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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **LPA 431/2024 & C.M.Nos.31743-31745/2024**

SINDHI SANGAT

..... Appellant

Through: Ms.Indira Jaising, Sr.Advocate with
Mr.Aaditya Gore and Mr.Sadeeq
Sherwani, Advocates.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr.Anil Soni, CGSC with
Mr.Devvrat Yadav, Advocate for
UOI.

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Date of Decision: 27th May, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ: (ORAL)

1. Present Appeal under Clause X of the Letters Patent of the then High Court of Judicature at Lahore, which stands extended to the High Court of Delhi, has been filed seeking setting aside of the judgment dated 09th February, 2024 passed by the learned Single Judge in WP(C) 8507 of 2015.
2. The Appellant herein is stated to be a Non-Profit Organization ('NGO') working for preservation of Sindhi Culture and Sindhi Language. The Appellant on 25th July, 2008 made a representation to the then Prime Minister of India, seeking directions to save Sindhi Language using the medium of television. The Appellant served several reminders and on 02nd March, 2010 received reply from Respondent No.1 i.e., Ministry of



Information and Broadcasting, Union of India (UOI). Qua the said letter the Appellant was informed that the feasibility of starting a twenty-four (24) hours Sindhi Language Channel is being deliberated upon.

3. It is stated that on 23rd December, 2008, the then Member of Parliament, Rajya Sabha, late Sh. Ram Jethmalani made a representation to the Union Minister for Information and Broadcasting reiterating the need of dedicated Sindhi Language channel on Doordarshan. However, Respondent No.1 vide letter dated 11th July, 2011 replied to the said representation stating that it was not feasible to start a twenty-four (24) hours Sindhi Language Channel due to scarceness of resources and shortage of staff.

3.1 It is stated that late Sh. Ram Jethmalani replied to the said letter of Respondent No.1 vide letter dated 29th September, 2011, pointing out that there were other linguistic channels in respect whereof losses were borne by Respondent No.1. The said letter was replied to by Respondent No.1 vide letter dated 04th October, 2011 stating that Respondent No.2, i.e. Doordarshan was formulating recruitment boards for filling up vacancies and that a Group of Ministers had made significant recommendations relating to Respondent No. 2.

4. It is stated that the Appellant thereafter sent a legal notice dated 15th May, 2013 to the Respondent Nos. 1 and 2; and Respondent No.2 vide letter dated 09th March, 2015 informed the Appellant that it was not presently feasible to start a DD Sindhi Channel.

5. The Appellant being aggrieved by the said response filed the captioned WP(C) 8507 of 2015 on 02nd September, 2015. The Respondent No. 2 filed reply affidavit dated 10th April, 2019 in the said writ petition reiterating that it was not sustainable to have a full-time channel for Sindhi



language. The said writ petition was disposed of by the learned Single Judge vide the impugned judgment dated 09th February, 2024 in view of the reply affidavit filed by Respondent No. 2.

6. Learned senior counsel for the Appellant contends that Respondents being organs of State are duty bound to maintain the cultural heritage of a linguistic minority under Article 51A(f) of the Constitution of India.

6.1. She states that the policy of Respondents of starting a new channel based on the geographical area cannot apply to Sindhis, since there is no State where Sindhis are in majority. She states that the organs of State like the Respondents herein should take into account and address as much as possible the needs and interest of smaller linguistic minorities like Sindhis.

6.2. She states that Sindhis being linguistic minorities have a fundamental right to preserve and protect the Sindhi language. She further states that as per the mandate of the Constitution (Article 29), it is the duty of the State to protect the said fundamental right of Sindhis.

6.3. She states that it is now an accepted jurisprudence and practice that the concept of equality only stands amongst equals. She states that Sindhis as a linguistic and cultural minority in their own right deserve to be placed at the pedestal of languages associated to a State of the Union and, therefore, have the right to broadcasting and dissemination of information in their own language.

6.4. She states that as per the legislative intent of Prasar Bharti (Broadcasting Corporation of India) Act, 1990 (Act of 1990) and more specifically as per Section 12(2) (d) of the Act of 1990, the Respondent No.2 is responsible to preserve the diverse cultures of India through public broadcasting. She states that the Respondents have failed in their duty by



refusing to start a twenty-four (24) hours broadcast channel of Sindhi language.

6.5. She states that broadcasting Sindhi language programmes on different regional channels cannot lead to the fulfilment of the statutory duty of providing 'adequate coverage' which it is mandated to under Section 12(2)(d) of the Act of 1990.

