

Common Cause (A Registered Society) vs Union Of India (Uoi) And Ors. on 22 October, 1991

Equivalent citations: 1991(2)SCALE1446, 1992SUPP(2)SCC156, AIRONLINE 1991 SC 176

Bench: Ranganath Misra, Chief Justice, Kuldeep Singh

ORDER

Ranganath Misra, CJI, and Kuldeep Singh, J.

1. Pursuant to our order dated August 5, 1991, this matter has been brought up for a verification in regard to the compliance of orders. Mr. Suri appearing for the petitioner says that 13 States and the Union Territories have not filed their affidavits and these are: Maharashtra, Karnataka, Tamilnadu, Orissa, Bihar, Rajasthan, Sikkim, Tripura, Pondicherry, Assam, Andhra Pradesh, Goa and Punjab.

Maharashtra

2. So far as the State of Maharashtra is concerned counsel for the State files its affidavit in Court wherein it has been stated that a new premises has been allocated within the city which is easily accessible to the people and the office is being shifted. We allow three weeks' time for shifting. It is further stated that instructions have been issued to the Chairman of the State Commission to exercise administrative control over the subordinate forums. Assertion has been made in the affidavits that all district forums have been set up and are at work. Petitioner states that Bombay Suburb District Forum, though notified five months back, has not been functioning. Counsel for the State undertakes, and we direct that the said District Forum, if not already operating, shall operate from 1.11.91.

Karnataka:

3. An affidavit is filed by the Under Secretary to the Government of Karnataka in the Food and Transport Department, saying that pursuant to our direction of August 5, 1991, a letter has been written to the High Court asking for the names of eight retired District Judges and for permission for appointing eight sitting Judges for the sixteen Districts where District Forums have not already been set up and on 3rd October, 1991 the High Court has permitted eight sitting judges to be so appointed in addition to their duties. Nothing has been said about eight retired judges.

4. It has taken this Court about a year to educate the States about their statutory responsibilities in the matter of creating forums both at the district and the State level. We are surprised that although our order of August 5, 1991, in clear terms indicated that non-compliance would amount to contempt and today was the date for reporting of compliance, compliance has not been reported.

5. Issue notice to the Secretary, Food and Transport Department, Karnataka, to appear in person on 11.11.91 at 10.30 a.m. to show cause why he may not be proceeded against for contempt for violating our direction of August 5, 1991.

Tamilnadu:

6. An affidavit is filed in Court today wherein it has been stated that the Registrar of the High Court of Madras has been consulted and orders would be issued in this regard shortly in respect of constituting a separate district forum for Madras District. This does not amount to compliance with our direction of August 5, 1991. We have a growing feeling that there is non-cooperation on the part of the State authorities in complying with our directions from time to time, in this case.

7. Issue notice to the Secretary to the Government of Tamilnadu, Co-operation, Food and Consumer Protection Department, to appear in person on 11.11.91 at 10.30 a.m. to show cause why contempt proceedings may not be initiated against him.

Bihar:

8. Though fresh affidavit on behalf of the State of Bihar has not been filed reliance has been placed by Mr. B.B. Singh on the affidavit filed earlier on behalf of the State. It is stated therein that all the requirements of this Court's order dated August 5, 1991 have been complied with before the order was made in regard to the State of Bihar.

Rajasthan:

9. We have seen the affidavit filed on behalf of the respondent State of Rajasthan and are satisfied that there is no compliance of our order dated August 5, 1991 in regard to seven heavy districts as stated in the affidavit. Though, our order was of August 5, 1991, and a copy thereof was transmitted to the State immediately, the State waited for more than two months to ask the High Court for its sanction. The letter is dated 3.10.91. On 11.10.91 the High Court has written back to the State Govt. Non-compliance is on account of casual and callous treatment to our order. Issue notice to the Secretary, Food and Civil Supplies Department, Govt. of Rajasthan to appear personally before this Court on 11.11.91 at 10.30 a.m. to show cause why contempt proceedings may not be initiated.

