

Supreme Court of India

S.P. Sampath Kumar And Ors. vs Union Of India (Uoi) And Ors. on 31 October, 1985

Equivalent citations: 1985 (2) SCALE 1077, (1985) 4 SCC 458

Bench: P Bhagwati, R Misra

ORDER

1. Issue Rule Nisi on the Writ Petitions. The Writ Petitions shall be heard by a Constitution Bench of 5 Judges on 7th January, 1986 as first item on Board on that date.

2. So far as the application for interim relief is concerned, there will be stay of transfer of Writ Petitions under Article 32 of the Constitution pending in this Court and the Registry of this Court will continue to receive writ petitions under Article 32 which may be filed hereafter. This Court will be entitled to deal with the Writ Petitions under Article 32 and pass orders in those Writ Petitions.

3. So far as the Writ Petitions under Article 226 of the Constitution pending in the High Courts as also suits or appeals pending in the Subordinate Courts are concerned, there will be no order of stay, subject to the following conditions :

1. Appointment of 'Judicial' Members of the Tribunal to be made hereafter shall be in consultation with the Chief Justice of India. However, appointments already made will not be disturbed.

2. Each bench of the Tribunal will consist of one Judicial Member and one non-Judicial Member and in case of difference of opinion between them, the case shall be referred for decision to the Chairman of the Tribunal.

3. Where no Bench of the Tribunal is located at the place where there is seat of the High Court, any application or petition in regard to the matters covered by the Act will be filed in the Registry of the High Court and as soon as such application or petition is filed, intimation shall immediately be sent to the Bench of the Tribunal having jurisdiction over that area and if there is an application for interim relief made in such petition or application, a member of the Bench will make himself available at the seat of the High Court for hearing the application for interim relief within one week from the receipt of the intimation and until then, status quo as on the date of the filing of the application for interim relief shall be maintained. One member of the Tribunal will also in such case be available at the seat of the High Court at least once in every 10 days unless there is no application or petition for interim relief for hearing within the period of 10 days and in any event he shall be available at the place where the seat of the High Court is situate not later than 14 days from the date when an order for interim relief has been made by him. This provision will apply not only to new cases which may be filed but also to pending cases, except those cases where interim relief has already been refused by the High Court prior to 1st November, 1985. The Bench of the Tribunal will also in such case not take up for final hearing any applications or petitions except at the place where the seat of the High Court is situate. The Bench of the Tribunal may go on circuit for this purpose.

4. This order made by us is purely an interim order which will operate until further orders of this Court. The Writ Petitions will stand adjourned to 9th December, 1985 in order to enable the

government to decide whether additional benches are required to be set up at the seats of those High Courts where no Bench of the Tribunal is at present located. The learned Attorney General has fairly stated that the Government is agreeable to set up additional benches at the seats of those High Courts where the workload of the cases coming within the provisions of the Act, so justifies. It is in order to enable the Government to work out this suggestion that we are adjourning the Writ Petitions to 9th December, 1985 so that by that time the necessary statistical information in regard to the workload shall have been collected and we would expect the Government to state on that date as to how many additional benches are proposed to be set up by the Government at the places where the seats of the other High Courts are situate. The basic principle of administration of justice is that the courts should come closer to the people and not run far away from them. The learned Attorney General has also stated that a Bill for carrying out whatever amendments are necessary for this purpose will be introduced shortly in Parliament.

5. Civil Miscellaneous Petition No. 40678 is dismissed.

6. Transfer Petitions are allowed and the transferred writ petitions will be heard along with the present writ petitions.

7. The Registrar will immediately forward a copy of this order to each of the High Courts in the country.