

Govind Sahai vs The State Of U.P on 30 April, 1968

Equivalent citations: 1968 AIR 1513, 1969 SCR (1) 176, AIR 1968 SUPREME COURT 1513, 1969 (1) SCR 176, 1968 ALLCRIR 341, ILR 1968 2 ALL 769

Author: C.A. Vaidyalingam

Bench: C.A. Vaidyalingam, V. Ramaswami, G.K. Mitter

PETITIONER:

GOVIND SAHAI

Vs.

RESPONDENT:

THE STATE OF U.P.

DATE OF JUDGMENT:

30/04/1968

BENCH:

VAIDYIALINGAM, C.A.

BENCH:

VAIDYIALINGAM, C.A.

RAMASWAMI, V.

MITTER, G.K.

CITATION:

1968 AIR 1513

1969 SCR (1) 176

CITATOR INFO :

D 1974 SC 642 (8)

ACT:

Contempt of Court-Suit filed by a political party member-
Expulsion of member from party in pursuance of party
resolution-If amounts to contempt of court.

HEADNOTE:

The second respondent a member of a political party filed a suit challenging the election of his opponent to a committee of the party. He also obtained an interim injunction restraining his opponent from taking part in certain elections. The appellants-office-bearers of' the party. issued letters expelling the second respondent from the Organisation in pursuance of an earlier resolution of the party which barred reference of such dispute to law courts and provided for summary removal of an,,, member who

initiated a suit. The opponent of the second respondent moved the court for vacating the injunction, in which the second appellant filed an affidavit stating the expulsion of the second respondent. The second respondent moved the Munsif for taking proceedings in contempt against the appellant-,. which was dismissed. Thereupon he filed contempt application in the High Court and the High Court held the appellants guilty of contempt court. In appeal, this Court :

HELD : The appellants were guilty of contempt of court.

The passing of the orders of expulsion, by the two appellants -against the second respondent, and the filing of a supporting affidavit, in the suit by the second appellant, clearly indicated that it was a deliberate attempt, by the appellants, to interfere with, instituted by second respondent, in the conduct of the litigation, instituted by him. It was no answer that the action, by way of expulsion was taken on the basis of the resolution of the party and to enforce discipline in the Organisation. [181 F-G]

Pratap Singh v. Gurbaksh Singh [1962] Supp. 2 S.C.R. 838 followed.

Webster v. Bakewell Rural Council, [1916] 1 Ch. 300 distinguished.

JUDGMENT:

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 65 of 1966, Appeal by special leave from the judgment and order dated September 20, 1965 of the Allahabad High Court in Criminal Misc. Contempt Application No. 76 of 1964.

R. K. Garg and S. C. Agarwal, for the appellants. The respondent did not appear.

The Judgment of the Court was delivered by Vaidialingam, J. This appeal, by special leave, is directed against the judgment and order of the Allahabad High Court. dated September 20, 1965, passed in Criminal Miscellaneous Contempt Application No. 76 of 1964, finding the appellant guilty, of having committed contempt of Court, and sentencing each of them, to pay a fine of Rs. 5001-. They have also been directed to pay the costs, in the contempt proceedings.

The first appellant died, during the pendency of this appeal. As a fine has been imposed, against him, in addition to the liability to pay costs, his widow has been brought on record, as his legal representative, and allowed to continue these proceedings.

The circumstances, under which the contempt proceedings came to be initiated, in the High Court, may be briefly indicated. The second respondent, herein, Sri V. P. Singh, is an advocate, practising at Azamgarh, and he was a member of the Congress Organisation, at the material time. He stood for election, for membership of the Prarambhik (primary) Congress Committee, of Tarwa, in the District of Azamgarh, held on April 10, 1964. His opponent was one Badri Singh. In that election.

Badri Singh .was declared elected. The second respondent filed, on April 16, 1964, a suit, No. 132 of 1964, in the Court of the City Munsif, Azamgarh, for having the election of Badri Singh, declared void and inoperative. He had alleged various irregularities, regarding the conduct of the said election. Along with the suit, he had also filed an application, for injunction, restraining the District Election Officer, and other Officers, from holding elections for membership of the District Congress Committee. He had also asked for an injunction, restraining Badri Singh, from taking part in the elections, for membership of the District Congress Committee. The City Munsif had granted the interim injunction, on April 18, 1964. Badri Singh, on being served with this interim order, filed an application, dated April 21, 1964, before the City Munsif, praying for vacating the order of interim injunction.

At the time, when the election that was challenged, by the 2nd respondent, took place, Sri Ajit Prasad Jain was the President of the Uttar Pradesh Congress Committee, Shri Govind Sahai was the General Secretary of the said Committee and Sri Rameshwar Narain Singh was the General Secretary of the District Congress Committee, Azamgarh. It appears that the Working Committee of the Indian National Congress had passed a resolution. dated December 4/5, 1960, the substance of which was that any member of the Congress, having any grievance, in respect of any action taken, or decision given, by a Congress Organization. should take advantage of the tribunals provided, to seek redress by way of appeal or reference, and that such matters should not be taken to law Courts. That resolution further provided that initiating of such litigation, and securing of ex parte interlocutory orders, against the Congress Committee and Congress authorities.

was highly detrimental to the discipline of the Organisation, and its smooth working. The resolution wound up, by saying that the Working, Committee resolved that any member, who instituted a suit or other proceeding in law Courts against any Congress Committee or Official, did so at the risk of being considered guilty of gross indiscipline and of being summarily, and without any further notice, removed from membership of the Congress, by order of the Provincial Congress Committees concerned, or the Working Committee. In view of this resolution, Sri Gulzari Lal Nanda, who is stated to have been delegated the authority of the Working Committee, in respect of organisational elections in Uttar Pradesh, issued a directive, dated April 20, 1964, to the President, Uttar Pradesh Congress Committee, Sri Ajit Prasad Jain, to take immediate action against those members, who had gone to Courts, in regard to Congress organisational elections, anywhere in Uttar Pradesh. Accordingly, Sri Jain, on April 21, 1964, sent out circular letters to all the District Returning Officers in Uttar Pradesh, expelling those Congressmen, from membership of the Congress, who had filed suits, in Courts, concerning organizational elections. Sri Govind Sahai and Sri Rameshwar Narain Singh, the appellants herein, also sent, each of them, a letter to the District Returning Officer, expelling the second respondent, and removing his name, from the membership of the Congress. This decision was duly com- municated, to the second respondent.

To resume the narrative, regarding the proceedings, connect- ed with the suit, the application for vacating the injunction, filed by Badri Singh, came up for final hearing, before the City Munsif, on April 25, 1964, when the second appellant, filed an affidavit, mentioning the fact that the second respondent, herein, who was the plaintiff in the suit, had been expelled, from the Congress Organisation. In view of the fact that the very foundation, for initiating action, vanished, the City

Munsif dismissed the injunction application, on April 27, 1964, on the ground that the second respondent was no longer a member of the Congress Organisation. The second respondent moved an application, before the City Munsif, on May 9, 1964, for taking proceedings in contempt, against the appellant and Sri Ajit Prasad Jain, but that application was dismissed on May 30, 1964, on the ground that the present appellants were not parties to the suit. The second respondent filed Criminal Miscellaneous Contempt Application No. 76 of 1964, in the High Court. After setting out the circumstances, under which he filed the suit, and the order of expulsion, passed against him, the second respondent alleged that the act of the appellants, along with Sri Ajit Prasad -Jain, had directly interfered with the normal course of justice, by hampering the progress of the suit.

Sri Ajit Prasad Jain, and the appellants, filed written statements, containing identical pleas. Their contention was that the second respondent was bound by the rules and regulations, of the Indian National Congress, and that they had full right and justification, for expelling him, and removing his name, from the membership of the Congress. That action, expelling the second respondent, they contended, had been taken on the strength of the resolution of the Congress Working Committee, referred to earlier. They had further contended that their object, in enforcing the Circular, dated December 4/5, 1950, was only to enforce discipline in the Congress, and not with a view to render the second respondent's suit infructuous, or interfere with the Court's proceedings. They ultimately pleaded that none of them were guilty of any contempt of Court. So far as Sri Ajit Prasad Jain is concerned, it is seen that. after filing his written statement, he was appointed Governor of Kerala. The High Court, in view of Art. 361, clauses (2) and (3), held that the proceedings could not be continued against that party, and hence discharged the rule. Regarding the appellants, the High Court held that their conduct directly tended to interfere with the suit proceedings, pending in Court, initiated by the second respondent, and, as such, amounted to contempt of Court, of the City Munsif, Azamgarh. In view of the fact that no expression of regret was made, by them, the High Court sentenced each of the appellants, to pay a fine of Rs. 500/- and also pay costs of the State,, as well as the second respondent, herein.

Mr. R. K. Garg, learned counsel for the appellants, urged that the second respondent was a member of the Congress Organisation, and he was bound by the Resolutions, passed by the same. The appellants had only acted, in accordance with the directions, given by the appropriate officers of the Congress organisation, and they were bound to obey the instructions, given to them. When, in the course of the discharge of their duties, they had been directed to enforce the resolution, of the Congress dated December 4/5, 1950, they issued the Circulars, expelling the second respondent, from the Congress. Their object, in expelling the second respondent, was not in any manner intended to interfere with the proceedings, pending in the suit. The fact that the injunction application was dismissed, because it became infructuous, by the second respondent having ceased to be a member of the Congress Organisation, was certainly not a circumstance which could be put against the appellants, in the matter of issuing the circular, concerned.

There has been no appearance, on behalf of the respondents. After giving due consideration, to the contentious, urged by the learned counsel, for the appellants, we are satisfied that the High Court has rightly found the appellants guilty of contempt of Court.

