

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.25280 of 2019

Mr.Biju Kumar

... Petitioner

Versus

- 1.Secretary to Government
Ministry of External Affairs
No.68 College Road,
EVK Sambath Maaligai, 7th Floor,
Nungambakkam, Chennai, Tamil Nadu
Pin:600 006.
- 2.Secretary to Government
Ministry of Civil Aviation
Rajiv Gandhi Bhawan, Block B,
Safdarjung Airport Area, Vasant Vihar,
New Delhi 110 057.
- 3.The Chairman,
The Shipping Corporation of India Ltd.,
No.17, Jawahar Building,
Rajaji Salai, Chennai Tamil Nadu,
600 001.
- 4.The Director General,
Indian Coast Guard Regional (East)
Rajaji Salai, near Napier Bridge,
Chennai 600 009.
- 5.The Scientific Secretary, ISRO
Indian Space Research Organisation HQ,
Department of Space,
Government of India, Antariksh Bahavan,
New BEL Road, Bangalore
PIN 560 231.

6.The Chairman,
Indian Space research Organisation,
Department of Space,
Vikram Sarabhai Space Centre (VSSC)
Trivandrum, Kerala 695 022.

7.The Consulate General,
The Consulate of Malaysia,
No.7, Old No.3, Centotophh Road,
Seethammal Extention, Teynampet,
Chennai 600 018.

... Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Mandamus directing the respondents 1 to 6 to consider the representation of the petitioner dated 12.03.2019 to make a scientific investigations with regard to the disappearance of the Malaysian Airlines resemble to the MH370, Boeing 777 fell near Seashore Beach, opposite to St.Andrews Church Trivandrum, Kerala on 08.04.2014 at 8.30 p.m.

For Petitioner : Mr.P.Prakash Paul

For Respondents : Mr.G.Karthikeyan

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

The petitioner is a resident of Karinjavayal Veedu, Menamkulam, Kazhakootam, Trivandrum, Kerala State and came forward to file this writ petition styled as a Public Interest Litigation stating among other things that on 08.03.2014 at about 8.30 pm while he was sitting in the sea shore beach, opposite to St.Andrews church Trivandrum Kerala along with three of his friends namely Sujith Sudhakaran, S.Stalan Sasidharan, M.A.Jayaraj, they noticed an air craft flying above their residential area and suddenly in a fraction of a second, within 2 km distance, they noted the burning of the aircraft and falling into the Arabian Sea. Since the petitioner and his friends were in shock and dismay, it took sometime for them to intimate the same to their friends, relatives and neighbours'. The petitioner was also sleepless on the night hours on 08.03.2014 thinking about the plight of the inmates of the said aircraft. The petitioner on the next date on 09.03.2014, came across the news item as to the missing of Malaysian Airlines-MH370 which was operated between Kuala Lumpur International Airport and Beijing Capital International Airport. News item

would also disclose that crew of the said Airport had lost communication with air traffic control (ATC) around 38 minutes after take off and since it was found missing with 227 passengers and 12 member crew aboard, they were presumed to be dead.

2. The learned counsel appearing for the petitioner would submit that search was also effected and nothing had fructified and the petitioner has also submitted representation dated 05.12.2018 and 12.03.2019 to the respondents including the 7th respondent and he was left with no other option except to come forward to file this writ petition praying for appropriate directions.

3. This Court upon hearing the submission of the learned counsel for the petitioner has also gone through the materials. In the considered opinion of this Court the writ petition is highly misconceived and also appears to be a publicity interest litigation for the following reasons.

4. When this Court has put a specific question to the learned counsel for the petitioner as to the territorial jurisdiction vests with this Court to entertain this writ petition, despite the fact that the petitioner claims to be a permanent resident of Kerala State, it is the submission of the learned counsel for the petitioner that despite the fact that the said occurrence took place within the off shore of Kerala State, since the 7th respondent Office / The Consulate General, The Consulate of Malaysia, is located at Chennai, this Court is having territorial jurisdiction to entertain this writ petition.

5. A perusal and consideration of the materials placed before this Court would disclose that the petitioner is under the misapprehension as if this Court can give solution to all the problems and it is useful to extract the following paragraphs of the judgment of the Honble Supreme Court of India in the case of Common Cause (A Registered Society) Vs. Union of India and others reported in 2008 (5) SCC 511:

'39. We would be very happy to issue such directives if they could really be implementable. However, the truth is that they are not implementable (for various reasons, particularly lack of financial and other resources and expertise in the matter). For instance, the directives issued by this Court regarding road safety in M.C. Mehta case [(1997) 8 SCC 770 : AIR 1998 SC 186] hardly seem to have had any effect because

everyday we read in the newspapers or see the news on TV about BlueLine buses killing or injuring people. In Hawala case (Vineet Narain v. Union of India [(1998) 1 SCC 226 : 1998 SCC (Cri) 307 : AIR 1998 SC 889]) a valiant effort was made by this Court to check corruption, but has it made even a dent on the rampant corruption prevailing in the country? It is well settled that futile writs should not be issued by the court.

