
(2014) 02 AP CK 0147

Andhra Pradesh High Court

Case No: Public Interest Litigation No. 427 of 2013

Nallu Indrasena Reddy

APPELLANT

Vs

The Union of India

Ministry of Home Affairs
and Others

RESPONDENT

Date of Decision: Feb. 4, 2014

Citation: (2014) 3 ALD 631 : (2014) 2 ALT 225

Hon'ble Judges: Kalyan Jyoti Sengupta, C.J; Sanjay Kumar, J

Bench: Division Bench

Advocate: K. Anthony Reddy, for the Appellant; Ponnamm Ashok Goud, Assistant Solicitor General Counsel for Respondent Nos. 1 to 3, Sri Madiraju Srinivasa Rao, Counsel for Respondent No. 5 and Sri Ancha Panduranga Rao, Counsel, for the Respondent

Final Decision: Disposed Off

Judgement

@JUDGMENTTAG-ORDER

Kalyan Jyoti Sengupta, C.J.

On 28.1.2014 on receipt of the application (P.I.L. M.P. No. 10 of 2014) to receive certain documents as additional material papers to this matter, we passed an order directing that the affected party may file counter affidavit to the said application. It appears in this matter the affected party would have been Dr. M. Mohan Babu, fourth respondent. He has not filed any affidavit to the application. Mr. L. Srinivas Rao, learned Advocate, appears and asked for extension of time to file an affidavit. On closer scrutiny of the record, we noticed that said Srinivas Rao has not been engaged by fourth respondent, and one Mr. V. Krishna Mohan has been engaged as Advocate to represent him. He is not present. Though the name of Mr. L. Srinivas Rao has been mentioned as an Advocate in the counters filed in the main matter, on scrutiny of the Vakalatnama, we find that no Vakalatnama has been filed in his name authorizing to do anything in this matter. In the circumstances, his prayer is absolutely unauthorized.

2. We record that there is no appearance for fourth respondent. We, therefore, conclude that he is not willing to file any affidavit to the application filed by the petitioner to receive the additional documents and not to contest this application either. P.I.L. M.P. No. 10 of 2014 is accordingly allowed.

3. We accordingly hear this matter for its disposal. We have heard the learned counsel for the petitioner and the learned counsel for respondent Nos. 1, 5 and 6.

4. This case is filed alleging illegal use of the title "PADMA SHRI" as prefix to the name of the awardees in this matter (respondent Nos. 4 and 5). It is contended by the learned counsel for the petitioner drawing our attention to the fact that respondent Nos. 4 and 5 who are awardees of PADMA SHRI have used the aforesaid award as prefix with their name and such use is absolutely prohibited not only by the relevant Guidelines, but also by the pronouncement of the Hon"ble Supreme Court in the case of Balaji Raghavan v. Union of India. The relevant portion of the judgment relating to this subject, being paragraph 32 of the report, is quoted hereunder:

...The National Awards do not amount to "titles" within the meaning of Article 18(1) and they should not be used as suffixes or prefixes. If this is done, the defaulter should forfeit the National Award conferred on him or her by following the procedure laid down in Regulation 10 of each of the four notifications creating these National Awards.

5. Learned counsel for the petitioner, on the revelation of the facts of this case with regard to both the respondents-awardees, says that he is not pressing the application as far as Mr. Brahmanandam-respondent No. 5 is concerned. Therefore, we do not intend to decide the matter against him. Further, it is fairly admitted by respondent No. 5 that the title PADMA SHRI has been used as prefix to his name, however, this was not done by himself and this was done inadvertently by a third party. To support his version, the Director of respondent No. 6 has come forward and he has said that this was done by the company inadvertently. It is thus prayed that the title has not been used by Mr. Brahmanandam.

6. On a perusal of the aforesaid judgment of the Supreme Court it appears that the use of the award as title must be done by the awardee himself or by any other person at his instance or approval or if such user is acquiesced by him in order to apply default provision. In this case, none of the cases has arisen. If the word "use" is taken on its face value it would be construed as being use by even third party, and in that case if action is taken, it will work as great injustice for an awardee not having any knowledge of use by third person. If any third party without his approval and consent uses this award as suffix or prefix then this default should not be attributed to the awardee himself. However, if the awardee on detection of such use does not take step to prevent it, then he/she shall be deemed to have acquiesced in the same.

