

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(OS) No. 2215/2003

Date of Decision: July 23, 2010

NATIONAL INSURANCE COMPANY LTD. Plaintiff

Through: Mr. Rajinder Dhawan and
Ms.Shaffali Dhawan,
Advocates.

versus

**ALL INDIA GENERAL INSURANCE SC/ST EMPLOYEES
WELFARE PARISHAD Defendant**

Through: None.

%

CORAM:

HON'BLE MS. JUSTICE ARUNA SURESH

- | | | |
|-----|--|-----|
| (1) | Whether reporters of local paper may be allowed to see the judgment? | |
| (2) | To be referred to the reporter or not? | Yes |
| (3) | Whether the judgment should be reported in the Digest ? | Yes |

J U D G M E N T

ARUNA SURESH, J.

1. Plaintiff company has filed the present suit for permanent injunction seeking restraint order against the defendant for restraining it from holding demonstrations/gherao in the premises

of the plaintiff company within a radius of 100 meters of the building, from obstructing ingress/egress of men and material to its office and from damaging the property of the plaintiff company by resorting to violence for fulfillment of their demands.

2. Briefly stated, case of the plaintiff is that it is a Government company duly incorporated under the Companies Act having its registered office in Jeevan Bharti Building, Connaught Place, New Delhi. It is engaged in the business of under writing general insurance. Mr. R.K.Kaul, Assistant General Manager and In-Charge of DRO-1 and its principal officer is duly constituted attorney of the company. He is empowered to sign verify the plaint and file the present suit on behalf of the plaintiff company.

3. It is averred that defendant Parishad claims itself to be the society registered under the Societies Registration Act, having its registered office in Delhi and that some of the SC employees of the plaintiff company are its members. It is further averred that officials of the defendant Parishad had a meeting with officials of the plaintiff company on 23.12.03 at 4.45 pm in DRO-1, which was attended by Mr. R.K.Kaul, Mr. R.P Agarwala manager (personnel), Mrs. R

Bowgal, AO & ALO, on behalf of the plaintiff company. During the course of the meeting, defendant Parishad stated that portrait of Dr. B.R Ambedkar had been removed from the Board Room of DRO-1, whereas no such portrait was ever displayed in the Board Room.

4. Some of the other demands raised by defendant related to transfer of the officials which could not be accepted as the same were against the public policy of the plaintiff company. Hence, defendant Parishad held out a threat that they would resort to agitational programme w.e.f 1st January, 2004 and would hold dharna and resort to violence.

5. It is further averred that defendant has no right to hold any demonstration in the premises of the plaintiff company and the same would cause irreparable loss to the functioning and business of plaintiff, as there is only one entrance on the ground floor to tower II, level IV only one entrance to the plaintiffs company DRO-1 office. Also that defendant if aggrieved can resort to constitutional methods for resolving their demands. Hence, this suit.

6. As per the certified copy of the resolution passed in the meeting of the Board of Directors of plaintiff's company held on

16th May, 1989 (Ex. PW-1/3), power of attorney has been executed by the Chairman-cum-Managing Director in favour of Mr. R. Bowgal to institute the suit, sign the plaint etc.

7. Defendant was duly served by way of publication in 'Statesman' but, he did not care to appear and contest the suit. Hence, it was proceeded *ex parte* vide order dated 19th August, 2008.

8. Plaintiff has filed the affidavit of Mr.R.Bowgal, Ex.PW-1/A in evidence, wherein he has affirmed the averments contained in the plaint. He has proved in evidence copy of the resolution dated 18th May, 1989 Ex.PW-1/3 passed in the meeting of the Board of Directors of the company, whereby he was authorized to sign and verify the plaint and file the present suit on behalf of the company. From his statement, it is established that defendant Parishad held out a threat that they would resort to agitational programme w.e.f. 1st January, 2005 by holding *dharna* and resorting to violence because the company did not accept their demands and also disputed the existence of portrait of Dr.B.R.Ambedkar in DRO-1, in case their demands were not met. It is also proved that portrait of Dr.Ambedkar was never seen by him in DRO-1 since his posting i.e.1993. As per his affidavit, plaintiff did not accept other demands

being against the policy of the company. Statement of Mr.Bowgal by way of evidence has gone unrebutted on record. I find no reason to disbelieve the same.

9. Plaintiffs have the fundamental right to carry on their business activity without obstruction and hindrance by violent demonstrations. At the same time, defendant cannot be denied the freedom to ventilate its grievances. A balance has to be struck in the exercise of legitimate trade union activity and preventing any obstruction in the right to carry on business. Defendant ought not to be prevented from a peaceful mechanism to display group feelings towards a cause and for redressal of its grievances. Towards this end, it has a right to peacefully demonstrate and to have its presence felt. Such a presence may even act as a catalyst and is conducive in bringing the parties to the negotiating table, leading to a settlement of disputes.

10. Since there is a threat on behalf of the Parishad for holding an agitational demonstration by indulging into violence etc., it cannot be said that defendant Parishad wanted to adopt a peaceful and constitutional mechanism to display the displeasure of group feelings towards a lawful cause and for redressal of their grievances.

In case the defendant Parishad succeeds in its unlawful design plaintiff company would suffer irreparable loss and injury to its reputation, business and goodwill. Defendant's illegal action would also cause great inconvenience to its employees, workers, customers, visitors etc. Under these circumstances, balance of convenience heavily lies in favour of the plaintiff and against the defendant.

11. Hence, I conclude that plaintiff has succeeded in proving its case. Consequently, I hereby pass a decree for permanent injunction in favour of the plaintiff and against the defendant Parishad, its office bearers and members restraining them from holding demonstrations/gherao and/or going on dharna in the office building of the plaintiff company situated at 4th Floor, Tower-II, Jeevan Bharti Building, Connaught Place, New Delhi or any of its divisional offices/branches as per Schedule 'A' annexed to the plaint within a radius of 100 metres of the buildings in which the said offices of the plaintiff company are located. Defendant is further restrained from obstructing ingress/egress of men and material to the plaintiff company's office and from damaging the property of the plaintiff company and/or resorting to violence in any manner. There are no orders as to costs. Decree be prepared accordingly. Copy of

Schedule 'A' be annexed to the Decree Sheet. File be consigned to the record room.

**ARUNA SURESH
(JUDGE)**

**JULY 23, 2010
sb**