

Supreme Court of India

Dalpat Raj Bhandari, Advocate vs Union Of India (Uoi) And Ors. on 31 March, 1994

Equivalent citations: 1994 (2) SCALE 390, 1995 Supp (1) SCC 682

Bench: A Anand, S Bharucha

ORDER

1. The petitioner-in-person, who is in advocate, is not present though the date was fixed in his presence. The petitioner's application dated 29.3.1994 is rejected.

2. In the petitioner's absence, we have gone through his writ petition.

3. The constitutional validity of the transfer policy was judicially upheld in S.P. Gupta's case. (S.P. Gupta v. Union of India) . In the Judges Case-II 1993(4) SCC 411 it was held that judicial review in the matter of transfer of Judges was not excluded but the area of justiciability was limited. It is clear from that judgment that it was so held with a view to prevent any transferred Judge being exposed to any litigation involving him except when he chose to resort to it himself, in the available limited area of justiciability. The parameters of the area of justiciability in the sphere of judicial review have been clarified further in K. Ashok Reddy v. Government of India (J.T. 1994(2) 401). Three Judges Bench in Ashok Reddy's case (supra) said:

We consider it sufficient to observe that the limited area of justiciability in this sphere being clearly declared in the Judges Case-II and also herein while making it clear that no one other than the transferred Judge himself can question the validity of a transfer....

(Emphasis supplied) It was also emphasized in the said judgment:

It is time that the men at the apex level of the Indian judiciary are permitted to manage the affairs of the judicial family and look after its welfare and interest instead of permitting repeated instructions by some in the guise of 'public interest' thereby rendering the Judges vulnerable to avoidable controversy involving them. We are constrained to observe that the Allahabad case before us is of that kind.

(Emphasis supplied)

4. The present case is another one of the type of the 'Allahabad Case' referred to above.

5. In view of the pronouncements aforementioned, this petition is misconceived and has no merits. It is dismissed as such.