

P.Seshadri vs S.Mangati Gopal Reddy & Ors on 29 March, 2011

Equivalent citations: AIR 2011 SUPREME COURT 1883, 2011 (5) SCC 484, 2011 AIR SCW 2207, (2011) 7 MAD LJ 316, (2011) 3 PUN LR 268, (2011) 1 WLC(SC)CVL 775, (2011) 2 CURCC 11, (2011) 2 SERVLR 772, (2011) 3 MAD LW 245, (2011) 4 SCALE 41, 2011 (2) KLT SN 31 (SC)

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Bench: Surinder Singh Nijjar, B.Sudershan Reddy

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REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2688 OF 2011

(Arising out of SLP (C) No. 15904 of 2010)

P. Seshadri

... Appellant

VERSUS

S. Mangati Gopal Reddy & Ors.

... Respondents

J U D G M E N T

SURINDER SINGH NIJJAR, J.

1. Leave granted.

2. This appeal by special leave is directed against the judgment of the High Court of Andhra Pradesh at Hyderabad rendered in Writ Petition No. 24124 of 2009 dated 28th April, 2010 whereby the High Court set aside the extension granted to the appellant as officer on Special Duty in the establishment of Tirumala Tirupathi Devasthanam (hereinafter referred to as "the Temple") till 1st August, 2011.

3. The aforesaid order has been passed in a writ petition styled as a public interest litigation by S. Mangati Gopal Reddy (hereinafter referred to as "respondent No.1"). Respondent No. 1 claims to be an agriculturist and a staunch devotee of Lord Venkateswara since his childhood. In Paragraph 2 of the affidavit in support of the writ petition, respondent No.1, in order to establish his locus standi to file the public interest litigation stated as under:-

"I am an Agriculturist. I am a staunch devotee of Lord Venkateswara since my childhood. I regularly visit the temple to offer my prayers to God. I also have donated to the temple as per my capacity. I am a citizen of this country and a Hindu by religion. I am a native and a resident of Tirupathi. I have come to know certain misdeeds, discrepancies, Mismanagement of the T.T.D. Funds by some vested interests. As a citizen of India and also as a staunch devotee of Lord Venkateswara, it is my bounden duty to bring the said facts, which have come to my knowledge, to the notice of this Honourable Court for appropriate directions of this Honourable Court. I also submit that I have no personal interest in filing the above writ affidavit nor I have any enmity with the persons whose details are furnished hereunder and against the persons certain directions are sought in this Writ Petition. This Writ Petition is being filed in the larger interest of the public."

4. He has further pleaded that the Temple was established as a result of Tirumala Tirupathi Devasthanam Act, 1932 (in short 'TTD Act'). The aforesaid Act was followed in 1933 by a special Act in 1951 whereby the administration of the Temple was under the control of the Andhra Pradesh Government.

According to respondent No.1, since the enactment of the Hindu Charitable and Religious Institutions Act, 1989, the management and administration vests in the Board called "TTD Board" constituted under Section 96 of the aforesaid Act.

5. It was further the case of the respondent that the management and administration of the Temple is controlled by the statutory provisions of the 1989 Act and the rules made thereunder. However, the responsible officers of the TTD Board have acted in violation of the rules framed under the aforesaid Act.

He further stated that certain discrepancies and misdeeds have been brought to the notice of the Andhra Pradesh High Court by way of various writ petitions. The writ petition was filed to bring to the notice of the Court various misappropriations and embezzlement of funds. There is an ongoing controversy with regard to embezzlement of funds and, in particular, loss of 300 gold dollars each weighing 5 gms. since August, 2008. It was further the case of the respondent that the actions of the appellant have been doubted in the case of missing gold dollars as he was Bokkasam Incharge and

Parpathedar of the Temple. His name was primarily mentioned in the reports of two IPS officers, who had conducted two separate vigilance reports. These reports categorically recommended that the appellant should not be continued in office. In spite of such recommendations of the vigilance officer, the appellant had been continued in service.

