

PETITIONER:
FASIH CHAUDHARY

Vs.

RESPONDENT:
DIRECTOR GENERAL, DOORDARSHAN & ORS.

DATE OF JUDGMENT 28/09/1988

BENCH:
MUKHARJI, SABYASACHI (J)
BENCH:
MUKHARJI, SABYASACHI (J)
KANIA, M.H.
RANGNATHAN, S.

CITATION:
1989 AIR 157 1988 SCR Supl. (3) 282
1989 SCC (1) 89 JT 1988 (4) 50
1988 SCALE (2) 1079

ACT:

Articles 226/136 of the Constitution--T.V.Serial--Mirza Ghalib-Selection of-Whether discriminatory--Scope and exercise of authority by Doordarshan--Whether proper and in accordance with principle of fair-play.

HEADNOTE:

With a view to produce T.V. Serials based on themes e.g. national integration, Communal harmony, against exploitation of child labour, equal status for women etc., Doordarshan invited proposals from producers sponsors. The last date for submitting such projects was 7th May, 1986 and it was also made obligatory by Doordarshan that projects should comply with the guidelines prescribed by it. Clause (2) of the guidelines inter alia required that the proposals for sponsored programs should consist of break up of the story in episodes; complete synopsis of each episode; detailed scenario, script of at least one episode etc. As per clause (3) of the guidelines the proposals on receipt by Doordarshan were to be given a reference No. and acknowledged. The guidelines also prescribed that if any proposal is not accompanied by any of the documents required by the guidelines, that deficiency was to be pointed out to the producer of the proposal and was to be treated complete only when all the requirements contained in the guidelines referred to above are complied with. On the theme of national integration the Petitioner and Respondent No. 2 had submitted projects on the life and history of the great urdu poet Mirza Ghalib.

The projects submitted by the Petitioner and by another person were not approved/selected for telecast as the same were not found to be either attractive or interesting but the one sent by Respondent No Gulzar--was selected. The Petitioner challenged the said action of Doordarshan as arbitrary and based on malice by filing writ petition in the High Court u/a 226 of the Constitution praying for a direction to the Union of India and the Doordarshan to accept the script of the Petitioner and eventually to give him the contract. His contention before the High Court was mainly that Respondent No. 2-Shri GULZAR-had been preferred

over the Petitioner by practising discrimination

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nation in the matter of selection of T.V. Serial even though the Petitioner had submitted his project on 7th May 1986 whilst Respondent No. 2 had not.

The High Court did not find substance in any of the contentions raised by the Petitioner and dismissed the Writ Petition. Against the order of the High Court of 13th July, 1988 dismissing the Writ Petition the Petitioner filed a petition for special leave to appeal u/a 136 of the Constitution.

Dismissing the petition for Special leave, this Court, HELD: That Respondent No. 2--Gulzar had by a letter dated the 4th February, 1986 submitted the theme of the matter and Doordarshan had asked him to furnish further details to make the proposal complete and after the proposal was so made complete, the same alongwith others was placed for consideration 'before the Committee. Though the proposals might not have been considered strictly in accordance with the order of precedence yet they were considered fairly or reasonably. [285C; 286F-G]

That there was objectivity in the actual consideration of the different proposals and that there was fairness in the decision and that no malice or ill-will coloured the decision-making process in the case. The Petitioner was not refused proper consideration because Respondent 2 described the petitioner as one who is a "maverick", on the contrary the serial submitted by the Petitioner was neither found to be attractive nor interesting. [287A-B]

Ram & Shyam Co. v. State of Haryana & Ors., [1985] 3, SCC 267 at pp. 268 and 269 Haji T.M. Hassan Rawther v. Kerala Financial Corporation, AIR 1988 SC 157 at p. 161, referred to.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Special Leave Petition (Civil) No. 9814 of 1988.

From the Judgment and Order dated 13.7.1988 of the Delhi High Court in C.W.P. No. 3423 of 1987.

Govinda Mukhoty, R.N. Keswani, Irfan Ahmed and M. Safid for the Petitioner.

Kuldip Singh, Additional Solicitor General, Mrs. Sushma Suri, Ms. Indu Goswami, Pinaki Mishra and Ms. Bina Gupta for the Respondents.

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The Judgment of the Court was delivered by SBYASACHI MUKHARJI, J. This petition is for special leave to appeal from the decision of the High Court of Delhi, dated 13th July, 1988. By the said Order the High Court dismissed the writ petition filed by the petitioner. In the said writ petition, the petitioner had asked for a direction to the Union of India and/or the Doordarshan to accept the script of the petitioner and eventually to give him the contract. The High Court in its order recorded that there was no substance in the allegation that Shri Gulzar, respondent No. 2 herein, had been preferred over the petitioner by practising discrimination. There was a proposal to produce T.V. serials based on national integration, communal harmony, against exploitation of child labour, equal status for women etc. etc. and the last date for submitting such projects was 7th May, 1986. It was further announced by the Doordarshan that the project should

be completed in terms of the guidelines issued by the Doordarshan, respondent No. 1. The said guidelines for sponsored programme to be produced by sponsor indicate certain requirement for the proposals. The guidelines, inter alia, state in clause (2) that the proposals for sponsored programmes should consist of the following:

(a) break-up of the story in episodes and broadline of treatment;

(b) complete synopsis of each episode;

(c) detailed scenario script of at least one episodes; and

(d) confirmed names and addresses of Director, Camera-man, Music Director, Script/Dialogue Writer, Main Artists etc.

