Sub-Committee on Judicial Accountability Vs Union of India and others

Writ Petition (Civil) 491 of 1991

Court: Supreme Court of India

Date of Decision: May 8, 1991

Acts Referred:
Constitution of India, 1950 â€" Article 124(5)

Citation: AIR 1991 SC 1598 : (1991) 2 JT 493 : (1991) 1 SCALE 902 : (1991) 3 SCC 65 : (1991) 2 SCR 741 : (1991) 2 UJ 194

Hon'ble Judges: S. C. Agrawal, J; M. N. Venkatachaliah, J; L. M. Sharma, J; J.S. Verma, J; B. C. Ray, J

Bench: Full Bench

Advocate: G. Ramaswamy, Attorney General, Shanu Bhushan, Ashok Desai, Hardev Singh and Indira Jaisingh, for the Appellant;

Final Decision: Disposed Of

Judgement

@JUDGMENTTAG-ORDER

B.C. Ray, J.
This writ petition is by a body of advocates styled ""Sub-Committee on Judicial Accountability"" and raises certain questions as

to the validity and implementation of the action of the Speaker of the Lok Sabha admitting a notice of motion moved by 108 Members of

Parliament under Article 124(5) read with the Judges (Inquiry) Act, 1968 and constituting an Inquiry Committee consisting of a Judge of the

Supreme Court, Chief Justice of a High Court and a jurist to investigate into the allegations of misconduct made against a sitting Judge of the

Supreme Court pertaining to his conduct as the erstwhile Chief Justice of the Punjab and Haryana High Court.

2. The main prayers in the writ petition are that the Union Government be directed to afford facilities to the Inquiry Committee to discharge its

constitutional and statutory functions; and for directions to the Hon"ble Chief Justice of India to abstain from allocating any judicial work to the

concerned Judge during the pendency of the proceedings before the Committee. In regard to the latter prayer that notice should go to the Hon''ble

Chief Justice of India, we think that aspect of the matter should be deferred for the present and considered at the appropriate stage of the final

hearing. In regard to the directions to the Union Government, the Union Government by means of an affidavit subscribed to by the Joint Secretary,

Ministry of Law and Justice, has made manifest its stand that in its view the motion initiated by the 108 Members of Parliament on which the

Speaker took the decision to constitute a Committee had lapsed with the dissolution of the Lok Sabha and that nothing further remains to be done

in the matter. It is in that view, as averred in the affidavit, that the Government of India did not advise the President to issue any notification as

required by Para 9 read with Para 11(b)(i), Part D of Second Schedule to the Constitution enabling the sitting Judge of this Court and the Chief

Justice of High Court to reckon the time spent by them in functioning as members of the Committee as part of their ''actual service''. The contention

of the petitioner is that having regard to the constitutional and statutory obligations of the sitting Judges who function in the Committee, the time

spent by them in performance of such function is to be reckoned as part of their ''actual service'' as judges and no notification under the concerned

provisions by the President is necessary.

3. It is relevant to mention here that some of the interveners who seek to oppose the writ petition have, in addition to their stand against the writ

petition, also filed individual writ petitions of their own in which, more or less, they seek to endorse the stand taken by the Government raising the

question as to whether the motion survives the dissolution of the Lok Sabha or not.

4. Shri Shanti Bhushan, learned Counsel for the petitioner made an impassioned plea that having regard to the dire need of maintaining public

confidence in the apex institution and its reputation it is necessary that the concerned Judge should abstain from discharging judicial functions during

the pendency of the enquiry against him. In the alternative, it is submitted that if a direction to that effect is not issued, it should at the least

necessarily be directed that pending disposal of the writ petition on merits, the Union of India shall afford to the Committee such facilities as may be

necessary for its effective and prompt functioning. Shri Shanti Bhushan submitted that even if ultimately the writ petition fails, no loss or injury

would be caused to anybody and what would have resulted would only be that the eminent body of Judges would have occasion to look into the

allegations against a sitting Judge and if they found the allegations to be baseless, the concerned Judge would be cleared of the imputations and

cloud against his conduct. He urged, if such a direction or interim mandamus is not issued it would seriously impair the image of the Court as the

apex Court in the country and affect the confidence of the people in the quality of justice dispensed by it.

5. We have given our anxious consideration to the matter and having regard to the nature and importance of the issues involved it is appropriate

that the main matter along with the connected writ petitions is heard as expeditiously as possible. We, therefore, direct that his matter be listed on

July 9, 1991 with a direction that hearing of the matters be proceeded with day-to-day until conclusion. We also indicate that arguments on all

sides should be completed within a period of ten working days and the learned Counsel for all the parties and interveners should file their written

arguments in advance latest by July 1, 1991. The actual hearing time to each of the counsel will be apportioned at the commencement of the

hearing on July 9, 1991. In this view of the matter, we think it appropriate not to embark upon an examination of the contentions in support of and

the prayer for interlocutory relief.

6. We, however, make it clear that our disinclination to issue any interlocutory orders at this stage shall not be construed as an expression of

opinion on the merits of the issues either way and shall not also be construed as an interdiction of the functioning of the Committee if the Committee

otherwise considers appropriate to proceed with the matter.

7. We also make it clear that during the pendency of these matters before this Court no proceeding pending or filed hereafter in any other court

shall be heard or any order passed therein relating to the issues involved in these matters.