

W.P. No.2669/2016

09.05.2016

Shri A.M. Mathur, learned senior counsel with Shri Avinash Ghanotkar, learned counsel for the petitioner.

Shri Sunil Jain, learned Additional Advocate General with Shri C.S. Ujjainiya, learned panel lawyer for respondents/State.

Heard on point of admission, preliminary objections raised by respondents and also I.A. No.2195/2016, which is an application for deleting names of respondents No.1 and 2.

This writ petition under Article 226 of the Constitution of India is filed under the category of Public Interest Litigation.

Subject matter of the petition in brief is that Govt. of Madhya Pradesh publishes textbooks for schools run by the Government within the State. A news item was published in daily newspaper "Prabhat Kiran" on 22.03.2016, in which, it was stated that Government of Madhya Pradesh placed an order for printing 6.5 crores textbooks, out of which, 3 crores have already been printed and published. It is also stated in the same news item that the Chief Minister and the Chief Secretary issued a direction that though the books have already been published message of Chief Minister alongwith his photo should be published in every book giving in detail the views of the Chief Minister and good works he had done. The purpose was that by this message, the Chief Minister would reach to every child of the State.

The petitioner based his averments on the principles laid down by the Hon'ble Apex Court in case of "**Common Cause**

Vs. Union of India” reported in **(2015) 7 SCC 1**, in which, it was held that photographs of President, Vice-President, Prime Minister and Chief Justice of India shall only be published in Govt. advertisement and no other photographs should be published where Govt. exchequer was bearing expenditure of the advertisement. This petition is filed on the premise that unproductive expenditure should be avoided. According to the news item, 3 crore books have already been published and inserting message of the Chief Minister again on these books which have already been published would result in unproductive expenditure. An apprehension is also shown by the petitioner that if such a message is published in the books, in the event of change of Chief Minister, new Chief Minister would again discard all the un-utilised books and republish new books having his message on them and this will set bad precedence for the State. The petitioner also avers that such act on the part of the Chief Minister and the Chief Secretary (respondents No.1 & 2) in this petition is against the principles laid down by the Apex Court in case of **Common Cause (supra)**.

Counsel for the respondents filed an affidavit in response to order of the court dated 26.04.2016 raising preliminary objections regarding maintainability of the writ petition on the ground that a PIL cannot be entertained only on the basis of a news item published in a newspaper and also that incorrect statements have been given in the writ petition, and therefore, this petition is not maintainable.

In response to the affidavit filed by respondents, petitioner filed a counter affidavit. To deal with the

preliminary objections raised by respondents in Para-6 of the affidavit, it is stated that the present Public Interest Litigation is based upon an article in evening daily newspaper and it is not permissible to file a Public Interest Litigation only on the basis of news report published in daily newspaper. The petitioner has not produced any evidence showing the source of information except filing the daily newspaper in which the news item was published. It is also stated in this paragraph that the petition is filed with ulterior motive best known to the petitioner alone. According to the respondent, it is a settled law that Public Interest Litigation should not be entertained on the basis of merely a newspaper article.

In response, counsel for the petitioner in his counter affidavit quoted three cases of Hon'ble Apex Court - (i) **2016 (2) SCALE 185 Re. Human conditions**, in which, relied on report of "Dainik Bhaskar" PIL was entertained on this point, (ii) **2008 (12) SCALE 135**, in which PIL was entertained on the basis of a news item published in "Indian Express" and (iii) **AIR 1985 SC 910 : State of H.P.**, in which, the PIL was entertained on the basis of a letter written to Hon'ble the Chief Justice of India.

In light of the cases cited by the learned senior counsel for the petitioner, we are of the considered view that preliminary objections raised by the respondents has no force, depending on the facts and circumstances of each case, a PIL can be filed only on the basis of a news item published on a paper or a letter written to Hon'ble the Chief Justice of this court or Hon'ble the Chief Justice of India. Accordingly, this preliminary objections being devoid of any force is rejected.

Considering admission of this writ petition, respondent has filed alongwith the affidavit a letter written by Managing Director, Madhya Pradesh Textbook Corporation, Bhopal to Commissioner, Rajya Siksha Kendra, Bhopal, in which, it was mentioned that total textbooks to be published for Class-6th, 7th and 9th of subject science and mathematics is 67.57 lacs, out of which, 10.37 lacs books were published without any message of the Chief Minister and remaining 57.20 lacs books would be published with a message on overleaf of title page of the book. It is also incorrect that a photograph of the Chief Minister is to be published alongwith the message. The message to be published is annexed as Annexure R-2, in which, a general advice is given to the students for their success in their lives.

It is to be seen whether there is any violation of directions issued by Hon'ble Apex Court in case of **Common cause (supra)**. In this case, a committee was constituted who submitted its recommendation in Para-16 of the judgment of Hon'ble Apex Court set-up the principles behind the guidelines prepared by the committee. Para-16 of the judgment is quoted below :-

“16. An analysis of the draft Guidelines as prepared by the Committee set up by this Court in the case may now be made. The applicability of these Guidelines is to all government advertisements other than classifieds and in all mediums of communication, thereby including internet advertising. The objective of these Guidelines emphasise the Government's

responsibility to disseminate information necessary for the public to know about the policies and programmes of the Government.

It principally spells out five principles to regulate the contents of advertisements, namely;

- (i) advertising campaigns are to be related to government's responsibilities,**
- (ii) materials should be presented in an objective, fair and accessible manner and designed to meet objectives of the campaign,**
- (iii) not directed at promoting political interests of a party,**
- (iv) campaigns must be justified and undertaken in an efficient and cost-effective manner, and**
- (v) advertisements must comply with legal requirements and financial regulations and procedures.**

The five broad Content Regulations contained in the draft Guidelines framed by the Committee are similar to the provisions found in the Australian guidelines. However, under each broad head specific regulatory parameters have been indicated which seem to embody what would be good practices in the Indian context.”

From the averments, it is apparent that any publication on Govt. expenditure could not be such which would be

promoting political interest of the party. The publication should be cost-effective and it must comply with the legal requirements and financial regulations and procedures like tendering etc. In the present case, so far as the content of the message proposed to be published on the text book is concerned, it is apparent that it is not promoting any political interest of the ruling party. Also no photographs is proposed to be published and only name of the Chief Minister is written.

Learned counsel for the appellant, however, submits that such message can be given by any teacher or professor of an educational institutions, the Chief Minister may not give his message for this purpose. However, such arguments cannot be accepted. Being holder of a constitutional post, who is responsible for overall development of the State, the Chief Minister is well-within his right to convey his expectations and thoughts to young generation of the State. Accordingly, after due consideration of all the relevant averments made in the petition, affidavit and the counter affidavit, we are of the considered view that no prima-facie case for admitting this petition for final hearing is made-out.

As we do not incline to admit the petition for final hearing., therefore, I.A. No.2195/2016 is rendered infructuous and no further order is required to be passed on this application.

Accordingly, this petition is dismissed.

Certified copy, as per rules.

(P.K. Jaiswal)
Judge

(Alok Verma)
Judge

Chitranjan