6. According to respondent No.1, the appellant retired on 31st July, 2006. Since then, he has been given five years extension in the Temple. According to the respondent, the services of the appellant have been extended for ulterior motives. Respondent makes a grievance that the services of the appellant have been extended as if there is no other suitable person in the Temple or elsewhere to perform the duties of the appellant. The respondent further alleges that the services of the appellant were extended on a number of occasions, vide order, viz; No. Roc No. BG/10949/2006 dated 31st July, 2006 for a period of two years, Roc No. BG/10949/2007 dated 5th August 2008, for a period of two years from 2nd August, 2007 to 1st August, 2009 and Roc No. P1/308/Sri TT/ml/2009 dated 1st August, 2009 for a further period of two years i.e. from 2nd August, 2009 to 1st August, 2011.

7. The respondent claimed that these extensions were wholly illegal and arbitrary exercise of power by the TTD Board. These allegations were made relying on the recommendations made by B.V. Ramana Kumar, IPS, the then Chief Vigilance and Security Officer. In his report dated 28th July, 2008 initiation of disciplinary action for major penalty has been recommended against the appellant. This report was deliberately ignored by the TTD Board and the appellant continued to enjoy the patronage of the Board.

8. The writ petition came up for hearing before the High Court on 9th November, 2009. Whilst issuing notice in the writ petition, the High Court made an interim order which was as follows:-

"And it is further ordered that there shall be interim suspension of the proceedings bearing Roc. No. P1/308/Sri/TT/Tml/2009, dated 01-08-2009 of the Tirumala Tirupathi Devasthanams, Tirupathi, which was issued in pursuance of Resolution No. 178 dated:

28.07.2009 of the TTD Board, extending the service of Sri P. Seshadri (retired employee) i.e. Respondent No.4 from 02-08-2009 to 01-08-2011."

9. This order was challenged by the appellant in SLP (C) No.30517 of 2009. This Court stayed the operation of the aforesaid order passed by the High Court. On 4th December, 2009, this Court disposed of the special leave petition with the following order:-

"Heard both sides.

The petitioner has challenged the ad-interim order passed by the High Court of Judicature of A.P. whereby extension of service of the petitioner was terminated. When the matter was mentioned before this Court on 24.11.2009, we had granted stay of the impugned order passed by the High Court. As it is a service matter, the High Court is requested to dispose of the petition pending before it at an early date at

least within a period of two months. Till such time, the order passed by this Court on 24.11.2009 will be in operation.

The Special Leave Petition is disposed of accordingly."

10. Pursuant to the aforesaid order, the High Court heard the writ petition and allowed the same by its order dated 28th April, 2010 in the following terms:-

"Sri P. Seshadri--respondent 4, Parpathyadar in the establishment of the Tirumala Tirupathi Devasthanams--respondent 3 retired on superannuation on 31.07.2006. He was accorded extension in three spells and the last one has the effect of extending his service as Officer on Special Duty till 01.08.2011 which has become subject matter of this public interest litigation. Rule 13 of the Tirumala Tirupathi Devasthanams Employees Service Rules, 1989 reads thus:

"The person or persons appointed in Tirumala Tirupathi Devasthanams on re-employment basis after superannuation shall in no case be continued beyond the completion of the age of sixty years."

Admittedly, respondent 4 has crossed the age of sixty years. On that count the learned counsel for respondent 4--beneficiary of the order has not joined issue. That being so, prohibition in the rule supra against his continuation is manifest. Situated thus he cannot be continued anymore. We direct respondent 3 accordingly. Settled"

11.It is this order which is challenged by the appellant in the present appeal.

12.We have heard the learned counsel for the parties.

13. Mr. Narsimha submits that the writ petition ought to have been dismissed at the threshold by the High Court and controversy pertaining to a service matter which could not be filed in a writ petition styled as a public interest litigation. In support of the submission, the learned counsel relied on the following judgments of this Court:- Dr .

Duryodhan Sahu and Ors. Vs. Jitendra Kumar Mishra¹, Gurpal Singh Vs. State of Punjab and Ors.², Neetu Vs. State of Punjab & Ors.³ and Divine Retreat Centre Vs. State of Kerala & Ors.⁴ He further submitted that in any event, the petition was not filed by respondent No.1 bonafide. It has been filed at the behest of some persons, who are the hidden forces pursuing the writ petition. Last but not the least, it is the submission of 1 (1998) 7 SCC 273 2 (2005) 5 SCC 136 3 (2007) 10 SCC 614 4 (2008) 3 SCC 542 Mr. Narsimha that the High Court judgment deserves to be set aside on the short ground that it is based on a complete misinterpretation of the Tirumala Tirupathi Devasthanams Employees Service Rules, 1989.

