

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 43496 of 2018

ORDER :

This Writ Petition is filed seeking a *mandamus* declaring the action of the respondents in not permitting the petitioner from hoisting the National Flag at Multipurpose High School Ground, Karimnagar, as illegal, arbitrary and contrary to the law laid down by the Hon'ble Supreme Court in ***Union of India v. Naveen Jindal***¹.

Heard learned counsel for the petitioner as well as Sri K. Lakshman, learned Assistant Solicitor General and learned Government Pleaders for Revenue and General Administration.

The Supreme Court, in the aforesaid judgment, had held that

- (i) Right to fly the National Flag freely with respect and dignity is a fundamental right of a citizen within the meaning of Article 19(1)(a) of the Constitution of India being an expression and manifestation of his allegiance and feelings and sentiments of pride for the nation;
- (ii) The fundamental right to fly National Flag is not an absolute right but a qualified one being subject to reasonable restrictions under clause (2) of Article 19 of the Constitution of India;
- (iii) The Emblems and Names (Prevention of Improper Use) Act, 1950 and the Prevention of Insults to National Honour Act, 1971 regulate the use of the National Flag;
- (iv) Flag Code although is not a law within the meaning of Article 13(3)(a) of the Constitution of India for the purpose of clause (2) of Article 19 thereof, it would not restrictively regulate the free exercise of the right of flying the National Flag. However, the Flag Code to the extent it provides for preserving respect and dignity of the National Flag the same deserves to be followed;
- (v) For the purpose of interpretation of the constitutional scheme and for the purpose of maintaining a balance

¹ AIR 2004 SC 1559

between the fundamental / legal rights of a citizen vis-à-vis, the regulatory measures / restrictions, both Parts IV and IVA of the Constitution of India can be taken recourse to.

As the matter is squarely covered by the judgment of the Supreme Court, preventing the petitioner from hoisting National Flaga at their school premises is illegal and unsustainable. In that view of the matter, the Writ Petition is allowed in terms of the prayer sought. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

22nd January 2019

CHALLA KODANDA RAM, J

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