

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.06.2015

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.23011 of 2014

R.Kannan Govindarajulu
Ex-Serviceman/Gandhian
No.25, Sakthi Sree Nagar,
Kilmaruvathur Village,
Kancheepuram District 603319. Petitioner

Versus

- 1.Government of Tamil Nadu
represented by its Secretary
Public (General -1) Department,
Secretariat, Chennai 600 009.
- 2.The President,
Puratchi Bharatham Party,
54, National Highways, Poonamallee
Chennai 600056.
- 3.The Union of India,
represented by the Secretary,
Ministry of Consumer Affairs,
Food and Public Distribution,
Department of Consumer Affairs,
New Delhi.
4. The Central Election Commission of India,
represented by its Chief Election Commissioner,
New Delhi.

(R.3 and R.4 impleaded as per order dated 28.10.2014
by CJ & MSNJ in W.P.No.23011 of 2014)and amended
as per order dated 17.2.2015 in WP.23011/2014.

... Respondents

Petition filed under Article 226 of the Constitution of India
praying for the issue of a writ of mandamus, directing the 1st
respondent to ban Puratchi Bharatham Party Flag.

For Petitioner ::: Mr.R.Kannan (Party in Person)

For Respondents ::: Mr.S.T.S.Murthy
Government Pleader for R.1
Mr.S.Prabakaran
for Mr.N.Subramani for R.2
Mr.Su.Srinivasan
Assistant Solicitor General for R3

Mr.Niranjan Rajagopal for
M/s.G.R.Associates for R.4

O R D E R

(The Order of the Court was made by The Hon'ble The Chief Justice)

The petitioner through this Public Interest Litigation seeks to raise the issue of the second respondent using the National Emblem (Ashoka Chakra) as part of its Flag, thereby violating Section-3 of the Emblems and Names (Prevention of Improper Use) Act, 1950.

2. The stand of the second respondent is that there are enough distinguishing features and there is no violation of Section 3. On the other hand, the stand taken by the third respondent is that the Chakra used in the Flag of the second respondent is same/similar to the "Ashoka Chakra" and there is violation of Section-3 and it is not permissible to be used by the second respondent.

3. In view of the aforesaid stand of the third respondent, learned counsel for the second respondent states that he is still not giving up his rights to use the flag as modulated and it is open to the third respondent to take out appropriate proceedings in accordance with law for alleged violation of Section-3 as aforesaid, which will be defended by the second respondent.

4. This being the stand of the second respondent, learned Assistant Solicitor General for the third respondent states that the said respondent will proceed in accordance with law, more specifically the provisions of the aforesaid Act.

5. The statements having been taken on record, the writ petition accordingly stands disposed of. No costs.
ksr

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

Copy to:

1. The Secretary, Government Of Tamil Nadu,
Public (General -1) Department, Secretariat, Chennai 600 009.
 2. The President, Puratchi Bharatham Party,
54, National Highways, Poonamallee
Chennai 600056.
 3. The Secretary,
Union of India, Ministry of Consumer Affairs,
Food and Public Distribution,
Department of Consumer Affairs,
New Delhi.
 4. The Chief Election Commission of India,
New Delhi.
- + 1 cc to Govt.Pleader SR 26263
- + 1 cc to Mr.R.Govindarajuly, Advocate SR 26311
- + 1 cc to M/s.Su.Srinivasan, Advocate SR 26392
- + 1 cc to Mr.N.Subramani, Advocate SR 26501

sai(co)
prk12/6

W.P.No.23011 of 2014

सत्यमेव जयते

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