

SUPREME COURT OF INDIA

Gulzar Ahmed Azmi

Vs.

Union of India

Writ Petition Crl.No.19 of 2012

(T.S. Thakur and Fakkir Mohamed Ibrahim Kalifulla JJ.)

11.10.2012

ORDER

FAKKIR MOHAMED IBRAHIM KALIFULLA, J.

1. The petitioners have preferred this writ petition under Article 32 read with Article 21 of the Constitution ostensibly in public interest in which the petitioners pray for a Writ of Mandamus for constitution of a Committee to make further investigation of all the bomb blasts cases which have taken place since 2002.

2. When we examine the relief prayed for by the petitioners, we find that there are as many as six substantive prayers made by them including constitution of a Committee headed by a retired Judge of the Supreme Court along with team of competent officers and experts to make further investigation of all bomb blasts cases which have taken place since 2002 onwards. The prayer specifically mentions a list by way of Annexure P-45 wherein the details have been mentioned in order to monitor the investigation to be ordered while granting any relief in the writ petition.

3. The further prayer in the writ petition is for a direction to the respondents to initiate criminal or departmental action against the erring police officers for having implicated alleged innocent Muslim boys by fabricating false evidence.

4. The third prayer in the writ petition is for a direction to the respondents to initiate criminal or departmental action against the officers of Central and State Intelligence Agencies, who furnished wrong inputs to the State Police and thereby pressurised them to arrest innocent Muslim boys.

5. In the fourth prayer the petitioners prayed for a direction to the respondents to make the contents of the laptops, recovered from Lt. Col. Purohit and Mahant Dayanand Pandey, public and thereafter make an inquiry for taking action against the culprits who were involved in anti-national terror activities.

6. In the fifth prayer they seek for a direction to the first respondent for taking action against communal organisations like RSS, VHP and their allied forums who alleged to have indulged in bomb blasts cases and other terror related activities. In the last prayer they seek for a direction to release on bail the detenus arrested in bomb blasts cases referred to in Annexure P-45 against whom there is no clinching or conclusive evidence.

7. To sum-up the grievance of the petitioners, as per the averments contained in the petition, is that the real culprits are being shielded from taking any action against them, while innocent Muslim boys have been roped in various bomb blasts cases throughout the country since the year 2002 and in order to unearth the said factor, this Court should direct the first respondent to constitute a Committee headed by a retired Judge of the Supreme Court who should be assisted with the team of officers having competent investigation skills along with other experts.

8. At the very outset, we wish to state that if the prayer of the petitioners were to be accepted for whatever grounds stated in the petition and any such Committee is directed to be constituted that will only result in making a roving inquiry into the various criminal proceedings so far lodged connected with cases of bomb blasts all over the country. We are not, therefore, inclined to countenance such a wide prayer asked for in this writ petition.

9. Since criminal cases registered in connection with various incidents are either pending trial before the competent jurisdictional courts or being investigated by the jurisdictional police, it is premature to say whether any and if so which of the accused is innocent or has been falsely implicated. If anyone is falsely roped in any offence either under the provisions of Indian Penal Code or under any other special enactments, by way of criminal proceeding, it is needless to state that there are enough safeguards provided under the various laws and under the criminal law jurisprudence, to protect the interest of any such person claiming himself to be innocent and demonstrate before the concerned Fora that he has been falsely implicated in any offence. Therefore, it will be for the concerned individual against whom any criminal proceeding is lodged to work out his remedy. For instance, if in any particular criminal case, one wishes to seek for further investigation under

Section 173 (8) of the Cr.P.C. the same can always be effected even after the filing of the final report. Such a power existing with the Investigating Officer, having been statutorily provided, it will be a futile exercise if such a statutory exercise is to be entrusted with a supernumerary body created under the head of a retired Judge of the Supreme Court along with other team of officers and experts. When the time tested Criminal Procedure Code and other statutory provisions are working in the field providing for such well laid down procedure to be followed in the matter of regulating such criminal proceedings, the granting of the petitioners' prayer would amount to creating a parallel body without any statutory sanction and to function only under some directions of this Court which would be lacking in very many procedural details and will ultimately result in utter chaos and confusion in dealing with the criminal proceedings which have already been lodged and progressing before various criminal courts.

10. We are not, therefore, inclined to consider such a wide prayer applied for by the petitioners for constitution of a special Committee. The other directions prayed for by the petitioners will also only result in interfering with the already pending proceedings in which the concerned individuals who have been arrayed as accused or otherwise can seek for appropriate relief either for further investigation or for their discharge or in the event of any other adverse orders passed by the concerned Court, approach the higher fora for redressal of their grievances. There are various levels of Appellate Fora to examine the manner in which the proceedings are being pursued before the Courts wherein such criminal proceedings have already been lodged or in the event of any adverse orders having been passed, examine the correctness of such orders in order to grant appropriate relief or to confirm such decisions taken by the lower fora.

11. It will be for the concerned individuals who face such criminal proceedings to work out their remedy in the manner known to law. Even if such individuals are not in a position to seek for any appropriate legal assistance on their own, having regard to the set up of Legal Service Authority and its effective functioning, in the nook and corner of the country, there should be no dearth of legal assistance for those affected persons to seek for such legal aid free of cost. Therefore, when there is no dearth for seeking legal assistance free of cost, on that score as well it cannot be held that the concerned individuals will be left with no remedy. In fact, it is now well known that on mere asking of the concerned presiding officer, those involved in such criminal proceedings are being offered free legal aid of high calibre in order to ensure that no innocent person is being punished for want of proper legal assistance.

12. Having regard to the above factors, we do not find any scope to entertain this writ petition and leave it open for the concerned parties against whom any criminal proceeding is lodged to work out their remedies in the appropriate manner before the appropriate forum in accordance with law. The writ petition fails and the same is dismissed.