

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 7487 of 2014.
Reserved on: 26.03.2021
Date of decision: 09.04.2021

Vijay Gupta

.....Petitioner.

Versus

State of H.P. and others

..Respondents.

Coram

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

***Whether approved for reporting?*¹ Yes**

For the Petitioner : Mr. Ashok Kumar Thakur, Advocate.

For the Respondents : Mr. Ashok Sharma, Advocate General, with Mr. Vinod Thakur, Addl. A.G. and Mr. Bhupinder Thakur, Dy. A.G.

Tarlok Singh Chauhan, Judge

Aggrieved by the suspension of his accreditation as a Journalist, the petitioner has filed the instant petition for the grant of following substantive reliefs:

"I. That a writ of certiorari may be issued thereby directing the respondents to quash and set-aside the order passed by the State Level Accreditation Committee on 2nd August, 2014.

(II) That a writ of mandamus may very kindly be issued thereby directing the respondents to renew

¹***Whether the reporters of the local papers may be allowed to see the Judgment?Yes***

the accreditation of the petitioner immediately, which is pending since December, 2012.

(III) That a writ of mandamus may further be issued thereby directing the respondents to start allocation publication of government related notices, tenders, classified advertisements in the news weekly of the petitioner, as is being given to other news agencies or dailies etc.

(IV) That the respondents may be issued a direction thereby directing them not to cancel the accreditation of the petitioner.”

2. It is averred that the petitioner is the Editor of the Hindi Weekly namely ‘Him Ujala’ circulated in Himachal Pradesh, Delhi, Uttarakhand, Uttar Pradesh and Haryana having around 6,000/- copies circulation per week. The petitioner is working in the field of journalism for the past more than 13 years and has served the interest of the general public by bringing out the true and correct news items. The petitioner news weekly has been given award in the field of journalism by the Government of Himachal Pradesh i.e. ‘*Laghu Patrikarita ke Kshetra me Nirantar Parkashan Hetu*’, yet the accreditation of the petitioner has been cancelled only on the ground that there are certain FIRs pending against him.

3. It is further averred that the impugned action on the part of the respondent-State in stopping publication of the tenders and classified ads of the government and further not renewing the accreditation of the petitioner, is a direct attack on the freedom of press, inasmuch as, on one hand, the petitioner's news weekly is being financially crippled as the publication of the government tenders, notices and classified ads is a major source of income of the petitioner so as to enable him to run the news weekly and on the other hand the respondents by not renewing the accreditation, is depriving the petitioner the facilities which are usually available to the correspondents and journalists of the State. It is further averred that the freedom of press is one of the pillars of democracy and it is imperative to ensure that there is no attack on the freedom of press and, therefore, also the action of the respondents-State is illegal.

4. Lastly, it is averred that the petitioner has been targeted because he had been publishing news items regarding corruption and irregularities committed by the political leaders, who had amassed huge wealth.

5. The respondents have filed their reply wherein it is averred that the petitioner's accreditation and suspension

was placed before the Press Accreditation Committee, which is the final authority as per Rule 4 of H.P. Press Correspondents Accreditation and Recognition Rules, 2002 (for short 'the Rules') held on 15.07.2014, who after scrutiny of the record decided to keep under suspension the accreditation of the petitioner till the final outcome of the criminal cases pending against him in various Courts.

6. It is further averred that the petitioner was given District Level Accreditation by the respondent-department for 'Him Ujala Weekly' which was valid upto 31.12.2012. The Director, Information and Public Relations (respondent No.2) received a complaint dated 06.03.2013 from one Rajinder Thakur, resident of Room No. 10, Ward No.11, Dashmesh Complex, Paonta Sahib, District Sirmaur wherein it was stated that FIR had been registered against the petitioner.

7. The factual position was accordingly ascertained from the Superintendent of Police, District Sirmaur, through District Public Relations Officer and it was confirmed that the above criminal case by way of FIR No. 397/2012 dated 14.10.2012 was registered against the petitioner under Sections 451, 323, 504/34 IPC and Section 30 of the Indian Arms Act.

8. On receipt of the complaint, the matter was examined and respondent No.2 in view of the allegation of grave misconduct on the part of the petitioner, suspended his accreditation under Rule 14 of the Rules and the same were not renewed.

9. It is further averred that the respondents had also received complaint inter alia alleging that the petitioner has submitted a fake certificate Annexure R-2/4 that he is a temporary resident of House No.11, Dashmesh Complex, Bye Pass, Paonta Sahib District Sirmaur, H.P. for the last 15 years, whereas, this building did not exist then and was constructed in the year 2000 as per report dated 02.02.2013 issued by the Councillor, Nagar Palika, Paonta Sahib. The complainant had also endorsed a letter dated 13.02.2013 issued by the PIO-cum-Tehsildar, Paonta Sahib that no certificate had been issued by his office certifying that the petitioner is a temporary resident of the aforesaid address.

