

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION NO. 3190 OF 2024
IN
INTERIM APPLICATION NO. 2147 OF 2024
IN
WRIT PETITION NO. 682 OF 2005
WITH
INTERIM APPLICATION NO.2147 OF 2024**

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Abhinav Bharat
Versus
Union of India & Anr.
...Applicant/Petitioner
...Respondents

Dr. Pankaj Phadnis – Applicant/Petitioner present in person.
Mr. Abhay L. Patki, Addl. Govt. Pleader a/w Atul Vanarse, AGP
for the Respondent – State.
Mr. D. P. Singh, for the Respondent No.1 – UOI.
Ms. Oorja Dhond i/by Komal R. Punjabi, for the Respondent
No.3 – BMC in IA/3190/2024.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ &
AMIT BORKAR, J.**

DATE : 14th DECEMBER, 2024

P. C.

1. Heard Dr. Pankaj Phadnis, authorised representative of Abhinav Bharat, which is a Trust and had earlier instituted a Public Interest Litigation Petition, namely Writ Petition (PIL) No.682 of 2005 before this Court, which was disposed of by means of an order dated 20th April, 2005 in terms of the statement made by the Additional Solicitor General of India.

The order dated 20th April, 2005 records the statement of the Additional Solicitor General of India to the effect that the representation said to have been made by the Petitioner will be disposed of by a reason order within six weeks, which is as under :-

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
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<i>Abhinav Bharat</i>	<i>...Petitioner</i>
<i>Versus</i>	
<i>The Union of India</i>	<i>...Respondent</i>

*Mr. Pankaj Phadnis, representative of petitioner, is present.
Mr. B. A. Desai, Additional Solicitor General, for the
respondent.*

**CORAM: DALVEER BHANDARI, C.J. &
DR. D. Y. CHANDRACHUD, J.
DATE: APRIL 20, 2005.**

P.C.

It is unfortunate that despite the orders of the Court, the representation of the petitioner has not been disposed of by a reasoned order. The learned Additional Solicitor General submits that the representation would now be disposed of by a reasoned order within six weeks from today. We order accordingly. No further directions are necessary. This petition is accordingly disposed of. In case the representation is not decided within six weeks from today, the petitioner would be at liberty to approach this Court.

CHIEF JUSTICE

DR. D. Y. CHANDRACHUD, J."

2. It appears that on account of the fact that perhaps the representation was not decided by the Union of India, the Petitioner again approached this Court and as stated by the Petitioner before us, he made an oral prayer to the Court for disposal of the representation by the Union of India in terms of the order dated 20th April, 2005. However, no order was passed by the Court on such a prayer as is apparent from perusal of the order dated 13th July, 2005, which has been enclosed as Exh.E to Interim Application No.2147 of 2024. The said order dated 13th July, 2005 is reproduced hereunder :-

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*Mr. Pankaj Phadnis, representative of petitioner, is present.
Mr. B. A. Desai, Additional Solicitor General, for the
respondent.*

**CORAM: DALVEER BHANDARI, C.J. &
S. J. VAZIFDAR, J.**
DATE: JULY 13, 2005.

P.C.

Heard the representative of the petitioner. No order.

By order of the Court.

*Sd/-
Associate*

3. Against the order dated 13th July, 2005, the Petitioner filed Special Leave to Appeal (Civil) No.23289 of 2005, which was dismissed by Hon'ble Supreme court by means of an order dated 2nd January, 2006.

4. Now these two Interim Applications, namely Interim Application No.2147 of 2024 and Interim Application No.3190 of 2024 have been filed by the Petitioner. The prayer clause of Interim Application No.2147 of 2024 is reproduced herein below :-

27.1 The Hon'ble Court may be pleased to grant Certificate under Article 134A of the Constitution of India for Appeal to the Supreme Court under Article 132(1) of the Constitution of India to settle substantial question of law involving interpretation of the Constitution arising from non compliance of the Respondent with the order dated 20-04-2004 of this Hon'ble Court in PIL 682 of 2005.

27.2 The Hon'ble Court may be pleased to permit substitution of the Petitioner/Applicant by Abhinav Bharat Congress for the purpose of Appeal in the Hon'ble Supreme Court.

27.3 Such other reliefs as are just and necessary in the facts and merits of the matter.

5. The prayers made in Interim Application No.3190 of 2024 are also reproduced hereunder :-

15.1 The instant IA may be tagged with IA 2147 of 2024.

15.2 The State of Maharashtra and MCGM may be impleaded as Respondent No.2 and Respondent No.3 respectively.

15.3 The Respondent No.1 may be directed to comply with the order of this Hon'ble Court dated 20-04-2005 without any further delay.

