

Court No. - 3

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 622 of 2024

Petitioner :- Amitabh Thakur

Respondent :- Union Of India Thru. Secy. Ministry Of Home Affairs , India Govt. New Delhi

Counsel for Petitioner :- Deepak Kumar,Nutan Thakur

Counsel for Respondent :- A.S.G.I.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Shree Prakash Singh,J.

Heard learned counsel for the petitioner, Ms. Nutan Thakur and the learned DSG, Sri Surya Bhan Pandey, assisted by Sri Varun Pandey, learned counsel for the respondent.

This petition has been filed by the petitioner with the following reliefs:-

"a. kindly issue a Writ in the nature of Certiorari or any other appropriate writ, order or direction thereby quashing the Gazette Notification No CG-DL-E-13072024-255386 dated 13/07/2024 (Annexure No 1) read with Gazette Notification No CG-DL-E-12072024-255362 dated 11/07/2024 (Annexure No 2), issued by the Ministry of Home Affairs as regards the so-called Samvidhan Hatya Diwas to be commemorated each year by the Government of India on 25th June.

b. kindly issue a Writ in the nature of mandamus or any other appropriate writ, order or direction, issuing appropriate directions to the Respondent to keep the above-mentioned issued raised in this Petition in mind, while reformulating and re-issuing any such Gazette Notification as regards commemorating the proclamation of emergency on 25.06.1975"

A preliminary objection has been raised by the learned counsel appearing for the respondent that the petitioner has not disclosed complete credentials to this Court. The petitioner has mentioned that the petitioner is a social and political activist. He is B.Tech in Mechanical Engineering from IIT Kanpur and has a degree of management in Human Resource Management from IIM Lucknow and he was working as IPS Officer in UP Cadre and is presently the National President of Azad Adhikar Sena, a registered political party and he is author of many book in Hindi and English. However, he has not disclosed this Court that he is an accused for instigating a rape victim for suicide outside the Supreme Court premises.

Learned counsel for the respondent has placed reliance upon the

judgement in the case of **State Of Uttaranchal vs Balwant Singh Chaufal & Ors**, reported in **2010 3 SCC 402**, where certain guidelines have been laid down by the Supreme Court regarding entertaining of public interest litigation which is more in the nature of private interest litigation or a publicity interest litigation. The counsel has also placed before this Court a coordinate Bench judgement of this Court in **PIL Civil No. 11520 of 2021, Gurmeet Singh Soni (Advocate) Vs. State of U.P. and others**, where after considering all binding precedents of the Supreme Court, the writ petition was dismissed on the locus of the petitioner and his credentials having not been fully and completely stated before this Court.

It has been submitted by the learned counsel appearing on behalf of the petitioner that although Rule 3A has been added in Chapter 22 of the Allahabad High Court Rules, 1952, there is no requirement of stating on affidavit regarding a petitioner being an accused in a criminal case. It has also been pointed out that in paragraph 3 of the writ petition, the petitioner has stated clearly that he has been pursuing social causes for long particularly for transparency and accountability in governance "which has led to many penalization, including compulsory retirement from service, criminal cases and even jail."

This writ petition has been filed mainly for the purpose of bringing to the notice of the Court hugely improper, unintended and adverse messages to the people at large regarding Constitution of India 'Bharat Ka Samvidhan' as use of words 'Samvidhan Hatya Diwas' in the impugned notification for commemorating 25th June as the day of proclamation of Emergency. It has been submitted by the learned counsel for the petitioner that the petitioner has no hidden personal interest in raising such a matter of using such inappropriate language.

It is the case of the petitioner that the ordinary people of India are not very literate and they do not understand the import of the notification issued on 11 July 2024 as modified by the notification dated 13 July 2024. Instead of using the words, Smvidhan Hatya Diwas, the respondent could have used more appropriate language and should have thought of a positive terminology, for example they could have used the words "Samvidhan Raksha Diwas" as the intent of the Gazette Notification challenged in this writ petition is only to remind the people of India the excesses that were committed by the Government of the day by proclamation of Emergency on 25.06.1975. No doubt, the proclamation of Emergency resulted in misuse of power by the Government of the day and the people of India were subjected to excessive atrocities and the guarantees given in the Constitution of India to the people were

violated and ignored.

It has been submitted further that the use of the words Samvidhan Hatya Diwas is a reiteration of the violence that was done to the people rights during the proclamation of Emergency but it could not be said that the Constitution itself was killed and in case, the Government feels that the Constitution was 'killed', it would not have been possible for a revival of the Democracy when the people of India threw out the Government of the day, in General Elections held thereafter.

This Court having heard the counsel for the petitioner at some length is of the considered opinion that it is the lookout of the Government for declaration to be made with regard to the excesses caused by the proclamation of Emergency on 25.06.1975. The Court cannot enter into the political thicket and cannot question the political wisdom of the Government in issuing such a notification, as has been challenged in this writ petition.

The writ petition stands **disposed off**.

Order Date :- 25.7.2024

Anurag

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(Shree Prakash Singh,J.) (Mrs. Sangeeta Chandra,J.)