Clause (3) of the said guidelines indicated further that all proposals received by the Doordarshan will be given a reference number and acknowledge. In case proposals not accompanied by any of the foregoing documents mentioned aforesaid are received, a suitable indication would be given by the Doordarshan to the Producer along with the acknowledgment. It further indicated that a proposal would be considered "complete" only after the required number of copies of the documents mentioned aforesaid were supplied. It appears, therefore, that a proposal though not containing all the particulars would still be a Proposal but not a "complete" proposal but the proposal will be complete only

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after the required number of copies of all the documents mentioned hereinbefore are supplied. The theme with which the petitioner was concerned and with which also the proposal of respondent No. 2 was concerned, was the life and history of the great Urdu poet Mirza Ghalib. It was the case of the petitioner that before the last date for the submission of the project on 7th May, 1986 though the petitioner had submitted his project, respondent No. 2 had not.

The High Court did not accept the aforesaid allegation. We have examined the records and the acknowledgment sheets in original which were produced in the Court for our satisfaction and it appears to us that the High Court was right on this point and the petitioner was not. Respondent No. 2 submitted, it appears, the theme of the matter by a letter dated 4th February, 1986. This was not undoubtedly a complete project. It was only on the theme of the project, namely, the life and history of the great poet Mirza Ghalib. The petitioner, however, by a letter dated 13th March, 1986 submitted the proposal with 13 episodes giving the entire idea of his project depicting the life of Mirza Ghalib and his contribution to the national integration. The final decision to award the project to respondent No. 2 was taken, it appears, some time in November 1986 after considering three complete proposals on the project. It appears to us from the records that the Doordarshan authorities found that the project submitted by the petitioner was not "attractive or interesting". It appears further from the letter that the Doordarshan authorities did not find the proposal of the petitioner to be "attractive or interesting" enough. There was one more proposal given by another person apart from the petitioner and respondent No. 2. It is, however, not clear what that proposal was. It appears that the Doordarshan authorities did not find the proposal of that person to be any more attractive or interesting than that of the petitioner. In the meantime, respondent No. 2 had submitted his proposal and the Doordarshan, though the proposal was not complete, asked respondent No.2 to give further details

and after they were submitted by respondent No. 2, it was examined by the Committee. It was asserted on behalf of respondent No. 2, and it appears to be corroborated by the records that before the proposal of respondent No. 2 was considered, the script and the proposal of the petitioner as well as that of the other person were considered and not found to be "attractive or interesting" enough. Therefore, it appears that though the idea was presented by respondent No. 2 by a letter but the matter was decided only after the entire proposal had been submitted by respondent No. 2. It appears, therefore, that all the proposals were duly considered by the Committee. It further appears that

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respondent No. 2 had submitted his proposal before his was respondent No. 2 had submitted his proposal before his was accepted by the Doordarshan authorities.

The conduct of the Doordarshan in awarding the opportunity of serialising the script to respondent No. 2 was challenged as arbitrary and mala fide.

It is well-settled that there should be fair-play in action in a situation like the present one, as was observed by this Court in *Ram & Shyam Co. v. State of Haryana & Ors.*, [1985] 3 SCC 267 at pages 268-269. It is also well-settled that the authorities like the Doordarshan should act fairly and their action should be legitimate and fair and transaction should be without any aversion, malice or affection. Nothing should be done which gives the impression of favouritism or nepotism. See the observations of this Court in *Haji T.M. Hassan Rawther v. Kerala Financial Corpn.*, AIR 1988 SC 157 at page 161.

While, as mentioned hereinbefore, fair-play in action in matters like the present one is an essential requirement, similarly, however, free play in the joints' is also a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere as the present one. Judged from that stand point of view, though all the proposals might not have been considered strictly in accordance with order of precedence, it appears that these were considered fairly, reasonably, objectively and without any malice or ill-will.

Respondent No. '2, it further appears. has a long record of steady and successful performance in direction, script-writing recognised by the conventional yardstick of the society. If having regard to such a record, certain latitude in taking up for consideration was shown to the proposal submitted by the respondent No. 2, in our opinion, respondent No. 1 did not transgress the limits of fair-play in action. All the proposals were, as mentioned hereinbefore, duly considered. These were considered by a Committee of eminent persons. Our attention was drawn to the names of the members of the Committee. As mentioned hereinbefore, the Committee did not find the proposal of the petitioner and the other person either attractive or interesting enough in awarding the TV serial on the aspect of national integration of the lifetime of Mirza Ghalib. After it was so found, the idea of respondent No. 2 was considered and the proposal was duly considered. We have satisfied ourselves from the records produced at the time of the hearing and from the affidavits filed before us that there was objectivity in the actual consideration of the

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different proposals and that there was fairness in the decision and that no malice or ill-will coloured the decision-making process in this case. The petitioner was not refused proper consideration because what respondent No. '

described the petitioner as one who is a 'maverick'.

In the aforesaid light and in the facts of this case and the principles of law that are applicable, we are satisfied that the High Court was right and the decision of the respondent No. 1 does not call for any interference. The Special Leave Petition must fail and is, therefore dismissed accordingly.

Y. Lal

Petition dismissed.

JUDIS