According to the learned senior counsel, the aforesaid rules would not be applicable to the petitioner as his service has been extended only on contractual basis.

Mr. Guntur Prabhakar, counsel for the Temple, respondent No.4 has supported the submissions made by Mr. Narsimha. He has also relied on the judgment of Neetu's case (supra).

14. Mr. Atul Pandey, appearing for respondent No.1 submitted that the services of the appellant had been extended arbitrarily for extraneous consideration. The Board is going out of the way to protect the appellant, who is involved in serious embezzlement of Temple property. He submits that the extensions have been given, in spite of the recommendations made by the Chief Vigilance and security officer, B.V. Ramana Kumar, IPS.

15. We have considered the submissions made by the learned counsel. In our opinion, it is not at all necessary to make any observations with regard to the ongoing controversy between different groups/parties with regard to the management of the affairs of the Temple. It is also not necessary to make any observations with regard to the involvement or otherwise of the appellant in any activities which may invite either adverse comments or disciplinary actions.

From the pleadings of the parties, it appears to us that there is a serious dispute with regard to the management and the administration of the affairs of the Temple. Admittedly, separate proceedings are pending in different Courts of competent jurisdiction with regard to those issues. In our opinion, those proceedings cannot be confused or merged with the subject matter of the writ petition filed by the respondent No.1.

16. It is not disputed that the appellant was in the service of the Temple for many years. He retired from the service of the Temple on 31st July, 2006. It appears from the records that Board of Trustees in its Resolution No.151 dated 5th/6th May, 2006 resolved to utilize the services of the appellant on contract basis for a period of two years initially. An order to that effect was duly passed by the Board on 31st July, 2006. It appears that subsequent Resolution No.263 was passed on 25th July, 2007, giving further extension to the appellant for a period of two years from 2nd August, 2007 to 1st August, 2009.

Again, the services of the appellant have been extended for a period of two years through Resolution No.178 dated 28th July, 2009. The reason for continuing the services of the appellant are stated in the Resolution itself, which are as under:-

1. With his vast experience and profound knowledge in the day to day affairs in Sri. Tirumala Temple, particularly during festive and special occasion, his services are very much required for successful and timely conduct of fairs and festivals.
2. He is well versed with the procedures of various sevas that are being performed in Sri. Tirumala Temple.
3. His services are vastly utilized during Kalyanamasthu programs organized throughout the country. He could able to conduct the programs successfully to keep up the gallery of the institution.

4. Apart from all his role in extending honours to various Matadhipathies/Peetadhipathies visiting Srivari Temple is commendable and he is maintaining a good rapport with all the Swamijis, Matadhipathies and Peetadhipathies which is much essential for the religious institutions like TTD.

5. Besides, he is available round the clock for all the 365 days in a year for the administration to organize various programs like Bhajagovindam, Kalyanam being conducted outside and other religious activities."

17. Pursuant to the aforesaid Resolution, the Board passed a formal order on 1st August, 2009 extending the services of the appellant till 1st August, 2011 on contract basis on payment of monthly remuneration at last pay drawn. The High Court has nullified the Resolution dated 21st July, 2009 and the consequential order dated 1st August, 2009 holding the same to be contrary to Rule 13 of the 1989 rules.

Undoubtedly, Rule 13 provides that re-employment of any employee after superannuation shall in no case be beyond the completion of age of 60 years. The High Court, however, failed to notice that the 1989 Rules have no application to engagements made on contract basis or when services of government servants or employees of other organizations are utilized on deputation. Rule 2 of the aforesaid Rules provides as under:-

"2. They shall apply to every employee of Tirumala Tirupathi Devasthanams except to the officers or staff taken on contract basis and officers or staff taken on deputation from the Government or other organization."

