

RAJASTHAN HIGH COURT

Ramswaroop Bagari

Vs.

State of Rajasthan

D.B. C.W.P. No. 4248 of 2001
(Dr. Ar. Lakshmanan, C.J. and A.K. Parihar, J.)

22.09.2001

JUDGEMENT

Dr. AR. Lakshmanan, C.J.

1. Heard, Mr. Ashok Misra, learned counsel for the petitioner. This is a public interest litigation at the instance of the petitioner seeking certain prayers in the nature of mandamus to issue directions to the respondents State of Rajasthan, Collector, Jaipur, Municipal Corporation, Jaipur and Health Officer and Incharge of the Compost Plant of Municipal Corporation, Jaipur. The writ petition has been filed with the following prayers :-

- (i) to direct the respondents to perform their duties strictly in consonance with the provisions of the Act and Rules;
- (ii) to direct the respondents to get ensure that the work given under the contracts to the private persons i.e. the contractors of transporting and lifting the garbage in the Jaipur City, be carried out in the strict sense of the terms and conditions of the contract keeping in view the public health and environment;
- (iii) to direct the respondents to terminate the contract of the work of transporting and lifting the garbage in the Jaipur City of those contractors having no loader and well equipped instruments with qualified labour;
- (iv) to probe an enquiry by an independent highly placed committee in respect of illegality and irregularity, forgery, mis-appropriation of money and burglary done by the highly placed officers of the Municipal Corporation, Jaipur in awarding the said work to the contractors resultantly causing loss to the Municipal Corporation to the tune of Rs. 12.00 crores;
- (v) any other.....circumstances of the case.

2. It is clearly stated in the writ petition that the writ petition has been filed on the basis of the newspaper report. It is settled law that a writ petition on the basis of the newspaper report cannot be maintained. In *Laxmi Raj Shetty v. State of Tamil Nadu* ¹ the Supreme Court held that the facts stated in the newspaper are hearsay in the nature and the same are inadmissible unless maker of statement is examined and that judicial notice of the facts stated in the newspaper cannot also be taken. A newspaper is not one of the documents referred to in Section 78(2) of the Evidence Act by which the allegation of fact can be proved and that the presumption of genuineness attached under Section 81 of the Evidence Act to a newspaper report cannot be treated as proof of the facts reported therein. A statement of fact contained in a newspaper is merely hearsay and therefore inadmissible in evidence in the absence of the maker of the statement appearing in Court and deposing to have perceived the fact reported. The Supreme Court has also referred to the earlier decision reported in the case of *Samant N. Balakrishna v. George Fernandez* ²

3. As already noticed, the prayers made in the writ petition are in the nature of mandamus. It is settled law that before maintaining a writ petition in the nature of mandamus, the writ petition must be preceded by a notice of demand and refusal thereof. In the instant case, admittedly, no notice has been issued to any of the respondents demanding the prayers mentioned in the writ petition. Hence, the writ petition fails on this ground also and the same is dismissed.

Petition dismissed.

1. AIR 1988 SC 1274: (1988 Cri LJ 1783)
2. AIR 1969 SC 1201