



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

Application no. 3418/09

Valeriya Borisovna MOISEYEVA and Tatyana Fedorovna NOVIKOVA
against Russia
lodged on 30 November 2008

STATEMENT OF FACTS

The applicants, Ms Valeriya Moiseyeva and Ms Tatyana Novikova, are Russian nationals, who were born in 1959 and 1946 respectively and live in Kraskovo in Moscow Region.

A. The circumstances of the case

The facts of the case, as submitted by the applicants, may be summarised as follows.

1. The articles

At the material time the applicants, environmental activists, resided in the settlement of Kraskovo, Lyubertsy District, Moscow Region.

On 26 December 2007 the local newspaper – “Lyubertsy News” – published two articles, co-signed, inter alia, by the applicants. One of them, “Who is muddying the water?” criticised the leadership of the local administration for violating the environmental regulations. In particular, the text contained the following:

“... from the practical point of view of a former communist and today’s head of the administration Mr S.B. what is the use of the pond? It is just a waste of such nice premises. One could build parking lots and new skyscrapers here ...

It’s burning issue, the topic of the ecology ... for the last ten years we almost entirely lost our recreational zone. The trees are being unlawfully chopped to make space for high-rise buildings. For example, having disregarded the listed limitations for deforestation, all of the trees from the central tree alley were rooted out, all sixty five of them! In Lorkha Street, next to building no.15, one hundred fifty trees were unlawfully chopped and next to no. 8 more than a hundred trees [as well]. And could one ever forget the deforestation of the Bolshaya Polyana?

It is Mr B. [the head of town administration], the one, who in spite of his electoral promises, now gives backdated permissions to chop the trees. But, when he was a candidate, he solemnly promised to keep our parks and groves. Ecologists and members of public do not allow [the leadership of the administration] to live without problems and to destroy the nature, since the latter do not care about it [being born in other towns of Russia] ... Here [in this town] those people simply receive their wages and other profits ...”

2. The defamation proceedings against the applicants

On an unspecified date in 2008 the head of the Kraskovo town administration Mr S.B. and two of his deputies brought proceedings against the applicants stating that the information in the impugned article of 26 December 2007 was defamatory and that it damaged their honour and reputation. The claimants requested that the newspaper refute the information on the first page, paid 300,000 rubles (about EUR 11, 000) to each of them and that the applicants paid to each of them 10 rubles (less than one euro) and the legal fees.

On 27 March 2008 the Lyubertsy Town Court of Moscow Region (the District Court) found for the claimants, stating, inter alia, that the above parts of the impugned article had represented statements of facts and the applicants “...failed to furnish the court with the proves of the veracity of the statements made in the article”. The court ordered that the applicants paid the damages and the legal fees as requested by the claimants, and that the newspaper published the retraction and paid each of them 5,000 rubles.

The applicants appealed against the decision to the Moscow Regional Court (the Regional Court) stating, amongst other things, that the District Court had failed to examine the evidence provided by them to substantiate the information given in the impugned article: a letter of the environmental prosecutor’s office, a letter of the State Forestry Agency and a letter of the State Federal Service of the Supervision of Nature Management.

On 17 June 2008 the Regional Court rejected the appeal. It did not examine the applicant’s allegations concerning the failure of the first instance court to examine the evidence.

3 Documents furnished by the applicants

In support of their application the applicants enclosed several documents, which they had submitted to the domestic courts, including the letter of the Inter-district environmental prosecutor’s office in Moscow Region dated 1 March 2007. According to the letter:

“... as a result of the inquiry it was established that the administration of the Kraskovo settlement ... had issued a decision [to clean the pond and build a recreational zone around it] ... during the execution of this decision, in the absence of the relevant permissions, the pond’s water had been drained and then the works had been stopped ...

As the result of the inquiry conducted by the Inter-district environmental prosecutor, the deputy head of the Kraskovo administration was officially warned that it was prohibited to clean the pond due to the absence of the necessary authorisations, such as the permission for the land excavation and the permission to chop the trees in the absence of the relevant project ...”

The applicants also enclosed the letter of the State Federal Service of the Supervision of Nature Management dated 1 November 2005, the relevant part of which included the following:

“... in August 2005 the State Federal Service has already conducted an inquiry into the compliance of the construction of the block of flats [in Kraskovo] with the relevant regulations. As a result, it was established that the state ecological expertise had not given its permission for the construction ... [as a result] ... the administrative fine was imposed [on the construction company]. Then the company obtained deforestation permission ... issued by the head of Kraskovo on 29 September 2005.

As a result of [another] inquiry in Kraskovo [into the construction of high-rise block of flats] ... it was established that the state ecological expertise had not given its permission for the construction ... [as a result] ... the administrative fine was imposed [on the construction company]. Then the company obtained deforestation permission ... issued by the head of Kraskovo on 5 August 2005...”

COMPLAINTS

The applicants complain under Article 10 of the Convention that the judgement of the Lyubertsy Town Court of 27 March 2008, which was upheld on appeal by the Moscow Regional Court, violated their freedom of expression.

QUESTION TO THE PARTIES

Having regard, in particular, to the domestic court’s refusal to examine the original documents that could have demonstrated the factual basis for the applicants’ statements has there been a violation of the applicant’s right to impart information and ideas enshrined in Article 10 of the Convention?