Sikkim:

10. An affidavit has been filed on 21.10.91 i.e., yesterday by the resident Commissioner of the State of Sikkim to the effect that steps are being taken for appointment of staff and providing accommodation which would mean that what has been notified in the State gazette and appended to

the affidavit is a total paper transaction without any implementation of the directions. Notice may issue to the Secretary, Food and Civil Supplies Department to appear on 11.11.91 at 10.30 a.m. personally to show cause why he may not be proceeded against for contempt.

Tribura:

11. Counsel for the State of Tripura states that affidavit dated 21.8.90 was filed in this Court which indicates that Tripura has three districts and district forums for all the three districts have been set up and are functional.

Pondicherry:

12. Counsel placed reliance on the affidavit dated 24.1.90 wherein it has been stated that the Union Territory of Pondicherry is a single district area and the State forum as also State Commission as also district forum has been set up and they are functional.

Assam:

13. No one appears. Issue notice of contempt to the Secretary, Food and Civil Supplies Department to show cause why he may not be proceeded against for violation of our order, to appear personally on 11.11.91 at 10.30 a.m. before this Court.

Andhra Pradesh:

14. There is no compliance of our order dated August 5, 1991. Issue notice to the Secretary, Food and Civil Supplies, to appear before this Court on 11.11.91 at 10.30 a.m. personally to show cause why he may not be proceeded against for violation of our order.

Goa:

15. An affidavit is said to have been transmitted to the Registry of this Court by post on 15.10.91 which is not already a part of our brief. Accepting the statement of learned Additional Solicitor General that the original has been sent direct to the Registry we have received a copy of the affidavit from him. It appears from the statement made thereof that the State Commission has been set up as early as in July 1989 and the two districts of Goa have separate district forums set up which are working effectively from August 1991 while the State Commission has functioning from February 18, 1991.

Punjab:

16. An affidavit has been filed today of P.K. Verma, Secretary to the Government of Punjab, Department of Food and Supplies on behalf of the State of Punjab to the effect that the State Commission and the district forums have been operating. A retired Chief Justice is the Chairman of the State Commission and separate district forums have been set up for each of the districts.

West Bengal:

17. So far as the State of West Bengal is concerned, an additional affidavit has been filed today in Court by Mr. S.R. Gupta, Deputy Secretary of Food and Supplies Department, Govt. of West Bengal, paragraph 4 of the affidavit shows that complete steps have not yet been taken but it has been pleaded that the State under unprecedented floods in the months of August and September and on that account total attention had been diverted to flood relief. Treating this as a special ground we are prepared to extend the time fixed in our order of 5.8.91 for one month from today. We call upon the State to fully comply with our directions and file an affidavit in this Court on 22.11.91 failing which steps for contempt shall be initiated.

Kerala:

18. The affidavit filed on behalf of the State of Kerala does not indicate that the District Forums have been commissioned to work. A notification is relied upon as evidence of compliance. Issue notice to the Secretary, Food and Civil Supplies Department for appearing personally on 11.11.91 at 10.30 a.m. before this Court to show cause why he may not be proceeded against for violation of our order.

Himachal Pradesh:

19. The District Attorney, Legal side of the State of Himachal Pradesh who is present in Court makes a statement., in addition to what is said in the affidavit filed in Court, that forums constituted under the Notification of 14.10.91 are already in position. He says that he will file an affidavit in support of this statement in the course of the day. In view of his statement we make no further directions.

Madhya Pradesh:

20. The affidavit has already been filed showing compliance.

Uttar Pradesh.

21. An affidavit has now been filed by the Assistant Director of Consumer Protection Directorate which seems to meet the requirements of our order dated August 5, 1991.

Haryana:

22. The affidavit filed on behalf of the State of Haryana by J.D. Ratta, Joint Secretary to the Govt. of Haryana in the Food and Supply Department is not compliance of our order of August 5, 1991. It appears that there are only two district forums which are looking after the remaining 13 districts. Issue notice to the Secretary, Food and Supply Department, Govt. of Haryana, to appear personally before this Court on 11.11.91 at 10.30 a.m. to show cause why he may not be proceeded against for violation of this Court's order.

