

ITEM NO.7

COURT NO.3

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 855/2016

SHYAM NARAYAN CHOUKSEY

Petitioner(s)

VERSUS

UNION OF INDIA
(With office report)

Respondent(s)

Date : 30/11/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. Abhinav Shrivastav, Adv.
Mr. Rituvendra Singh, Adv.
Mr. Harmeet Singh Ruprah, Adv.

For Respondent(s) Mr. Mukul Rohtagi, AG
Mr. Ashok Kumar Panda, Sr. Adv.
Mr. Avijit Prasad, Adv.
Ms. Movita, Adv.
Mr. B.K. Prasad, Adv.

UPON hearing the counsel the Court made the following
O R D E R

We have heard Mr. Abhinav Srivastav, learned counsel for the petitioner and Mr. Mukul Rohatgi, learned Attorney General for India along with Mr. A.K. Panda, learned senior counsel for the Union of India.

This Court on 28.10.2016 while entertaining the Writ Petition under Article 32 of the Constitution of India had noted the submissions advanced by the learned counsel for the petitioner, made reference to the enactment, namely, Prevention of Insults to National Honour Act, 1971. It had also taken note

of the averments in the petition.

It has been averred in the petition that sometimes National Anthem is sung in various circumstances which are not permissible and can never be countenanced in law. The emphasis is on showing requisite and necessary respect when the National Anthem is sung or played. The assertion is that it is the duty of every person to show respect when the National Anthem is played or recited or sung.

Having heard the learned counsel for the parties and awaiting the reply from the Union of India, as an interim measure, it is directed that the following directions shall be scrupulously followed:-

(a) There shall be no commercial exploitation to give financial advantage or any kind of benefit. To elaborate, the National Anthem should not be utilized by which the person involved with it either directly or indirectly shall have any commercial benefit or any other benefit.

(b) There shall not be dramatization of the National Anthem and it should not be included as a part of any variety show. It is because when the National Anthem is sung or played it is imperative on the part of every one present to show due respect and honour. To think of a dramatized exhibition of the National Anthem is absolutely inconceivable.

(c) National Anthem or a part of it shall not be printed on any object and also never be displayed in such a manner at such places which

may be disgraceful to its status and tantamount to disrespect. It is because when the National Anthem is sung, the concept of protocol associated with it has its inherent roots in National identity, National integrity and Constitutional Patriotism.

(d) All the cinema halls in India shall play the National Anthem before the feature film starts and all present in the hall are obliged to stand up to show respect to the National Anthem.

(e) Prior to the National Anthem is played or sung in the cinema hall on the screen, the entry and exit doors shall remain closed so that no one can create any kind of disturbance which will amount to disrespect to the National Anthem. After the National Anthem is played or sung, the doors can be opened.

(f) When the National Anthem shall be played in the Cinema Halls, it shall be with the National Flag on the screen.

(g) The abridge version of the National Anthem made by any one for whatever reason shall not be played or displayed.

We have so directed as Mr. Mukul Rohtagi, learned Attorney General for India submits with all humility at his command and recommend that National Anthem has to be respected. The directions are issued, for love and respect for the motherland is reflected when one shows respect to the National

Anthem as well as to the National Flag. That apart, it would instill the feeling within one, a sense committed patriotism and nationalism.

In this regard, we may refer to clause (a) of Article 51(A), Fundamental Duties occurring in Part IVA of the Constitution. It reads as follows:

"51A. Fundamental duties - It shall be the duty of every citizen of India -
(a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem".

From the aforesaid, it is clear as crystal that it is the sacred obligation of every citizen to abide by the ideals engrafted in the Constitution. And one such ideal is to show respect for the National Anthem and the National Flag. Be it stated, a time has come, the citizens of the country must realize that they live in a nation and are duty bound to show respect to National Anthem which is the symbol of the Constitutional Patriotism and inherent national quality. It does not allow any different notion or the perception of individual rights, that have individually thought of have no space. The idea is constitutionally impermissible.

Mr. Rohatgi has submitted that the Union of India shall circulate this order to the Chief Secretaries of all the States and Union Territories. That apart, Mr. Rohatgi submits that the order shall be shown in the electronic Media and

published in the print media so that every one knows that such an order has been passed and follow the same in letter and spirit.

This order shall be given effect to within a period of 10 days.

Let the matter be listed on 14th February, 2017 for further hearing.

(Madhu Bala)
Court Master

(H.S. Parashar)
Court Master