10. In another complaint dated 10.04.2014, it was reported that FIR had been registered against the petitioner regarding producing a fake certificate. In respect of this complaint, the following information was sought from the

office of the Deputy Commissioner, Sirmaur vide letter dated 06.05.2014:

- 1) *Whether Sh. Vijay Gupta, Editor, Him Ujala, Weekly newspaper, Paonta Sahib, District Sirmaur, is a permanent resident of Himachal Pradesh.*
- 2) *Whether the certificate stated to be issued by the Executive Magistrate, Paonta Sahib, District Sirmaur on dated 19.02.2008 is fake as alleged by the complainant.*

The Deputy Commissioner, Sirmaur vide his letter No. Reader-ADC/2014 dated 02.07.2014 informed as under:

1. *Sh. Vijay Gupta S/o Sh. Sanjeet Kumar, R/o Room No. 14, Ward No.11, Dashmesh Complex, Paonta Sahib is not a permanent resident of Himachal Pradesh, but he has been living at Paonta Sahib for the last few years.*
2. *The Tehsildar Paonta Sahib has not issued certificate on 19.02.2008 in favour of Sh. Vijay Gupta as per his office record.*

The Deputy Commissioner had further informed that the Station House Officer, Paonta Sahib has reported that FIR No. 84/2014 dated 01.03.2014 has been lodged against the petitioner under Sections 420, 465, 468 and 471 IPC on the complaint of Sh. Rajinder Thakur.

11. It was also reported that the matter pertain to various allegations, including the allegation of fake

certificate levelled by Sh. Rajinder Thakur against the petitioner and the same are under investigation by the police and at this stage it cannot be ascertained as to whether the certificate is fake or genuine.

12. Lastly, it is averred that accreditation or recognition is not a matter of right and the same can always be suspended under the relevant Rules.

13. Even though the petitioner has filed rejoinder, however, the factual matrix as set-out in the reply, have not been controverted and only the provisions of the Rules have been reproduced.

14. I have heard learned counsel for the parties and have gone through the material available on record.

15. Mr. Ashok Kumar Thakur, learned counsel for the petitioner has vehemently argued that the action of the respondents is arbitrary, illegal as the petitioner has been deprived of the bread and butter without following the process of law, more particularly, the provisions of Rule 14 (1) of the Rules, which read as under:-

“14. Disaccreditation or Derecognition of Correspondent:

(1) A correspondent shall be liable to be discredited/derecognized if:

- (a) He commits any offence under the Press and Registrations Act, or
- (b) He uses information received and facilitates accorded to him for a non-journalistic or illegal purposes or
- (c) In the course of his duties as correspondent, he behaves in an undignified or unprofessional manner or commits an offence involving moral turpitude or
- (d) He engages himself in work other than journalistic such as soliciting business or advertisements for a newspaper or news agency, or
- (e) he is convicted by a court of law for defamation or any other criminal offence arising out of his writings/coverage.

(2) The power to disaccreditate or derecognize correspondent will vest in the Press Accreditation Committee which shall not exercise this power except after giving to the correspondent concerned a show cause notice and also an opportunity of being heard.

Provided that the order of Director shall be competent in the case of an emergency and a grave misconduct on the part of a correspondent to suspend his accreditation or recognition pending the completion of proceedings before the Press Accreditation Committee.

Provided that the order of dis accreditation or derecognition shall contain reasons therefore.

(3) A correspondent aggrieved by an order passed by the Press Accreditation Committee under this rule may prefer a review petition before the Accreditation Committee within 15 days of the passing of the order or after communication of the order to him/her, if it is passed in his/her absence."

16. To say the least, the submissions made by Mr. Ashok Kumar Thakur, learned counsel for the petitioner is totally fallacious and reliance placed on Rule 14 (1) is totally misplaced as the same relates to a correspondent, who is liable to be disaccredited/derecognized. Whereas, in the instant case, the accreditation of the petitioner has simply been suspended till the final outcome of the criminal case in exercise of sub rule (2) of 14, which reads as under:

"(2) The power to disaccreditate or derecognize correspondent will vest in the Press Accreditation Committee which shall not exercise this power except after giving to the correspondent concerned a show cause notice and also an opportunity of being heard.

Provided that the order of Director shall be competent in the case of an emergency and a grave misconduct on the part of a correspondent to suspend his accreditation or recognition pending the completion of

proceedings before the Press Accreditation Committee.

Provided that the order of dis accreditation or derecognition shall contain reasons therefore."