15.4 The Respondent No.2 may be directed to refrain from giving away prizes to players of private clubs until it is able to allocate 8% of State Budget for Health as recommended by the National Health Policy.

15.5 The Respondent No.2 may be directed to recover the monies of Rs.11 cr paid to the employees of the private club BCCI.

15.6 The Respondent No.3 may be directed to recover the monies it spent for cleaning up the garbage left by the fans of the private club – BCCI on July 5, 2024.

6. The Petitioner Dr. Pankaj Phadnis, while emphasizing on the prayer for grant of certificate for appeal to Supreme Court under Article 134A of the Constitution of India has drawn our attention to the substantial question of law as propounded by him, which has been mentioned at page No.136 of the paper-

book of Interim Application No.2147 of 2024. The said substantial question of law as propounded by the Petitioner is quoted hereunder :-

Has Non Compliance of order of this Hon'ble Court of 20-04-2005 in WP (PIL) 682 of 2005 led to dismissal of Review Petition Dairy No.1990 of 2024 by the Hon'ble Supreme Court on 01-05-2024 and which dismissal has led to a peculiar situation where the Judgment of Hon'ble Supreme Court of 11-12-2023 in Re Article 370 of the Constitution of India can be cited by Islamic Republic of Pakistan to buttress its claim on the erstwhile Princely State of Junagarh in the International Court of Justice and if so what remedial measures can now be taken to protect Unity, Integrity and Sovereignty of the country?

7. Since by the order dated 20th April, 2005, the Court had only disposed of the Petition in terms of the statement made by learned Additional Solicitor General of India to the effect that the representation of the Petitioner would be decided by the reason order, in our opinion, no substantial question of law which needs any adjudication by the Hon'ble Supreme Court arises in this matter and accordingly prayer for grant of certificate for appeal to the Supreme is rejected. The Petitioner has thereafter prayed in Interim Application No.2147 of 2024 that the Petitioner may be permitted to be represented by Abhinav Bharat Congress for the purposes of Appeal in the Hon'ble Supreme Court. Since we have refused the prayer for

grant of certificate of appeal to the Supreme Court, the said prayer also cannot be granted, which is hereby rejected.

8. Coming to the prayers made in Interim Application No.3190 of 2024, having regard to the order dated 20th April, 2005 passed by this Court in Writ Petition (PIL) No.682 of 2005 filed by the Petitioner earlier, we do not see any reason for impleading of State of Maharashtra or Municipal Corporation of Greater Bombay as a party Respondent. The said prayer is also thus rejected.

9. As regards the other prayer whereby a direction has been sought to be issued to the Union of India to comply with the order dated 20th April, 2005, we may note that approaching the Court after such a long gap of time i.e. after about 19 years, does not persuade us to issue any such direction as has been prayed for. If the order dated 20th April, 2005 was not complied with, it was very well open to the Petitioner to have approached the Court by way of invoking the contempt jurisdiction under the Contempt of Courts Act or jurisdiction of the Court under Article 215 of the Constitution of India or taking recourse to

any other proceeding within a reasonable time. The Petitioner in this regard submits that he did approach this Court by making the oral prayer, however, the said prayer was also rejected by the Court *vide* order dated 13th July, 2005. The appeal filed by the Petitioner against the order dated 13th July, 2005 was also dismissed by the Hon'ble Supreme Court on 2nd January, 2006. In such circumstances, making a prayer for ensuring compliance of the order dated 20th April, 2005, at this juncture, after a gap of 19 years, in our opinion, will neither be proper nor appropriate. The prayer is thus rejected.

10. As regards the prayer made by the Petitioner that the Respondents may be directed to refrain from giving away prizes to players of private clubs until it is able to allocate 8% of State Budget for health as recommended by the National Health Mission is concerned, we do not see any reason to grant such a prayer, considering the scope of the Interim Application, which is being dealt with by us. The said prayer is also rejected. However, we make it clear that we have not adjudicated the merits of the said prayer, for which, it will be open to the Petitioner to seek recourse to in any other legal remedy, which

may be available to him under law. So far as the prayer made by the Petitioner seeking a direction for recovery of amount of Rs.11 crores paid to the employees of the Board of Control for Cricket in India (BCCI) is concerned, the said prayer also appears to be absolutely outside the scope of the instant Interim Application, which too is rejected.

11. The last prayer made in the Interim Application No.3190 of 2024 is also not liable to be acceded to for the reason that the same also, in our opinion, lies outside the scope of the instant Interim Application.

12. Both the Interim Applications are thus disposed of in the aforesaid terms.

[AMIT BORKAR, J.]

[CHIEF JUSTICE]