6.6. She states that the observation of the learned Single Judge that it is not workable for the writ Court to issue direction to Respondent No. 2 as it is a purely governmental function ignores the wide powers of judicial review vested in the Court. She states that since the Appellant contends that the Policy of Respondent No. 2 in providing channels based on regional population is flawed, this policy is certainly subject to judicial review.

7. We have heard the learned senior counsel for the Petitioner and perused the record.

8. The Respondent No. 2 in its reply affidavit dated 10th April, 2019 has given detailed reasons for its decision to not start a dedicated twenty-four (24) hours Sindhi language channel. It is stated that one of the circumstances considered by the Respondent No. 2 for starting a new channel is the number of the potential viewers for the same. It is stated that since as per the then census, the population of Sindhi speaking population in the country was approximately 26 lakhs, a full-time channel was determined to be not sustainable. It is stated that however, in discharge of its duty, Respondent No. 2 has been duly telecasting programmes in Sindhi language on its DD Girnar, DD Rajasthan and DD Sahyadri channels which covers areas where the Sindhi population is mainly concentrated i.e., Gujarat, Rajasthan and



Maharashtra. It is stated that these channels are available throughout the country and are also carried on the DTH¹ platform.

9. In its affidavit, Respondent No. 2 has stated that it follows the same language policy as All India Radio ('AIR'), wherein, programmes are broadcast in the principal language of the State in which the station is located and provision for broadcast in dialects and other languages is made if there is a communication imperative. It is stated that just as Sindhi is not the principal language of any State, so also Bodo, Dogri, Maithali, Santali, Sanskrit and Nepali languages are not the principal languages of any State and, no dedicated twenty-four (24) hours channel is run for the said languages.

10. We may note that Sindhi, Bodo, Dogri, Maithali, Santali, Sanskrit and Nepali languages are all listed in the Eighth Schedule of the Constitution of India, however, Respondent No. 2 does not have a twenty-four (24) hours channel for any of these languages.

11. The Appellant has been unable to persuade this Court with respect to the legal right/constitutional right vested in the Appellant to seek the relief of mandamus to Respondent No. 2 for allocating a twenty-four (24) hours Sindhi channel on Doordarshan. Consequently, the Petitioner's reliance on Articles 51A(f) and 29 is misplaced.

12. The Appellant has also relied upon Section 12(2) of the Act of 1990 to maintain the relief sought in the underlying petition. However, on a perusal of Section 12 and specifically Section 12(2)(d), relied upon by the Appellant, we are unable to hold that there is any obligation on Respondent No. 2 under

¹ Direct to Home



the Act to allocate twenty-four (24) hours channel to any language under the Act of 1990.

13. Section 12(2)(d) of the Act of 1990 reads as under:-

“d. providing adequate coverage to the diverse cultures and languages of the various regions of the country by broadcasting appropriate programmes.”

14. Section 12(2)(d) of the Act of 1990 places an obligation on Respondent No. 2 to provide ‘adequate coverage’ to the diverse cultures and languages of the various regions. In our considered opinion, the policy of the Respondent No. 2 to broadcast programs in the principal language of the region/State in which the station is located is in conformity with the mandate of Section 12(2)(d) of the Act. With respect to other language(s) i.e., other than the principal language of the region/State the Respondent No. 2 has an existing policy for broadcasts in the said other language(s). This aspect of the policy is also in conformity with the obligation under Section 12(2)(d) of the Act as it obliges Respondent No. 2 to provide ‘adequate coverage’ and in this regard, the decision of Respondent No. 2 to include programs in Sindhi language on its DD Girnar, DD Rajasthan and DD Sahyadri channels, which cover States which as per Respondent No. 2 have main concentration of the Sindhi population appears rational and reasonable to this Court; and it makes the tests of ‘adequate coverage’ contemplated in the provision.

15. We agree with the submission of the Appellant that the functions/policy of Respondent No. 2 are amenable to judicial review, however, in the facts of the present case, we are satisfied that the decision of Respondent No. 2 to not start a twenty-four (24) hours Sindhi language channel is based on an intelligible differentia and has a rational nexus to the object of the Act of 1990 and therefore, does not merit any interference.



16. We accordingly find no merit in the present appeal and the same is dismissed alongwith pending applications.

ACTING CHIEF JUSTICE

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MANMEET PRITAM SINGH ARORA, J

MAY 27, 2024/hp/sk