



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 831/2019.

1.Amit Nanak Karira
and another.

... Appellant.

-Versus-

State of Maharashtra.

... Respondent.

.....

Shri J.M. Gandhi, Advocate for Petitioners.

Shri V.A. Thakare, A.P.P. for Respondent Nos.1 to 4 and 6.

Shri V.S. Giramkar, Advocate for Respondent No.5.

.....

CORAM : NITIN W. SAMBRE AND

VALMIKI SA MENEZES, JJ.

DATE : SEPTEMBER 26, 2023.

P.C.

On instructions, Shri Gandhi, learned Counsel for petitioners states that for the present he is not pressing prayer clauses [i] and [iii]. Accordingly, Criminal Writ Petition to the aforesaid extent i.e. prayer clauses [i] and [iii] stands disposed of as not pressed.

2. So far as prayer clause [ii] is concerned, which reads as under :-

“ii. quash and set aside the notification dated 02.08.2019 bearing No. EOF0416/C.R.68/Pol.13 published in Government Gazette dated 06.08.2019 (Annexure-13) as against the petitioners and the declare that the attachment of assets and properties of the petitioners to be illegal, unconstitutional and unwarranted.”

The contention of Shri Gandhi, learned Counsel for petitioners is said prayer is covered by the orders of this Court delivered on 07.07.2023 in Criminal Writ Petition No.467/2021 (Milind .vrs. State of Maharashtra and another), so also the judgment in Criminal Writ Petition No.993/2019 dated 23.02.2021 (Nagwaram Venkatachar Shrinivas and 7 others .vrs. State of Maharashtra and another).

3. While countering the aforesaid submissions, learned A.P.P. would urge that in view of the observations contained in paragraph no.6 of the order dated 07.07.2023, steps are already taken by the authorities for issuing fresh notification and in that view of the matter, the present writ petition is liable to be dismissed.

4. What can be appreciated from the rival claim is that the reasons which are furnished for allowing the Criminal Writ Petition No.993/2019 decided on 23.02.2021 and Criminal Writ Petition No.467/2021 vide order dated 07.07.2023, are germane to the prayer referred above i.e. prayer clause [ii] of the petition.

5. The said fact is not disputed by the learned A.P.P., as the same is borne out of the record.

6. This Court is not commenting on the powers of respondent State to issue fresh notification, as it has been already clarified by this Court in the order dated 07.07.2023. In this background, we deem it appropriate to allow the present Criminal Writ Petition to the extent of prayer clause [ii] for the reasons recorded in the judgment dated 23.02.2021 delivered in Criminal Writ Petition No.993/2019, so also the order dated 07.07.2023 passed in Criminal Writ Petition No.467/2021 by this Bench. As such Criminal writ Petition stands allowed to the aforesaid extent.

7. The statement made by the learned Counsel for petitioners that the petitioners will not deal with the property covered under the above notification for a period of 12 weeks from today, is accepted as an undertaking to the Court.

8. Needless to clarify that since prayer clauses [i] and [iii] are not pressed for the present, it shall be open to petitioners to press the same at appropriate stage.

(VALMIKI SA MENEZES, J.) (NITIN W. SAMBRE, J.)