17. In this view of the matter, obviously no fault can be attributed to the action of the respondents.

18. The media has often been called the handmaiden of justice, the watchdog of society and the judiciary, the dispenser of justice and the catalyst for social reforms. Hence, it is the utmost responsibility of all the media houses, news channels, journalists and press to ensure that their conduct is above-board and they discharge their duties in a responsible manner.

19. A Full Bench of the Delhi High Court in ***Surya Prakash Khatri vs. Smt. Madhu Trehan, 1992 (2001) DLT 665***, observed that the power of the Press is almost like nuclear power – it can create and it can destroy. Keeping this in mind, it is imperative that the owner/editor of a newspaper like the petitioner shoulder greater responsibility and in case his own conduct is under scanner, then obviously, his accreditation has to be suspended.

20. The Press in India, more particularly, in Himachal Pradesh, has played pivotal role at various challenging and testing times. Investigative journalism undertaken by it has unearthed important instances, which otherwise would have gone unnoticed.

21. However, as is common with any other institution, certain disturbing tendencies have crept into this institution also. There cannot be any doubt that such a glorious institution would have the resilience to overcome the shortcomings, before the latter exhibit and unfold their malignancy. Therefore, it is imperative that people with absolute integrity and dedication for the cause hold reins of the chariot of journalism and in case their own conduct is under scanner, then the same reins are to be withdrawn till so long the journalist is not cleared of all the charges. Disorderly conduct by a journalist besides causing irreparable damage to the institution will also cause huge irreparable loss to the journalism.

22. As observed above, like the other institutions, even the institution of journalism is crumbling. The primary function of the press to provide comprehensive and objective information of all aspects of the country's political,

social, economic and cultural life. It has an educative and mobilizing role to play. It plays an important role in moulding public opinion and can be an instrument of social change. But because of mushroom growth of journalist and because of the cut-throat competition amongst the journalists themselves, their standards are declining leading to the decline of the institution of journalism itself. This is further compounded by the accreditation offered by the State Government to so called "journalists", who in the real sense are not journalists but only enjoy the facilities accorded and available to accredited journalists.

23. It is, therefore, high time that the respondents review and revise the list of accreditation so as to ensure that only genuine and credible correspondents etc. are accorded accreditation.

24. The Rules of accreditation have though been framed, but the same are not being scrupulously followed like:

- i). Even though norms have been laid down for granting Accreditation to journalists based on the circulation of the particular publication/newspaper in Himachal Pradesh. There are instances where state level accreditation has

been granted to Correspondents of newspapers whose publication is negligible in Himachal and in some cases are not even sold in Himachal. Yet in some cases where circulation has been given to reporters of newspapers which hardly have any circulation in H.P., even though they have a sizeable presence elsewhere in the Country. It has to be ensured that accreditation is granted at the state level based on the publication's circulation in Himachal Pradesh and not merely on the basis of the appointment letter of the Editor of the concerned paper.

ii) Even though the instant Rules 2002 stood substituted yet the Rules as applicable today do not contain a time frame to consider a journalist's request for accreditation or renewal.

This cannot be left to the whims and fancy and caprices of the Government. Therefore, the Rules need to be suitably amended by clearly setting out therein the time frame which the accreditation has been granted or refused and provisions have to be made for citing of the reasons in case of the rejection of the request for accreditation.

iii) Even though the Rules do contemplate that only one Journalists from one publication/newspaper would have given accreditation (state or district level) yet it is noticed that more than one person of one

organisation has been given accreditation and the Rules are openly flouted. This practice deprives many deserving Journalists to get accreditation.

iv) Even though there is a clear bar for retaining official accommodation in case of Journalists alike Government servants having their own house/flats in Shimla. However, it is noticed that many of the Journalists, who have own houses/flats and some have constructed the flats over the subsidised land in the Journalists Housing Society near "Asia The Dawn" near Sankat Mochan temple are still retaining the Government accommodation and such tendency needs to be curbed forthwith and such possession is required to be handed over to the Government immediately.

25. In the given facts and circumstances of the case while dismissing this petition, this Court deems it imperative to pass the following directions:

(i) Respondent No.1 is directed to review and revise the accreditation granted to different categories strictly in accordance with the Rules of 2016 as amended from time to time and

thereafter grant fresh accreditation strictly in accordance with these rules.

(ii) Amendment be carried out in Rules 2016 making a time bound provision for granting/ refusing accreditation and in case of rejection a provision be made making it mandatory for recording reasons for such rejection. It must be ensured that only one journalist from one publication/newspaper be granted accreditation (State or District level) in accordance with the rules.

26. The instant petition is disposed of on the aforesaid terms, so also the pending application(s), if any.

27. Needful be done within three months.

List for compliance on **09.07.2021.**

9th April, 2021.
(GR)

(Tarlok Singh Chauhan),
Judge