

ITEM NO.45

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
RECORD OF PROCEEDINGS

Writ Petition (Civil) No. 943/2021

ASHWINI KUMAR UPADHYAY

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(MR. SANJAY HEGDE, SR. ADV. WITH MR. ANAS TANWAR, ADV.)

WITH

W.P.(C) No. 956/2020 (PIL-W)

(With IA No. 91135/2020 - APPROPRIATE ORDERS/DIRECTIONS and IA No. 93533/2020 - CLARIFICATION/DIRECTION and IA No. 96666/2020 - EARLY HEARING APPLICATION and IA No. 94614/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 91134/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 94600/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 94685/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 98416/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 90944/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 93535/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 94668/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 92913/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 91171/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 91136/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 105261/2020 - EXEMPTION FROM FILING AFFIDAVIT and IA No. 92885/2020 - INITIATING CONTEMPT PROCEEDINGS and IA No. 95066/2020 - INTERVENTION APPLICATION and IA No. 96664/2020 - INTERVENTION APPLICATION and IA No. 94643/2020 - INTERVENTION APPLICATION and IA No. 96369/2020 - INTERVENTION APPLICATION and IA No. 94633/2020 - INTERVENTION APPLICATION and IA No. 95678/2020 - INTERVENTION APPLICATION and IA No. 108087/2020 - INTERVENTION APPLICATION and IA No. 95675/2020 - INTERVENTION APPLICATION and IA No. 94683/2020 - INTERVENTION/IMPLEADMENT and IA No. 98414/2020 - INTERVENTION/IMPLEADMENT and IA No. 94667/2020 - INTERVENTION/IMPLEADMENT and IA No. 94621/2020 - INTERVENTION/IMPLEADMENT and IA No. 105260/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

W.P.(C) No. 788/2020 (PIL-W)

(With IA No. 50785/2020 - INTERVENTION/IMPLEADMENT and IA No. 48329/2020 - INTERVENTION/IMPLEADMENT and IA No. 72236/2020 - STAY APPLICATION)

W.P.(C) No. 789/2020 (PIL-W)

(With IA No. 50786/2020 - INTERVENTION/IMPLEADMENT and IA No.

WP (C) No. 943/2021 etc.

48338/2020 - INTERVENTION/IMPLEADMENT and IA No. 72228/2020 - STAY APPLICATION)

**W.P.(C) No. 477/2020 (PIL-W)
(With IA No. 48986/2020 - EX-PARTE STAY and IA No. 48987/2020 - EXEMPTION FROM FILING O.T. and IA No. 51005/2020 - INTERVENTION/IMPLEADMENT)**

**SLP(C) No. 6913/2021 (XII-A)
(FOR ADMISSION and I.R. and IA No.61254/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.61346/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.61255/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.61345/2021-INTERVENTION/IMPLEADMENT and IA No.61253/2021-PERMISSION TO APPEAR AND ARGUE IN PERSON)**

**W.P.(C) No. 907/2021 (PIL-W)
(FOR ADMISSION and IA No.100429/2021-EXEMPTION FROM FILING AFFIDAVIT)**

**W.P.(Cr1.) No. 391/2021 (X)
(FOR ADMISSION and IA No.118374/2021-EX-PARTE AD-INTERIM RELIEF and IA No.118376/2021-EXEMPTION FROM FILING O.T. and IA No.118377/2021-EXEMPTION FROM FILING AFFIDAVIT)**

**W.P.(C) No. 1265/2021 (X)
(FOR ADMISSION and IA No.150287/2021-EXEMPTION FROM FILING O.T.)**

**W.P.(C) No. 24/2022 (PIL-W)
(With IA No. 18251/2022 - APPLICATION FOR TAKING ON RECORD and IA No. 56876/2022 - APPROPRIATE ORDERS/DIRECTIONS and IA No. 64016/2022 - APPROPRIATE ORDERS/DIRECTIONS and IA No. 61197/2022 - APPROPRIATE ORDERS/DIRECTIONS and IA No. 5583/2022 - EXEMPTION FROM FILING O.T. and IA No. 59757/2022 - EXEMPTION FROM FILING O.T. and IA No. 7452/2022 - INTERVENTION APPLICATION and IA No. 5581/2022 - INTERVENTION APPLICATION and IA No. 9313/2022 - INTERVENTION APPLICATION and IA No. 56873/2022 - INTERVENTION/IMPLEADMENT and IA No. 18250/2022 - INTERVENTION/IMPLEADMENT and IA No. 12769/2022 - INTERVENTION/IMPLEADMENT and IA No. 11469/2022 - INTERVENTION/IMPLEADMENT and IA No. 64054/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No. 8935/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)**