18. A perusal of the aforesaid Rule leaves no manner of doubt that the aforesaid Rules apply to every employee "except to the officers or staff taken on contract basis and officers or staff taken on deputation from the Government or other organizations". In other words, officers or staff who are appointed on contract basis or are taken on deputation from the Government or other organizations form a separate class and are not covered by the aforesaid Rules. The High Court, in our opinion, was in error, in relying on Rule 13 to nullify the appointment of the appellant.

19. The High Court has committed a serious error in permitting respondent No.1 to pursue the writ petition as a public interest litigation. The parameters within which Public Interest Litigation can be entertained by this Court and the High Court, have been laid down and reiterated by this Court in a series of cases. By now it ought to be plain and obvious that this Court does not approve of an approach that would encourage petitions filed for achieving oblique motives on the basis of wild and reckless allegations made by individuals, i.e., busybodies;

having little or no interest in the proceedings. The credentials, the motive and the objective of the petitioner have to be apparently and patently aboveboard.

Otherwise the petition is liable to be dismissed at the threshold.

20. The High Court ought to have satisfied itself with regard to the credentials of respondent No.1 before entertaining the writ petition, styled as public interest litigation. Even a cursory perusal of Paragraph 2 of the affidavit filed in the High Court by the respondent No.1 would clearly show that the respondent No.1 has no special concern with the extension granted to the appellant. Respondent No.1 had merely pleaded that he moved the writ petition as he is a devotee of Lord Venkateswara. He is an agriculturist by profession. The appellant has failed to supply any specific particulars as to how he is in possession of any special information.

The controversy with regard to the management and administration of the Temple's properties and funds have been deliberately mixed up with the extension granted to the appellant by the TTD Board. It is an admitted position that different proceedings are pending with regard to the management controversy of the Temple Trust. The aforesaid controversy had no relevance to the extension granted to the appellant. The writ petition seems to have been actuated by some disgruntled elements. He has also failed to show as to how and in what manner he represents the public interest.

21. This Court in the case of (DR .) B . Singh Vs. Union of India & Ors.⁵ quoted with approval the definition of public interest as stated in the report of Public Interest Law, USA, 1976 by the council for Public Interest Law set up by the Ford foundation in USA. In the aforesaid report, the definition of public interest is given as under:-

5 (2004) 3 SCC 363 'Public interest law is the name that has recently been given to efforts which provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in the recognition that ordinary marketplace for legal services fails to provide such services to significant segments of the population and to significant interests. Such groups and interests include the proper environmentalists, consumers, racial and ethnic minorities and others.'

22. This Court in the case of Neetu Vs. State of Punjab (Supra) emphasized the need to ensure that public interest litigation is not misused to unleash a private vendetta against any particular person. In Paragraph 7, it is observed as follows:-

"When a particular person is the object and target of a petition styled as PIL, the court has to be careful to see whether the attack in the guise of public interest is really intended to unleash a private vendetta, personal grouse or some other mala fide object."

23. Similar observations had been made by this Court in the case of Ashok Kumar Pandey Vs. State of West Bengal.

We may reiterate here the observations made in Paragraph 12 herein, which are as follows:-

6 (2004) 3 SCC 349 "Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see

that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity-

seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity-oriented or founded on personal vendetta. As indicated above, court must be careful to see that a body of persons or a member of the public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The court must not allow its process to be abused for oblique considerations. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases, with exemplary costs."

24. This Court again in the case of Divine Retreat Centre (Supra) reiterated that public interest litigation can only be entertained at the instance of bonafide litigants. It cannot be permitted to be used by unscrupulous litigants to disguise personal or individual grievances as public interest litigations.

The facts placed on record in the present proceeding would clearly indicate that the appellant has not come to Court with clean hands. He has failed to establish his credential for moving the writ petition as public interest litigation. In our opinion, the High Court has failed to examine the matter in its correct perspective.

The writ petition was undoubtedly moved by motives other than what was stated in the writ petition. A perusal of the affidavit in support of the writ petition would clearly show that the writ petition had been filed by the petitioner at the instance of some other persons who are hiding behind the veil. In paragraph 8 of the affidavit, respondent No. 1 states:

"Sri P. Seshadri who retired on 31.7.2006, has been given 5 years extension in the TTD. It is understandable whether there is no other suitable person in the T.T.D. or elsewhere to perform the duties of Sri. P. Seshadri which he was doing or whether he is so indispensable that he should be given extension for 5 years. The T.T.D. has not bothered to fill up the said post of Par Pathedar till now, and have chosen to extend the services of Sri P.Seshadri again and again, vide Board's proceedings roc.No.BG/10949/2006 dated 31.7.2006."