Gujarat:

23. The affidavit given by Mr. Valera appears to indicate compliance of our order dated August 5, 1991. Meghalaya, Manipur, Arunachal Pradesh, Nagaland and Union Territories of Lakshdweep and Dadra Nagar Havali:

24. So far as the States of Meghalaya, Manipur, Arunachal Pradesh, Nagaland as also Union Territories of Lakshdweep and Dadra Nagar Haveli are concerned, no specific orders are necessary as the affidavits indicate compliance.

Delhi, Chandigarh:

25. So far as Delhi and Chandigarh are concerned appropriate authorities have been constituted and are at work. Grievance has been made that the accommodation provided for the said Commission in the Tis Hazari Court premises is inadequate. Similarly, the staff sanctioned is not adequate. Learned Additional Solicitor General has assured us that within four weeks from today appropriate accommodation as also adequate staff would be made available. We have also been assured by learned Addl. Solicitor General that Chairman of the State Commission would be contacted and all his requirements would be satisfied.

26. The Contempt Matter will appear on 11.11.91. The Writ Petitions shall appear again on 20.12.91 before a Bench of which Hon'ble Mr. Justice Kuldip Singh is a Member.

Assam:

27. An affidavit has been filed on behalf of State of Assam and the Secretary, Food and Civil Supplies Department, is present in Court. The affidavit indicates that district forums have been set up and are already functioning. Mr Shourie appearing in person for the petitioner accepts this position. In this view of the matter the notice of contempt is discharged and we record that in regard to Assam for the time being no further direction is necessary.

Maharashtra:

28. We had directed in our order dated 2nd October, 1991 that the Suburb district forum should function immediately as required by law. Mr Shourie for the petitioner makes a grievance that the order has not yet been complied with. Counsel for State of Maharashtra is not in a position to assert that the statement of Mr. Shourie is wrong and the suburb unit has been functioning. In this state of affairs issue notice of contempt against the Secretary, Civil Supplies Department, Maharashtra to appear before this Court and show cause as to why steps may not be taken for non-compliance of our order dated 22.10.91 by making the suburb district forum functional. To be listed on 20.12.1991.

Karnataka:

29. The matter is adjourned to 18.11.1991.

Tamil Nadu:

30. The Secretary to the Government of Tamil Nadu, Co-operation, Food & Consumer Protection Department is present and has filed an affidavit. Mr. Shourie on the basis of that affidavit agrees that there is full compliance of our order dated 22.10.91. Notice of contempt to the Secretary is discharged.

Rajasthan:

31. The Secretary to the Government of Rajasthan, Food and Civil Supplies Department is present and has filed an affidavit. Mr. Shourie accepts the affidavit. Notice of contempt to the Secretary is, therefore, discharged.

Sikkim:

32. The Secretary to the Govt. of Sikkim, Food and Civil Supplies Department appears and files his affidavit. It has been stated that appropriate staff and accommodations in the district forums have already been supplied and officers are functioning. There is no dispute of the fact. Accordingly the notice to contempt to the Secretary stands discharged.

Andhra Pradesh:

33. The matter is adjourned to 18.11.1991 to indicate compliance of our earlier directions in the matter of manning of the forums in four districts and appointment of staff therefor.

Kerala:

34. The Secretary, Government of Kerala, Food and Civil Supplies Department files an affidavit. It is stated that all the district forums have been functioning. In this view of the matter no further action is necessary. The contempt against the Secretary stands discharged.

Haryana:

35. Commissioner and Secretary to Government of Haryana, Food & Supply Department is present in Court and has filed an affidavit. It appears that there are two district forums earlier in Ludhiana and Hissar. Steps are being taken for establishing the district forms and notification has also been issued on 1.11.91 as stated in the affidavit. Mr Shourie accepts the affidavit and notice of contempt to the Secretary is discharged.

Himachal Pradesh:

36. Affidavit in terms of our order dated 22.10.1991 has been filed. No further direction is necessary.

Delhi:

37. Learned Additional Solicitor General appearing on behalf of Delhi Administration states that second forum is being notified within a week from today. In that view of the matter no further orders are necessary.

38. The matter may now be listed on 18.11.1991.