**W.P.(C) No. 80/2022 (PIL-W)
(FOR ADMISSION and IA No.17397/2022-EXEMPTION FROM FILING O.T.)**

**W.P.(C) No. 940/2022 (PIL-W)
(FOR ADMISSION)**

Date : 13-01-2023 These matters were called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA**

For Petitioner(s)

Mr. V. Elanchezhiyan, AOR

Petitioner-in-person

**Mr. C. George Thomas, Adv.
Ms. Prachi Pandey, Adv.
Mr. Mrigank Prabhakar, AOR**

**Mr. Adeel Ahmed, AOR
Mr. Abdur Razzaque Bhuyan, Adv.
Mr. Raja Chatterjee, Adv.
Mr. Piyush Sachdev, Adv.
Mr. Aditya Pathak, Adv.
Ms. Aisha Siddiki, Adv.**

**Mr. Shyam Divan, Sr. Adv.
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**Mr. Huzaiifa Ahmadi, Sr. Adv.
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Mr. Gayatri Singh Dahiya, Adv.
Mr. Bilal Khan, Adv.**

Mr. Ashwani Kumar Dubey, AOR

For Respondent(s)

**Mr. Tushar Mehta, Solicitor General
Mr. K M Nataraj, A.S.G.
Mr. Kanu Agarwal, Adv.
Mr. Rajat Nair, Adv.**

Mr. Mayank Pandey, Adv.
Mr. Sanjay Kumar Tyagi, Adv.
Mr. Varun Chugh, Adv.
Mr. Amit Sharma, Adv.
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Mr. Adit Jayeshbhai Shah, Adv.
Ms. Priyanka Swami, Adv.

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Mr. Prang Newmai, Adv.

Ms. Geetha Duddupudi, Adv.
Mr. Upendra Pratap Singh, AOR

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Mr. Aman Naqvi, Adv.
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Mr. Shahrukh Ali, Adv.

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Mr. Varun Chug, Adv.
Mr. Amit Sharma, Adv.
Mr. Sushal Tiwari, Adv.
Ms. Sansriti Pathak, Adv.
Mr. Amrish Kumar, Adv.
Mr. Arvind Kumar Sharma, Adv.

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

I.A. No. 6913/2023 in W.P.(C) No. 940/2022
I.A. No. 176937/2022 in W.P. (C)No. 940/2022

The interlocutory applications for impleadment are allowed.

Issue notice.

Petitioner will serve the standing counsel also.

Additional Respondents shall ensure that immediately as and when any speech or any action takes place which attracts offences such as Sections 153A, 153B and 295A and 505 of the IPC etc., suo moto action will be taken to register cases even if no complaint is forthcoming and proceed against the offenders in accordance with law. Additional Respondents will therefore issue direction(s) to their subordinates so that appropriate action in law will be taken at the earliest.

We make it clear that any hesitation to act in accordance with this direction will be viewed as contempt of

this Court and appropriate action will be taken against the erring officers.

We further make it clear that such action will be taken irrespective of the religion that the maker of the speech or the person who commit such act belongs to, so that the secular character of Bharat as is envisaged by the Preamble, is preserved and protected.

W.P.(C) No. 80/2022

Respondent Nos. 1 and 2 will file status report indicating the progress made as it stands today.

This is to be done within a period of two weeks from today.

It is submitted by Shri Gopal Sankaranarayanan, learned senior counsel, that a chart has been prepared pursuant to order dated 21.07.2022 and that has been handed over to the learned Additional Solicitor General. He prays that the States may put in their response.

Copies of the chart so prepared shall be served on all the States in these cases.

The States will put in their response to the chart within a period of three weeks.

Shri K. M. Nataraj, learned Additional Solicitor General, would submit that Union of India is pondering over steps to be taken to deal with the problems which are the subject matter of the cases before this Court including legislation which may tackle the same.

I.A. No. 9313/2022 in W.P. (C)No. 24/2022 is permitted to be withdrawn with liberty to file fresh I.A. with reference to instances of some recent vintage.

States will also make their position clear as regards the broader issues which have been projected in these cases.

Mr. Sanjay Hegde, learned senior counsel, may prepare draft formulations/suggestions in regard to the issues which are at stake.

List the matters on 15th February, 2023.

W.P. (Cr1.) No. 391/2021

List the matter on 30th January, 2023. The State shall be ready with the case diary.

(NIDHI AHUJA)
AR-cum-PS

(RENU KAPOOR)
ASSISTANT REGISTRAR