7. In view of the above discussion, we think that no action in terms of the aforesaid judgment of the Supreme Court read with guideline is required to be taken by this Court or by the Hon"ble His Excellency President of India against respondent No. 5. However, he must be careful in future so that the said award is not used contrary to above prohibition. Accordingly, in order to prevent future default, we restrain respondent No. 5 and his agents, servants, representatives and assignees from using the award as prefix or suffix title to his name. We record also on detection of use by third party adequate rectificatory measure has been taken by the respondent No. 5.

8. Now, coming to the case of respondent No. 4-Mr. Mohan Babu, learned counsel for the petitioner says, drawing our attention to the additional documents filed along with the application (P.I.L. M.P. No. 10 of 2014), that it is a clear case of use of the award as title by the awardee himself and on disclosure of the document he has not come to deny the same.

9. In the context of the said submission, we have examined the document filed along with P.I.L. M.P. No. 10 of 2014. This has been collected by the petitioner from the government officials under the provisions of the Right to Information Act. We are satisfied that this document has been supplied by the Regional Officer of Central Board of Film Certification, by letter dt. 1.1.2014. The document which is supplied in Telugu language has been translated into English. The document, which is relevant for our purpose is set out hereunder:

Padmashree Dr. Mohan Babu Presents Sri Lakshmi Prasanna Movies
Jhumandi Nadham
"Raking Star" Manchu Manoj Kumar
Kumari Thapsi (Newly introducing)
Sc. No. A Bhadrachalam

333.09 Ft. Bhadrachalam atmosphere.....in childhood

Titles follows

Story

Bhupathi Raju

Screenplay

Gopi Mohan

Ravi B.S.

Speech

Shashi Raja Simha

Songs

Chandra Bose

Suddala Ashok Teja

Vedavyas

Choreography: Ashok Reddy-Suchitra Chandra Bose

Krishna Reddy, Papi (Poppi)

Audiography: E. Radha Krishna D.F. Tech

(Prasad Film Laboratories)

For Sree Lakshmi Prasanna Pictures

Sd/-

(M. Mohan Babu)

Sole Proprietor

(emphasis supplied)

10. As we have already noted, no counter affidavit is filed denouncing this document and in fact it cannot be denounced because it has been submitted by respondent No. 4 himself under his signature and this has been received by the aforesaid authority. Thereafter copy thereof on demand has been supplied from their custody. It is clear from above document that Mr. Mohan Babu himself has used the award PADMA SHRI as prefix title to his name, and this was filed using this award as prefix title with an intention to be circulated amongst the members of the public.

11. Under these circumstances, we conclude that the award has been used by respondent No. 4 as title deliberately and it invites forfeiture as mentioned in the aforesaid judgment of the Supreme Court.

12. Now, the question is what measure is to be taken? We find, as rightly contended by the learned Assistant Solicitor General, that there is a mechanism for taking steps in such a situation and this mechanism has been published by the Government in "Statutes and Rules relating to the Awards of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri" by the Notification issued on 8.1.1955, as amended upto 1.1.1969. The relevant portion of this Notification, which is appropriate for our purpose, is as follows:

The President may cancel and annul the award of the decoration to any person and thereupon his name shall be erased from the Register and he shall be required to surrender the decoration and the Sanad.....

13. When we have found that this award has been used by him as prefix title and no explanation has been put forward by him as to why it has been done, we think that it is appropriate to refer this case to His Excellency The President of India.

14. Accordingly, we direct appropriate department of first respondent to place this subject along with copy of this judgment before His Excellency for taking decision in terms of above notification dated 8th January, 1955 as amended on 1st January, 1969 read with above Supreme Court Judgment for forfeiture on account of misuse of the award "PADMA SHRI". Because of the default, consequential measure has to be taken by His Excellency The President of India. This shall be placed within fortnight from the date of communication of this order.

15. Till such decision is taken we restrain respondent No. 4-Mohan Babu and his agents, servants, representatives, assignees from using the award "PADMA SHRI" in any manner whatsoever or from holding himself out either publicly or otherwise as awardee of PADMA SHRI. In addition thereto, he shall take all measures to rectify deleting words "PADMA SHRI" carrying with his name wherever used. This shall be done by him and he shall inform public at large by a publication in newspaper/s that he has done so.

16. With the above observations and directions the public interest litigation is disposed of. There will be no order as to costs.

Consequently, P.I.L. M.P. No. 668 of 2013 filed by the petitioner for interim relief is closed.

The matter to appear fortnight hence for reporting compliance by respondent No. 4.