

ITEM NO.301

COURT NO.4

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Criminal) No.131/2016

P. SIVAKUMAR

Petitioner(s)

VERSUS

SECRETARY, MINISTRY OF HOME, GOVT. OF
KARNATAKA AND ORS.

Respondent(s)

Date : 15/09/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Dr. Adish C. Aggarwala, Sr. Adv.
Mr. Reegan S. Bel, Adv.
Mr. Abhinav Singh, Adv.
Mr. Amish Agarwala, Adv.
Mr. N. Rajaraman, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The petitioner, a social activist, in this public interest litigation has prayed for issue of a writ of mandamus to the competent authorities of the States of Karnataka and Tamil Nadu and other authorities, to take preventive and prohibitive measures as there is violence in these States because of an order passed by this Court on 12th September, 2016.

We are obliged to note here that the petitioner has impleaded the Chief Election Commissioner and the Secretary,

Ministry of Home Affairs, Government of India. As far as the said authorities are concerned, as advised at present, we are not inclined to issue notice.

Having said that, as submitted by Dr. Adish C. Aggarwala, learned senior counsel appearing for the petitioner, we may refer with profit to a three-Judge Bench judgment rendered in *Destruction of Public and Private Properties In Re versus State of Andhra Pradesh and Others* (2009) 5 SCC 212. In the said case, the Court was concerned with destruction of public and private properties in the name of agitations, bandhs, hartals and the like. In paragraph 12 of the said judgment, the Court, while addressing the issue pertaining how to effectuate the modalities for preventive action and adding teeth to the enquiry/investigation, issued certain guidelines. The guidelines read as under:

"(1) The organiser should meet the police to review and revise the route to be taken and to lay down conditions for a peaceful march or protest;

(2) All weapons, including knives, lathis and the like shall be prohibited;

(3) An undertaking is to be provided by the organisers to ensure a peaceful march with marshals at each relevant junction;

(4) The police and the State Government shall ensure videography of such protests to the maximum extent possible;

(5) The person-in-charge to supervise the demonstration shall be SP (if the situation is confined to the district) and the highest police officer in the State, where the situation stretches beyond one district;

(6) In the event that demonstrations turn violent, the officer-in-charge shall ensure that the events are videographed through private operators and also request such further information from the media and others on the incidents in question;

(7) The police shall immediately inform the State Government with reports on the events, including damage, if any, caused by the police; and

(8) The State Government shall prepare a report on the police reports and other information that may be available to it and shall file a petition including its report in the High Court or the Supreme Court as the case may be for the Court in question to take *suo motu* action."

We have referred to the said paragraph as Dr. Aggarwala has referred to the same, as well as to paragraph 15. The fundamental purpose is that there cannot be any agitation when it relates to an order passed by the court. We have already indicated that any grieved party is under an obligation to take recourse to legal remedies for mitigation of grievances.

The aforesaid judgment pertains to when the agitations take place in violation of norms. We reiterate that neither any "bandh" nor any agitation can take place when court has passed an order. It is to be complied with and, in any case, if there is difficulty, the concerned parties can approach the court. The people cannot become law unto themselves and, therefore, it is obligatory on the part of the authorities of both the States, namely, the State of Karnataka and the State of Tamil Nadu to prevent such actions. The measures have been stated in the aforesaid judgment and we have reproduced them as it has been suggested to us for facilitating. We are compelled and constrained to say that it is the duty of the States to see that no agitation, damages or destruction takes place.

Advocate-on-Record for the petitioner shall serve a copy of this petition on the Standing Counsel for both the States. As Mr. B. Balaji, learned Standing Counsel for the

State of Tamil Nadu is present, he accepts copy of the petition on behalf of the State of Tamil Nadu. Let a copy of the petition be served on Mr. V.N. Raghupathy, learned Standing Counsel for the State of Karnataka.

As the civil appeal relating to the disputes between the parties has been directed to be listed on 20th September, 2016, the present writ petition shall also be listed on that day and we sincerely hope that wisdom shall prevail over the competent authorities of both the States to maintain peace.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master