In view of the above, we are unable to accept that the petitioner is the actual moving spirit behind the writ petition.

25. In the case of Gurpal Singh (Supra), this Court again emphasized that the Court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind.

26. Respondent No.1 had failed to satisfy any of the criteria which would have enabled him to move the High Court by way of a public interest litigation. A pure and simple service matter has been deliberately disguised as a public interest litigation at the instance of some disgruntled employees who were perhaps hopeful of occupying the seat presently occupied by the appellant.

27. The High Court failed to notice that the writ petition was not maintainable for a variety of reasons. As noticed earlier, the High Court did not even care to examine all the provisions of 1989 rules before concluding that the appointment of the respondent was contrary to Rule 13. The respondent had raised numerous preliminary objections with regard to the maintainability of the writ petition, in particular, at the instance of the respondent No.1. The High Court, in our opinion, committed a serious error in not analyzing all the relevant provisions of the 1989 Rules, before concluding that the extension in the service granted to the appellant was contrary to Rule

13. This Court has, on numerous occasions, emphasised the importance of recording reasons by the High Court in support of the orders passed in exercise of its extra ordinary jurisdiction under Article 226 of the Constitution of India. Necessity for recording reasons is the fundamental to the administration of justice. The recorded reasons would enable the parties to the litigation to know the factors which weighed with the court in determining the lis between the parties. This Court in the case of Vasudeo Vishwanath Saraf Vs. New Education Institute & Ors.⁷ clearly indicated the bare essentials of an order passed by the High Court while disposing of a writ petition under Article 226 of the Constitution of India. In paragraph 14, it is observed as follows :-

"14. It is a cardinal principle of rule of law which governs our policy that the court including Writ Court is required to record reasons while disposing of a writ petition in order to enable the litigants more particularly the aggrieved party to know the reasons which weighed with the mind of the court in determining the questions of facts and law raised in the writ petition or in the action brought. This is imperative for the fair and equitable administration of justice. More so when there is a statutory provision for appeal to the higher court in the hierarchy of courts in order to enable the superior court or the appellate court to know or to be apprised of the reasons which impelled the court to pass 7 1986 (4) SCC 31 the order in question. This recording of reasons in deciding cases or applications affecting rights of parties is also a mandatory requirement to be fulfilled in consonance with the principles of natural justice. It is no answer at all to this legal position that for the purpose of expeditious disposal of cases a laconic order like "dismissed" or 'rejected' will be made without passing a reasoned order or a speaking order. It is not, however, necessary that the order disposing of a writ petition or of a cause must be a lengthy one recording in detail all the reasons that played in the mind of the court in coming to the decision. What is imperative is that the order must in a nutshell record the relevant reasons which were taken into consideration by the court in coming to its final conclusions and in disposing of the petition or the cause by making the order, thereby enabling both the party seeking justice as well as the superior court where an appeal lies to know the mind of the court as well as the reasons for its finding on questions of law and facts in deciding the said petition or cause. In other words fair

play and justice demands that justice must not only be done but must seem to have been done."

The order passed by the High Court does not satisfy the bare minimum requirements as indicated above. In view of the above, we have no option but to allow the appeal and set aside the impugned judgment passed by the High Court.

28. Before parting, we may notice here that under the Resolution No. 178 dated 28th July, 2007 services of the appellant have been extended upto 1st August, 2011. We are informed by Mr. Narsimha that his services were discontinued immediately upon the judgment having been passed by the High Court on 28th April, 2010. Consequently, the appellant has been denied the full benefit under the Resolution and the Order dated 1st August, 2009. Since the aforesaid benefit has been denied to the appellant without any fault on his part, we direct the Board to consider whether the appellant ought to be granted further extension to compensate for the loss of service since 28th April, 2010.

29. With these observations, the appeal is allowed and the impugned judgment of the High Court is set aside.

.....J. [B.Sudershan Reddy]J. [Surinder Singh Nijjar] New Delhi;

March 29, 2011.