

ITEM NO.26

COURT NO.2

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(s) (Civil) No(s). 98/2017

ASHWINI KUMAR UPADHYAY

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS

Respondent(s)

(with office report)

Date : 17/02/2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MRS. JUSTICE R. BANUMATHI  
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Mr. Vikas Singh, Sr. Adv.  
Mr. Girdhar Upadhyay, Adv.  
Ms. Asha Upadhyay, Adv.  
Mr. R.D. Upadhyay, AOR

For Respondent(s)

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

Heard Mr. Vikash Singh, learned senior counsel along with Ms. Asha Upadhyay, learned counsel for the petitioner.

In the present writ petition, prayer (a) is to the following effect :-

"a) frame a National Policy to promote and propagate the National Anthem, National Song and National Flag in spirit of the Article 51A to achieve the great golden goals, as set out in Preamble of the Constitution of India."

Mr. Vikas Singh, learned senior counsel submitted that it is similar to Writ Petition no.855 of 2016.

On a perusal of the order passed therein, we do not find that it relates in entirety to prayer (a), for our earlier order does not relate to 'National Song' or 'National Flag'. Be it clearly noted, Article 51A(a) of the Constitution of India does not refer to 'National Song'. It only refers to National Flag and National Anthem. The said Article reads as follows :

"51A. Fundamental duties It shall be the duty of every citizen of India.--

(a) to abide by the Constitution and respect its ideals and institutions, the national Flag and the National Anthem."

Therefore, we do not intend to enter into any debate as far as the National Song is concerned.

As far as prayer (d) is concerned, it reads as follows :-

"d) ascertain the feasibility of singing / playing the National Anthem and National Song in the Parliament/Assembly, Public Officers, Courts and Schools on every working day."

In the earlier writ petition, a contention was advanced by the learned Attorney General for India pertaining to schools and, therefore, as far as the prayer relating to 'schools on every working day' is concerned, it is kept alive. The rest of the prayer, i.e., of prayer (d) is dismissed as not pressed. We may hasten to clarify, when we have kept the prayer alive, that does not mean that we have expressed any opinion on the same.

Let the matter be tagged with Writ Petition (Civil) No. 855 of 2016. A copy of the petition be handed over to Ms. Binu Tamta, learned counsel who shall apprise the learned Attorney General for

India that we have tagged this matter with Writ Petition (Civil)  
No. 855 of 2016.

(Gulshan Kumar Arora)  
Court Master

(H.S. Parasher)  
Court Master