

ITEM NO.12

COURT NO.2

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

Respondent(s)

(with appln. (s) for exemption from filing O.T. and impleadment and impleadment as party respondent and intervention and recalling the court's order and office report)

Date : 14/02/2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MRS. JUSTICE R. BANUMATHI

Mr. Siddharth Luthra, Sr. Adv. (AC)
Ms. Tara Narula, Adv.
Ms. Gargi Khanna, Adv.
Mr. Siddharth Mehta, Adv.

For Petitioner(s) Mr. Abhinav Shrivastava, AOR
Mr. Shantanu Krishna, Adv.
Mr. Harmeet Singh Ruprah, Adv.
Mr. Rituwendra Singh, Adv.
Mr. Himanshu Tyagi, Adv.

For Respondent(s) Applicant-in-person,
Mr. A. Subba Rao, AOR
Mr. Mukul Rohtagi, AG
Mr. A.K. Panda, Sr. Adv.
Mr. R.K. Rathore, Adv.
Mr. Arijit Prasad, Adv.
Mr. B. Krishna Prasad, Adv.
Mr. C.U. Singh, Sr. Adv.
Mr. P. V. Dinesh, AOR
Ms. Sindhu T.P., Adv.

Ms. Arushi Singh, Adv.
Mr. Bineesh K., Adv.
Mr. Rajendra Beniwal, Adv.

Mr. Nanita Sharma, AOR
Mr. Vivek Sharma, Adv.

Mr. Subhash Chandran, Adv.

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

I.A. No.9/2017 in WP (C) No.855/2016

This is application for intervention on behalf of the Conference for Human Rights (India) Regd. The application for intervention stands allowed.

I.A. No.3/2016 in WP (C) No.855/2016

This is an application preferred by Kodungallur Film Society through its president and another, namely, Anoop Kumaran. Regard being had to the averments made in the application, we are of the considered opinion that the prayer for impleadment should be allowed and accordingly, it stands allowed.

I.A. No.10 of 2017 in WP (C) No.855/2016

This is an application for amendment of the grounds in I.A. Nos.5-6/2016. Having heard learned counsel for the parties, prayer stands allowed. I.A. No.10 stands disposed of.

I.A. Nos.11-12/2017 in WP (C) No.855/2016

It is submitted by Mr. C.U. Singh, learned senior counsel appearing for the applicants that after amendment of I.A. Nos.5-6/2016, these are the applications for recall of the order dated 30.11.2016. Be it noted, I.A. Nos.5-6/16 have been amended vide I.A. No.10/2017 and thereafter the present interlocutory applications have been registered.

In view of the aforesaid, these applications are taken on record.

Writ Petition No.855/2016

Heard Mr. C.U. Singh, learned senior counsel for the applicants, Mr. Mukul Rohatgi, learned Attorney General and Mr. Siddharth Luthra, learned senior counsel, who had offered his assistance to assist the Court.

In course of hearing the interlocutory applications, learned counsel for the parties agreed that the matter should be set out for final disposal.

Let the counter affidavit be filed within four weeks hence. Rejoinder affidavit, if any, be filed within four weeks therefrom.

At this juncture, we may point out that Mr. C.U. Singh, learned senior counsel appearing for the applicants in IA Nos.11 & 12/2017 (Kodungallur Film Society and Sri Anoop Kumaran) submitted that this Court may modify one of the directions, namely, direction (g) and clarify the same. Direction (g) reads as under :

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

Mr. Mukul Rohatgi, learned Attorney General for India submitted that the said direction need not be modified as it relates to Government functions only.

Mr. C.U. Singh, learned senior counsel appearing for the applicants further submitted that apart from the debate that is going to take place on the merits of the case, one aspect this Court may clarify that if the National Anthem is played during a newsreel or documentary or feature film, the audience may not be compelled to stand. Mr. Mukul Rohatgi, learned Attorney General for India, in his turn, submitted that order dated 30.11.2016

passed by this Court does not cover such a situation. According to him, there is no necessity to pass any kind of clarificatory order.

Mr. Siddharth Lutha, learned *amicus curiae*, submitted that it may be clarified that the people are not expected to stand when the National Anthem is sung or played as a part of the storyline in the feature film or as a part of the newsreel or the documentary. Mr. Rohatgi, learned Attorney General accepted the said suggestion.

In view of the aforesaid, it is clarified that when the National Anthem is sung or played in the storyline of a feature film or par of the newsreel or documentary, apart from what has been stated in the order dated 30.11.2016, the audience need not stand.

At this juncture, we may state that the Parliament has brought a new legislation called 'The Rights of Persons with Disabilities Act, 2016. Section 102 repeals 'The Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act, 1995. This Court on 9.12.2016 has modified the earlier order regard being had to the handicapped persons keeping in view the 1995 Act. On a query being made, Mr. Mukul Rohatgi, learned Attorney General for India submitted that the Union of India shall issue an appropriate notification/guidelines in view of the language employed in the Rights of Persons with Disabilities Act, 2016. The said notification/guidelines may be issued within a week hence.

Mr. Subhash Chandran, learned counsel submits that he may be permitted to file an application for intervention on behalf of the National Platform for the Rights of the Disabled. He is at liberty to file the application.

Dr. Rajeev Dhawan, learned senior counsel submitted that he may be permitted to intervene and assist the Court. He may file the requisite application through an advocate-on-record.

Registry is directed to hand over a copy of all the interlocutory applications to Mr. Siddharth Luthra, learned *Amicus Curiae*.

Let the matter be listed on 18.4.2017.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master