

## **K.R.Shinivas vs R.M. Premchand on 30 September, 1994**

**Equivalent citations: 1994 SCC (6) 620, 1994 SCALE (4)436, AIR ONLINE 1994 SC 78, 1994 (6) SCC 620, 2005 LAB IC 52, (1995) 1 SCT 718, (1995) 1 SCJ 113, (1994) 5 SERV LR 739, (1997) 10 JT 608, (1998) 1 CTC 76 (SC), (1997) 10 JT 608 (SC), (2006) 109 FACLR 533, (2006) 2 LAB LN 910, (2006) 3 ALL WC 2971, 2006 LABLR 603**

**Author: M.M. Punchhi**

**Bench: M.M. Punchhi**

PETITIONER:

K.R.SHINIVAS

Vs.

RESPONDENT:

R.M. PREMCHAND

DATE OF JUDGMENT 30/09/1994

BENCH:

PUNCHHI, M.M.

BENCH:

PUNCHHI, M.M.

REDDY, K. JAYACHANDRA (J)

CITATION:

1994 SCC (6) 620

1994 SCALE (4)436

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. Leave granted in both matters.

2. K.R. Srinivas, the appellant in civil appeal arising out of SLP (C) No.2828 of 1994 is aggrieved against the order of a Division Bench of the Andhra Pradesh High Court dated 17-12-1993 passed in Writ Appeal No. 53 of 1993 whereby the Writ Petition No. 2082 of 1991, preferred by Dr R.M. Premchand the first respondent under Article 226 of the Constitution, was allowed in public interest. Since certain adverse remarks came to be made by the Division Bench against the father of K.R. Srinivas i.e. Professor K.V + From the Judgment and Order dated 17-12-1993 of the Andhra Pradesh High Court in W.A. No. 53 of 1993 Ramana, the then Vice-Chancellor of the Andhra University, the other appeal arising out of SLP (C) No. 2392 of 1994 seeks the limited relief of expunction of all those remarks.

3. We are refraining from giving herein the facts elaborately, for we have felt a sense of discomfort and uneasiness in which the High Court's jurisdiction in public interest was invoked at a point of time when the appellant stood cornered and cross-checking became impossible by the court.

4. In the year 1988 Professor K.V Ramana appellant was the Vice Chancellor of the Andhra University, during which time his son K.R. Srinivas appellant sat for the final examination of Bachelor of Marine Engineering. The result declared disclosed that he had passed therein in second division. He applied to the University authorities on two different dates for revaluation of his answer books pertaining to three subjects:

1. Industrial Engineering and Management,
2. Production Technology II Metallurgy, and
3. Design and Machine Element Part 11.

5. The re-evaluated result brought him substantially higher marks. As a result K.R. Srinivas got a first division and a degree in B.E. Marine Engineering on that basis was awarded to him. Allegedly as a result thereof he got a coveted job. There was a furore that the results were manipulated because of the Vice-Chancellor's interest in his son. In the meantime since procedural irregularities in the framing of the result of various candidates got to a scandal, the Government of Andhra Pradesh appointed an Enquiry Commission. A couple of years went by. It is in the year 1991 that the respondent Dr R.M. Premchand moved the High Court in a writ petition under Article 226 of the Constitution challenging the result of the appellant only in public interest inter alia on the ground that neither the University was competent to reevaluate the papers nor could such result be achieved since there were procedural irregularities as also that the result had been manipulated. A learned Single Judge of the High Court elaborately went into the matter. He steered through the air of suspicion dismissing the writ petition. A Division Bench of the High Court reversed the learned Single Judge holding that the result of the appellant had been manipulated. The degree awarded was however not cancelled. On the point of cancellation the Division Bench agreed with the learned Single Judge.

6. While hearing these petitions on 15-9-1994 we were inspired to have a look at the answer books as also the question papers in which results had substantially been improved. We, therefore, required

of the University counsel to produce before us the answer books as also the question papers for our inspection today. Anticipating their production we also required learned counsel for the parties to give us a list of examiners for the subjects involved available in the Universities and Institutions functioning in Delhi, together with their addresses and phone numbers, residential as well as official, if possible, so that we could establish contact with any of them. This effort was made to see for ourselves, on inviting the academics, whether there was a real error of assessment in the first result and further whether the rectification by revaluation was erroneous. The other reason was to take away the exercise from Andhra Pradesh to a neutral place like Delhi and that too under our eye. We were hopeful that we would be able to do substantial justice in this way. Our hopes however stand dashed since we are informed that the answer books stood destroyed way back on 14-8-1989, much before the institution of the writ petition even. Now we have felt driven to the wall and have to submit to the fait accompli. One way is to toe the line of the High Court. The second one is to demolish everything. Pained as we are at the writ petitioner choosing the year 1991 for moving the High Court, when the answer books stood destroyed, we would rather opt for the second course. The only hope of Srinivas to emerge innocent, on the destruction of his answer books, stands destroyed. His despair has thus to be met in our remaining masters of the situation.

7.It cannot be forgotten that a writ petitioner who comes to the court for relief in public interest must come not only with clean hands, like any other writ petitioner, but must further come with a clean heart, clean mind and a clean objective. We cannot assume that Dr R.M. Premchand, who at the relevant time was a Research Scholar and part and parcel of the University, did not know the regulations hereunder the answer books are destroyed within six months from the examination under formal orders of the functionaries. We cannot assume that Dr R.M. Premchand did not know about the destruction of the answer books of Srinivas at the time when he moved the High Court in public interest. If this be our impression Dr R.M. Premchand had no locus standi to move the High Court in public interest at that belated point of time. Therefore, we allow the appeal of Srinivas, set aside the order of the Division Bench of the High Court dated 17-12- 1993 in WA No. 53 of 1993 and restore the operative part of the order of the Single Bench of the High Court, added with the ground that Dr R.M. Premchand had no locus standi to move the High Court, in view of the facts and circumstances aforementioned. As a sequel all remarks against Professor K.V. Ramana in the judgment of the Division Bench of the High Court not only get expunged but the whole basis on which they rest stands effaced. His appeal too is allowed.

8.This is the end result of both the appeals. There shall be no order as to costs.