to the views of several learned authors and the decisions of English Courts. It is not necessary to refer to them, as the question has been exhaustively considered by the Constitution Bench of this Court in *Rupa Ashok Hurra* (supra).

Of course, the decision of this Court could be reviewed and if necessary varied in appropriate cases, as pointed out in *Rupa Ashok Hurra*. The decision of an earlier Bench could also be overruled by a larger Bench. But we do not accept the submission of the petitioner, that the decision of this Court which has attained finality could be subjected to judicial review under Article 33 of the Constitution, at the instance of one of the parties to the decision. We find no merit in the writ petition. The writ petition is accordingly dismissed."

This Hon'ble Court having held that the decision of this Hon'ble Court which has attained finality could not be subjected to judicial review under Article 32 of the Constitution, the petitioner cannot be permitted to move a petition under Article 32 of the Constitution, seeking a review of the decision rendered by this Hon'ble Court in *Rupa Ashok Hurra's* case. In paragraph 59 of the judgment in *Rupa Ashok Hurra's* case, reference was made to the decision in *Naresh Shridhar Mirajkar and others v. State of Maharashtra and another*², wherein it was held that the remedy of writ jurisdiction under Article 32 of the Constitution is not available for the purpose of issue of writ of certiorari to correct judicial orders passed by or in relation to proceedings pending before the Hon'ble High Courts. In the decision reported in *A. R. Antulay v. R. S. Nayak and another*³, relying upon the nine Judges Bench Judgment of this Hon'ble Court, it was held by this Hon'ble Court that it must be taken as concluded that the judicial proceedings in this Court are not subjected to the writ jurisdiction under Article 32 of the Constitution.

Since the petitioner-in-person failed to cure the mandatory defects communicated to him, the Curative Petition filed by the petitioner-in-person was already lodged under Rules 6(3) and 6(4) of Order X of the Supreme Court Rules, 1966, vide order dated 04.12.07 passed by the Registrar and that was communicated to the petitioner vide Registry's letter dated 04.12.07. Therefore, he is not justified in challenging the letter dated 18.04.07 sent by the Registry intimating him the defects in the Curative Petition. The petitioner has thus not made out any reasonable cause justifying registration of the present petition purported to be one filed under Article 32 of the Constitution, in the light of the decision of this Hon'ble Court in Writ Petition (C) No. 334/05.

For the reasons stated above, the Petition filed by the petitioner-in-person bearing D. No. 33998/07, is hereby lodged under Rule 5 of Order XVIII of the Supreme Court Rules, 1966.

The petitioner-in-person may be informed accordingly.

Sd/-

(T. Sivadasan)
Registrar (Judicial)
08.03.08"

4. In this petition, the petitioner has also annexed order dated 4.12.07 passed by the Registrar (Judicial) of this Court. The same reads as follows:

"Mr. Harendra Jha, who was the petitioner in W.P. (Cr) 266/2005 (D.No. 10507/05) has filed the instant Curative Petition. On scrutiny, the curative petition was found defective and the defects noted were communicated to him vide this Registry's letters dated 18.4.07 and 18.9.07. Since the defects were not cured, he was given further four weeks time at last chance to cure the defects. The same was intimated to him vide this Registry's letter dated 22.10.07, wherein the defects noticed, were once again mentioned. He was informed that if he fails to cure the defects within four weeks from the date of the receipt of the letter, action as contemplated under Rules 6(3) and 6(4) of Order X of the Supreme Court Rules, 1966 will be taken. It is seen that instead of curing the defects pointed out to him, the petitioner in person has stated in his letter dated 23.11.07 that he has moved a Writ Petition D. No. 33998/07 on 22.11.07 challenging the validity of the order passed in Rupa Ashok Hurrah case and that proceedings may be stayed till the disposal of the said writ petition.

On perusal of the records, it is seen that W.P. (Cr) D. 10507/05 filed by the petitioner in person was dismissed by this Hon'ble Court on 22.8.05 and the Review Petition No. 909/05 filed by him was also dismissed by this Hon'ble Court vide order dated 31.8.095. Since the petitioner in person has failed to cure the defects communicated to him in spite of the several opportunities given to him, and since some of the defects noticed are mandatory in nature, action as contemplated under Rules 6(3) and 6(4) of Order X of the Supreme Court Rules, 1966 is taken and I decline to register the instant curative petition.

The petitioner in person may be informed accordingly.

Sd/-
(T. Sivadasan)
Registrar (Judicial)
4.12.07"

5. When the matter came up for hearing before this court, we gave a patient hearing to the petitioner-in-person and permitted him to argue at length in order to ascertain his grievance. Unfortunately, neither in the petition nor in his oral submissions, he could articulate what directions he wants from the court.

6. The petitioner-in-person has placed reliance on a Constitution Bench judgment of this Court in *Election Commission, India v. Saka Venkata Rao*⁴ and brought to our notice that the makers of the Constitution, having decided to provide for certain basic safeguards for the people in the new set up, which they called fundamental rights, evidently thought it

necessary to provide also a quick and inexpensive remedy for the enforcement of such rights. There is no quarrel with this legal proposition but we fail to comprehend how this case can in any manner help the petitioner.

7. In this petition, we cannot give any direction. The Criminal Miscellaneous Petition and the Writ Petition being devoid of any merit are accordingly dismissed.

¹(2002 (4) SCC 388)

²(1966) 3 SCR 744)

³(1988) 2 SCC 602)

⁴AIR 1953 SC 210