S. Singaram Vs The Government of Tamil Nadu and Others

Writ Petition No. 19013 of 2000 and W.M.P. No. 27552 of 2000

Court: Madras High Court

Date of Decision: April 30, 2002

Hon'ble Judges: N.K. Jain, C.J; K. Sampath, J

Bench: Division Bench

Advocate: D. Ramakrishnan, for the Appellant; K. Elango, Government Advocate for Respondents 1 and 2, Mr. S. Gnaneswaran Advocate for Respondents 3 and 6, Mr. S. Vijayaraghavan Advocate for Respondents 4 and Mr. C. Ramesh for the Respondent 5, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

N.K. Jain, C.J.
This writ petition has been filed by the Writ Petitioner praying to issue a Writ Mandamus directing the respondents 1 and 2

to take action against the respondents 3 to 6, who are conducting prize schemes in the media.

1. The Writ Petitioner is a trader in wooden furniture and a Carpenter by profession. The enactment of Prize Chits and Money Circulation

Schemes (Banning) Act, 1978 and the Rules framed thereunder in the year 1980 also the Prize Competitions Act, 1955 were mentioned. The

grievance of the petitioner is that recently the visual media and the press are coming out with prize schemes, announcing fabulous prizes, the highest

being a prize of Rs. One Crore. According to the petitioner, these are nothing but violation of the provisions of the Act mentioned above. The

petitioner also issued a notice to respondents 1 and 2 on 12.10.2000 requesting them to take action against 3 to 6 for the illegality committed by

them. It is further stated that on earlier occasion when prize schemes were announced by weekly magazines during Deepavali festival, they were

stopped by the order of this Court reported in VOICE v. The Commissioner of Police, Etc. (1999 W.L.R. 86). As no fruitful action is taken so

far, the writ petitioner is before this Court with the prayer as stated above.

2. The third respondent filed a counter affidavit stating that the writ petition is not maintainable. It is stated that in the programme ""Koteeswaran

being conducted by the third respondent, no question of gambling is invloved. No element of wagering or betting is also involved. Out of the

candidates who applied, for the purpose of selection to the chair only the person who is able to answer the question using his/her skill is taken to

the chair, and he has to answer the questions put to him out of the options given. It is stated that the said person need not pay or put any stake in

the hope of any prize or reward, and that it is only the skill of the person which is put to test, and if he is successful in answering the question,

payment is incidental to that and if the answer is wrong, the person is ousted out from the competition with whatever money the person has earned

by answering correct questions. It is categorically denied in the counter affidavit that ""Koteeswaran"" programme is concerned with any money

circulation. It is further stated that the programme is a game of skill and during the programme, many of the advertisements are being shown in

short breaks, which commercially promote the goods adverstised for. It is further stated that the decision in Voice"s case (cited supra) is not

applicable to this case. It is further stated that such programmes are being telecast in other television channels in Bombay, Delhi and Calcutta and

when they were put under challenge, High Courts of those States had held that the programme only involves skill. With these, the third respondent

prays for me dismissal of the writ petition.

3. The fourth respondent has filed a counter affidavit stating that the Prize Chit and Money Circulation (Banning) Act, 1978 will not apply to mis

case as neither a chit nor circulation of money is involved. It is stated that public is informed on matters of public interest, by means of quiz that is

conducted, and it is a test of skill. It is also stated that the right to conduct legitimate prize competitions based upon substantial skill is a right

recognised under Article 19(1) (g) of the Constitution, as per the ratio laid down by the Supreme Court in R.M.D. Chamarbaugwalla Vs. The

Union of India (UOI), . It is also stated that even as per the decision of this Court in 1999 W.L.R. 86, the element of substantial degree of skill is

the crucial test for finding out whether the scheme is hit by the provisions of the Act, 1978, and in this case, the exercise of substantial skill is very

much available. No such element of inducement or loss to the public by means of any money that is parted with is available in conducting these

programmes. It is also stated that there is no drawing of lots or any other method to determine the winner by chance and that the winner is the

person who has won the maximum number of points based on skill alone. It is further stated that all questions to be asked are devised for persons

of reasonable learning and understanding which the vast majority of the public constitutes and, therefore, me allegation that the conduct of

programmes amounts to gambling is not correct.

4. The sixth respondent has filed a counter affidavit stating that the competition conducted, involves only the skill. It is stated that answers should

be written in the coupon, and which are in order will be sent to a panel of persons for selection and, therefore, the competition cannot be

considered to be a gambling. It is also stated that the provisions of the 1978 Act will not be attracted. It is further stated that the programme does

not involve any game of chance and that it involves only skill.