45. In our opinion the court should not assume such awesome responsibility even on a limited scale. The country can ill afford to be governed through court decrees. Any such attempt will not only be grossly undemocratic, it would be most hazardous as the courts do not have the expertise or resources in this connection. The judiciary is not in a position to provide solutions to each and every problem, although human ingenuity would not be lacking to give it some kind of shape or semblance of a legal or constitutional right e.g. by resorting to Article 21.

47. The worst result of judicial activism is unpredictability. Unless Judges exercise self-restraint, each Judge can become a law unto himself and issue directions according to his own personal fancies, which will create chaos.

53. The people must know that courts are not the remedy for all ills in society. The problems confronting the nation are so huge that it will be creating an illusion in the minds of the people that the judiciary can solve all the problems. No doubt, the judiciary can make some suggestions/recommendations to the legislature or the executive, but these suggestions/recommendations cannot be binding on the legislature or the executive, otherwise there will be violation of the seven-Judge Bench decision of this Court in P. Ramachandra Rao case [(2002) 4 SCC 578 : 2002 SCC (Cri) 830] and violation of the principle of separation of powers. The judiciary must know its limits and exercise judicial restraint vide Divl. Manager, Aravali Golf Club v. Chander Hass [(2008) 1 SCC 683 : (2008) 1 SCC (L&S) 289 : JT (2008) 3 SC 221] . The people must also realise that the judiciary has its limits and cannot solve all their problems, despite its best intentions.

56. The view that the judiciary can run the Government and can solve all the problems of the people is not only unconstitutional, but also it is fallacious and creates

a false impression and false illusion that the judiciary is a panacea for all ills in society. Such illusions, in fact, do great harm to the people because it makes the people believe that their problems can be solved by others and not by the people themselves. It debilitates their will and makes them believe that they can solve their problems and improve their conditions not by their own struggles and creativity but by filing a PIL in court. ''

6. As pointed out by the Hon'ble Supreme Court of India in the above cited decision, the judiciary is not expected to solve all the problems of the people and a false impression and rather a false illusion is also created as if the judiciary is panacea for all the issues in the Society. The petitioner acting on imagination, surmises and conjectures, came forward to file this writ petition for the relief of making the scientific investigation with regard to the disappearance of Malaysian Airlines resembling to the MH370.

7. This Court having its own doubt as to the territorial jurisdiction to entertain this writ petition and that apart in the light of the above facts and circumstances is also of the considered view that the writ petition per se is not maintainable.

8. In the result, the writ petition is dismissed as devoid of merits and substance. However taking into consideration the present facts and circumstances, this Court is not inclined to award costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sk

To

1. Secretary to Government
Ministry of External Affairs
No.68 College Road,
EVK Sambath Maaligai, 7th Floor,
Nungambakkam, Chennai, Tamil Nadu
Pin:600 006.

WEB COPY

2. Secretary to Government
Ministry of Civil Aviation
Rajiv Gandhi Bhawan, Block B,
Safdarjung Airport Area, Vasant Vihar,
New Delhi 110 057.
3. The Chairman,
The Shipping Corporation of India Ltd.,
No.17, Jawahar Building,
Rajaji Salai, Chennai Tamil Nadu,
600 001.
4. The Director General,
Indian Coast Guard Regional (East)
Rajaji Salai, near Napier Bridge,
Chennai 600 009.
5. The Scientific Secretary, ISRO
Indian Space Research Organisation HQ,
Department of Space,
Government of India, Antariksh Bhavan,
New BEL Road, Bangalore
PIN 560 231.
6. The Chairman,
Indian Space research Organisation,
Department of Space,
Vikram Sarabhai Space Centre (VSSC)
Trivandrum, Kerala 695 022.
7. The Consulate General,
The Consulate of Malaysia,
No.7, Old No.3, Centotophh Road,
Seethammal Extention, Teynampet,
Chennai 600 018.

+lcc to Mr. Prakash Paul, Advocate Sr.78272
+lcc to Mr. G. Karthikeyan, Advocate Sr.78056

WEB COPY

WP.No.25280 of 2019

nr[co]
srg 23/10/2019