

Tej Bhan Madan vs Govt. Of India on 18 February, 1954

Equivalent citations: AIR1954ALL522, AIR 1954 ALLAHABAD 522

Author: V. Bhargava

Bench: V. Bhargava

ORDER

V. Bhargava, J.

1. I have heard learned counsel for the petitioner on this petition under Article 226 of the Constitution.

2. By this petition the petitioner seeks issue of a writ of mandamus to the Government of India through their Deputy Secretary, Ministry of Finance, Department of Economic Affairs, Shri B. K. Kaul, I. C. S., New Delhi, commanding the opposite party to accept the petition of the petitioner under Article 14, Constitution of India and thereby declare him eligible for enrolment as a member of the Institute of Chartered Accountants of India or at least admission to the final examination for the said enrolment. A preliminary point that arises is whether a writ of mandamus can be issued to the Government of India through the Deputy Secretary at New Delhi by this Court.

The petition and the affidavit filed in support of it show that the petition of the petitioner which has not been accepted by the opposite party and which the petitioner says was a petition under Article 14 of the Constitution was presented to the opposite party at New Delhi and was rejected there. The writ of mandamus sought is that the opposite party should accept the prayer in that petition. The order of acceptance of the petition to be passed by the opposite party would also have to be passed at New Delhi. By this petition, therefore, directions are sought from this Court against the opposite party in respect of an act done at New Delhi which is not a place within the jurisdiction of this Court. It may be that, if the petitioner's petition under Article 14 of the Constitution had been accepted by the opposite party, it might have given some rights to the petitioner which he might exercise within the jurisdiction of this Court. But this fact would not give jurisdiction to this Court to issue a writ of mandamus to the opposite party in respect of acts done entirely outside the jurisdiction of this Court.

This view of mine is supported by a decision of a division Bench of this Court in -- *Inderjeet Singh v. Chief Commercial Manager, E. I. Rly., Calcutta*, Civil Misc. Writ No. 449 of 1952, D/-9-10-1953 (All.) (A) in which case the Supreme Court decision in -- *'Election Commission, India v. Saka Venkata Rao'*, AIR 1953 SC 210 (B) as well as the Full Bench decision of this Court in -- *'Maqbulunissa v. Union of India'*, AIR 1953 All 477 (C) were discussed and interpreted. The division

Bench held in that case that since the order challenged by the petition for a writ of mandamus was an order passed at New Delhi this Court had no jurisdiction to issue the writ sought for. The circumstances in the case before me are identical and consequently this writ petition cannot be entertained.

3. A further point may also be taken notice of. The prayer in this petition is for the issue of a writ of mandamus commanding the opposite party to accept the petition of the petitioner and to declare him eligible for enrolment as a member of the Institute of Chartered Accountants of India or at least for admission to the final examination for the said enrolment. It is clear from the wording of the prayer that the petitioner wants this Court to direct the opposite party as to the manner in which the petitioner's petition presented to the opposite party should be decided by the opposite party. Such a direction cannot be given by this Court by a writ of mandamus as was held by a Full Bench of this Court in -- 'Moti Lal v. Govt. of State of Uttar Pradesh', AIR 1951 All 257 (D). This is another ground on which this petition must fail.

4 The petition is accordingly rejected.