5. Mr. D. Ramakrishnan, learned counsel appearing for the writ petitioner submitted that respondents 3 to 6 are holding programmes in visual

media and the said prize schemes are all in the form of lottery and are formulated merely for making money quickly and easily. Learned counsel

submitted that "Money Circulation Scheme" attracts Section 2(c) of the 1955 Act. Learned counsel submitted that respondents 3 to 6 are

conducting only mock competition and no real and true competition exists in those schemes. Learned counsel also pointed out that the prize money

this Court for issuance of a writ prohibiting the conduct of such schemes.

6. Learned Government Advocate appearing for respondents 1 and 2 submitted that no question of money is involved. No gambling takes place

and therefore, the writ petition is liable to be dismissed. He further submitted that the case relied on by the learned counsel for the petitioner in

Voice"s Case (cited supra) will not be applicable to the case on hand.

7. Learned counsel appearing for respondents 3 to 6 submitted that the conduct of programmes is based upon skill and it cannot at all be

construed as a game of chance.

8. The crux of the arguments advanced before us is that no question of circulation of money is involved in the programmes and it cannot be said

that the programmes attract Section 2(c) of the 1978 Act. They relied upon the decision in Bimalendu De and etc. Vs. Union of India (UOI) and

Others, .

9. We have given our careful consideration to the arguments advanced by the learned counsel and also perused the materials available on record.

First of all, we are satisfied with the fact that no betting is involved. The entries received from the contenstants are filtered by various methods.

Among the candidates so selected to take part in a single day"s participation, a person is further filtered by asking a question, leaving out only the

clues. The person who got selected by giving the correct answer is eligible to sit in the chair to take part in the programme conducted by the third

respondent. Then for every question, he is given two answers, three answers or four answers. He has to choose the correct one. If he succeeds in

giving the correct answer, he will be allowed to go further failing which he will be sent out with the money so far collected. In our view, skill alone is

involved in these programmes. The questions are framed by collecting materials from all the fields every day a common man comes across. It

depends upon the intelligence of the person facing the programme. A question appearing to be so easy for one will be difficult from the point of

view of another person. So, we confine our attention to the question as to whether any skill is involved or not in the said programmes. We are

satisfied that skill really exists. We take a similar view in respect of the programmes conducted by respondents 4 and 5, and also the sixth

respondent wherein the readers are required to answer a question after going through an article published in the magazine. There also, skill is

involved to a certain extent.

10. So far as the contention that the conduct of programmes falls within the scope of Section 2(c) of Act 1978 is concerned, a reading of the

provisions of the 1955 Act and 1978 Act shows that ""Money Circulation Scheme"" must exist to attract the provisions of the Act, stated above.

The spirit of the Act is to prevent exploitation of the gullible public. But in the programmes conducted by respondents 3 to 6, the contestants

appear to have better Intelligence, Quotient (I.Q.) than that of an ordinary prudent man. When such is the case, we are of the considered opinion

that there is no substance in the allegation of the writ petitioner that the programmes of respondents 3 to 6 amount to ""Money Circulation Scheme"".

11. Our attention has been drawn to the decision of the Calcutta High Court in Bimalendu De and etc. Vs. Union of India (UOI) and Others, . The

programme ""Koteeswaram"" being conducted by the third respondent is similar to that of the programme ""Kaun Banega Crorepati"" telecast by Star

TV, which was under challenge in the above case. After a detailed discussion on various aspects, the Division Bench of the Calcutta High Court in

the above case, held that the said programme does not violate any of the codes of conduct, and the said programme does not involve any

gambling. Except making mere allegations, the writ petitioner has not been able to lay his hands on any material to substantiate his claim that the

conduct of programmes by respondents 3 to 6 amounts to nothing but gambling.

12. Our attention has been drawn to the decision of Voice''s case (cited supra). That was; a case, where prize schemes were announced by

weekly magazines during Deepavali festival. This Court, while disposing of the matter, directed the authorities concerned to take steps to draw chit

prizes, after determining as to how any substantial degree of skill is involved. In our considered opinion, that case will not be applicable to the facts

of the present case since we have already stated as to how skill is involved in the present case.

13. For the reasons stated above, we find no merits in the writ petition. The writ petition is liable to be dismissed and accordingly it is dismissed.

Connected W.M.P. is closed. Before parting with the case, we would like to observe the following. The writ petitioner, who alleges to be a trader

in wooden furniture and a Carpenter by profession, with mere allegations has filed this writ petition styled as Public Interest Litigation. He is not

able to show as to what public interest is involved in this case. Except making mere allegations, he did not attempt to show as to what kind of

''exploitation'' is present, as to how the provisions of Act 1955 and Act 1978 will be attracted, as to whether ""Money Circulation Scheme"" is

present or not and also as to whether really ''skill'' is present or not. Under such circumstances, we fail to understand under what ""public interest"",

the petitioner filed mis writ petition. In our considered opinion, the writ petition is filed only for his personal gain, tainted with ulterior motive. The

same is hereby dismissed. No costs.