The original first appellant, Sri Govind Sahai, and the second appellant, had each sent letters to the District Returning Officer, expelling the second respondent, and removing his name, from the membership of the Congress. There is no dispute, about this fact. It is also not disputed that the second appellant filed an affidavit, in Suit No. 132 of 1964, drawing the attention of the Court, to the order of expulsion, from membership, passed as against the second respondent, and it is substantially in view of this that the application, for temporary injunction, was dismissed. We are of opinion', that these acts are of each a nature, as to interfere with, or prejudice the second respondent in the proceedings, connected with this suit. Oswald, in his book 'Contempt of Court', Third Edition, says, at p. 6;

"To speak generally, Contempt of Court may be said to be constituted by any conduct that tends to bring the authority and administration of. the law into disrespect or disregard, or to interfere with or prejudice parties litigant or their witnesses during the litigation."

This statement, has been quoted, with approval, by Das, J., who delivered the majority judgment, in the decision, reported as Pratap Singh v. Gurbaksh Singh⁽¹⁾. More or less, under similar circumstances, this Court, in the said decision, has held that certain actions, taken by the officers therein, amounted to contempt of Court. From the facts, noted in that decision, it emerges that an Officer of the Forest Department, against whom an order for recovery of certain amounts, had been made, had instituted a suit for having that order declared null and void. When the summons in the suit, was served on the State Government, the Under Secretary to the Government, in the concerned Department, sent a memorandum, to the Chief Conservator of Forests, drawing his attention, to a Circular letter, issued by the Government, on January 25, 1953. In that Circular letter, the Government had indicated that any attempt, by a Government servant, to seek decision, in a Court of law, in respect of matters, arising out of employment, or conditions of service, without exhausting the normal official channels of redress, was considered to be contrary to official propriety and subversive of discipline, and such conduct would justify the initiation of disciplinary action, against the government servant. The Under Secretary, in his communication to the Chief Conservator of Forests, had stated that the (1) [1962] Supp.2 S.C.R.838, 848.

officer, who had instituted the suit, had not exhausted his departmental remedies, and, therefore, he had rendered himself liable to disciplinary action, as per the Government Circular letter, of January 25, 1953. The Under Secretary further added that the Chief Conservator should intimate what action he proposed to take, against the particular officer. On receipt of this letter, disciplinary proceedings were initiated, against the officer, who had filed the suit. Promptly, that officer filed an application, before the High Court, for taking action for contempt, against the officers, mentioned therein. The defence was that the action, taken, was perfectly competent, and it did not amount to contempt of Court. The High Court negatived the defence contention and held that the officers, who had initiated disciplinary proceedings, were guilty of contempt of Court. This Court, on appeal, approved of the decision of the High Court.

In that decision, Das, J., and Subba Rao, J., (as he then was), took the view that the action, of the officers, who initiated the disciplinary proceedings, against the person, who had filed a suit,

amounted to contempt; whereas, Raghubar Dayal, J., held to the contrary on facts. But, Raghubar Dayal, J., also agreed with the proposition that, if any pressure is put on a party, in order to make it act in a particular manner, with respect to a pending action, that would amount to contempt of Court, in which the matter be pending. But, the learned Judge was of the view that, inasmuch as disciplinary proceedings had been initiated, in view of the Government Circular letter, dated January 25, 1953, there was no question of contempt. With respect, we are in agreement with the majority view, in the above decision.

In the instant case, the passing of the orders of expulsion, by the two appellants, against the second respondent, and the filing of a supporting affidavit, in the suit by the second appellant, clearly indicate that it was a deliberate attempt, by the appellants, to interfere with, or prejudice the second respondent, in the conduct of the litigation, instituted by him. It is no answer that the action, by way of expulsion, was taken on the basis of the Resolution, of the All India Congress Working Committee, and to enforce discipline, in the Congress Organization. As emphasized by Das, J., in Pratap Singh's Case(.), 'any conduct, which interferes with, or prejudices parties litigant, during the litigation, is undoubtedly Contempt of Court'. The High Court, in this case, was justified in holding the appellants guilty of contempt. We agree with the said conclusion. Before closing the discussion, on this matter, we may state that Mr. Garg referred us, to the decision in Webster V. Bake-

(1) [1962] Supp 2 S.C.R. 838 (2) [1916] 1 Ch. 300 well Rural Council(1), and urged that, on the principles, laid down therein, the appellants were not guilty of contempt. The consideration of this English decision, need not detain us much, because it has been adverted to , by Das, J., in Pratap Singh's Case(1), and distinguished. Therefore, Websters Case(2) does not apply, to the facts of the instant case.

The result s that this appeal fails, and is dismissed.

Y.P. Appeal dismissed.

(1) [1962] Supp. 2 S.C.R. 838.

(2) [1916] 1 Ch. 300.