

ITEM NO.4

COURT NO.1

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 10801/2021

(Arising out of impugned final judgment and order dated 18-01-2021 in PIL St No. 1774/2020 18-01-2021 in PIL St No. 92252/2020 passed by the High Court Of Judicature At Bombay)

NEWS BROADCASTERS ASSOCIATION

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 115170/2023 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS IA No. 115171/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 14-08-2023 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Arvind Datar, Sr. Adv.
Ms. Nisha Bhambhani, Adv.
Mr. Rajat Arora, AOR
Mr. Rahul Unnikrishnan, Adv.
Ms. Mariya Shahab, Adv.

For Respondent(s) Mr. Pai Amit, AOR
Mr. Rajesh Inamdar, Adv.
Mr. Rahat Bansal, Adv.
Mr. Sashwat Anand, Adv.
Ms. Pankhuri Bhardwaj, Adv.
Ms. Vanshika Dubey, Adv.
Mr. Revant Solanki, Adv.

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

1 Delay condoned.

2 Mr Arvind Datar, senior counsel submits that :

- (i) The High Court of Judicature at Bombay has, in the course of its observations in the impugned judgment, held that the regulatory mechanism which has been designed in pursuance of the judgment of this Court in ***Destruction of Public and Private Properties vs State of Andhra Pradesh & Ors***¹ lacks legal sanctity;
- (ii) This is not reflective of the correct position in law since both the Up-linking Guidelines and Down-linking Guidelines formulated by the Union Government recognise the self regulatory mechanism;
- (iii) The self regulatory mechanism consists of a Committee which is chaired by a former Judge of the Supreme Court which has disposed of over four thousand complaints;
- (iv) While the self-regulatory mechanism does not partake the character of a statutory body, it would not be correct to assert that it has no sanctity in law; and
- (v) Complaints against those television channels which are not members of the petitioner go to the Inter-Ministerial Committee set up by the Union of India.

3 From the submissions during the course of the hearing, it appears that the maximum penalty which can be imposed for a violation by a channel is only Rupees one lakh. This amount was fixed in 2008. That apart, it has been

1 (2009) 5 SCC 212

submitted that the channels are required to publish an apology for violation of the Code of Ethics/Programme Code.

- 4 This Court may consider whether the steps which have already been taken towards constituting a regulatory mechanism need to be strengthened both in terms of the ambit of the jurisdiction as well as in terms of the final orders that may be passed.
- 5 In this context, Mr Arvind Datar submitted that he would seek guidance both from Mr Justice Arjan Kumar Sikri, former Judge of this Court who presently chairs the self regulatory mechanism so that concrete suggestions can be made for strengthening the self regulatory mechanism.
- 6 Issue notice.
- 7 Mr Tushar Mehta, Solicitor General of India assisted by Mr Amrish Kumar, Advocate-on-Record accepts notice on behalf of the Union of India, Mr Amit Pai, counsel who is on caveat on behalf of Respondent Nos 17 to 19 accepts notice.
- 8 Counter affidavit be filed within a period of three weeks.
- 9 List the Special Leave Petition on 18 September 2023.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR