

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01..09..2017

CORAM

Hon`ble Mr Justice M. SATHYANARAYANAN
and
Hon`ble Mr Justice M.DHANDAPANI

Writ Petition No.23293 of 2017

N.Ranjith Kumar

..... Petitioner

-Versus-

- 1.Union of India,
Rep. By its Secretary,
Ministry of Home Affairs,
New Delhi-110 001.
- 2.The Chief Secretary to Government,
Fort St. George,
Secretariat,
Chennai 600 009.
- 3.Ministry of Home Department,
Secretary to Government,
Fort St. George,
Secretariat,
Chennai 600 009.
- 4.The Director General of Police,
Kamarajar Salai,
Kailasapuram,
Chennai 600 005.

..... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to take appropriate action and constitute a Committee to monitor the disrespect or insult of our National Flag in any manner pursuant to petitioner's representation dated 17.08.2017.

For Petitioner : Mr.K.Thenrajan
For Respondents : Mr.Christopher Kishore
Vincent, ACGSC for R1
M.K.Subramaniam,
Government Pleader for R2
to R4

ORDER

[Order of the court was made by M. SATHYANARAYANAN.J.,]

By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a practicing Advocate and by filing the present writ petition in the form of public interest litigation, he would contend that as per the news articles and photographs appended to the typed set of documents, the National Flag is hoisted at flag mast containing particular colour ** of some political parties. Normally, the National Flag shall be hoisted at poles painted with white colour. Since many such violations are taking place during Republic Day and Independence Day celebrations, the respondents shall form a monitoring committee for the purpose of finding out violations, if any, and thereafter, to take action against those persons who insult our National Flag in accordance with law.

3. Heard both sides and also perused the materials placed on record.

4. The learned counsel appearing for the petitioner has drawn the attention of this court to the provisions in The Prevention of Insults to National Honour Act, 1971 as well the Flag Code of India, 2002 and also the judgment rendered by the Hon'ble Supreme Court in Union of India v. Naveen Jindal and another reported in AIR 2004 SC 1559 : CDJ 2004 SC 273 and would submit that in the light of mandate cast upon the concerned authorities by the statute and also the law laid down by the Hon'ble Supreme Court, it is high time to constitute a monitoring committee to ensure the implementation of the above said Act and the Code. He would, therefore, pray for appropriate orders.

5. This court has considered the rival submissions made by the respective counsel appearing for the respondents.

6. It is relevant to state that Section 2 of The Prevention of Insults to National Honour Act, 1971, provides for penal consequences in the event of anybody insults Indian National Flag or the Constitution of India or any part thereof. The Hon'ble Supreme Court in Union of India v. Naveen Jindal's case [cited supra], has considered the issue whether the right to fly the National Flag with respect and dignity is a fundamental right of a citizen within the meaning of Article 19(1)(a) of The Constitution of India and it is relevant to extract paras 18 and 19 of the judgment as under:-

7. It is to be noted at this juncture that every Citizen of India is to respect and honour the Indian National Flag and, if anybody insults the National Flag, the consequences are provided under the Prevention of Insults to National Honour Act, 1971. If any complaint, in this regard, is made to the concerned official thereunder, the statute mandates to take appropriate action.

8. The petitioner prays for a direction for constitution of a monitoring committee to look into the issues relating to insultation of the National Flag. In the considered opinion of this court, forming such a committee is neither practicable nor feasible. Therefore, the writ petition deserves dismissal.

9. In the result, the writ petition is dismissed subject to the above observations. No costs.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Secretary, Ministry of Home Affairs,
New Delhi-110 001.

2.The Chief Secretary to Government,
Fort St. George, Secretariat,
Chennai 600 009.

3.The Secretary to Government, Home Department,
Fort St. George,
Secretariat,
Chennai 600 009.

4.The Director General of Police,
Kamarajar Salai, Kailasapuram,
Chennai 600 005.

+1 cc to M/s.Christopher Kishore High Court Madras
sr 63272

+1 cc to M/s.K.Thenrajan Advocate sr 63443

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