

Dr. TAPAN BHATTACHARYA Vs STATE OF M.P. & OTHERS

Court: MADHYA PRADESH HIGH COURT

Date of Decision: March 30, 2017

Acts Referred: [Constitution of India](#), [Article 14](#), [Article 39](#), [Article 19](#), [Article 25](#), [Article 26](#), [Article 38](#), [Ar](#)

Hon'ble Judges: [P.K. Jaiswal](#), [Virender Singh](#)

Bench: [Division Bench](#)

Advocate: [A.M. Mathur](#), [P. Mishra](#)

Final Decision: [Dismissed](#)

Judgement

[1. Petitioner, who is a social activist and also an advocate has filed this public interest litigation on the basis of news paper cutting of "Khandwa](#)

[Patrika" published from Khandwa dated 31.1.2017 \(Annexure P/1\), " Nai Duniya" news paper published from Indore dated 28.2.2017 Annexure](#)

[P/2 and prayed for the following relief :-](#)

[\(i\) Respondents be restrained from taking out the Yatras in the name of Narmada Seva Yatra lead by Chief Minister, other](#)

[Ministers, other officials, BJP and RSS leaders any further in future on the pretext of cleaning Narmada and proposed yatra till](#)

[11.5.2017 be prohibited at State expense;](#)

[\(ii\) The Chief Minister and other respondents be restrained from collectively performing ""Maha Aarti"" along with prominent](#)

[personalities of either BJP or RSS or Bajrang Dal or Vishwa Hindu Parishad and similar other pro Hindu activists organisations at](#)

[State expense;](#)

[\(iii\) The State be directed to the concerned District Collectors not to allow any personality big or small to immerse any "Pooja"](#)

[material and dead bodies in Narmada River throughout its journey from Amarkantak to Alirajpur or last terminal in Madhya Pradesh;](#)

[\(iv\) to restrain Chief Minister, Ministers, officials to take out the Yatras as done between 11.12.2016 to 9.2.2017 any more by](#)

[continuing such yatras any further and not to spend any money on such Yatras sponsored by State;](#)

[\(v\) to direct the 6 concerned Collectors of 6 districts not to allow such communal Yatras by Hindu as well as State Government;](#)

(iv) to direct the respondents to furnish the details as to who are the experts from Madhya Pradesh or from India and abroad have

been called to survey and prepare a plan of saving Narmada from contamination and pollution right from Amarkantak up to Alirajpur

or the terminal point in Madhya Pradesh. All these details must be furnished to this Hon"ble Court;

(vii) to direct the respondents to submit the details as to what steps, methods, process have been taken by the State Government till

today with regard to cleaning of Holy Narmada and disclose the budget and source of funds for the said purpose;

(viii) to direct the respondents to submit all expenditure on all the Yatras lead by Chief Minister, construction of helipads, construction

of "Manchas"/Stages and staying arrangements made by the State in various Government buildings on the route and restrain them

from using further State funds on Yatras, Maha Artis; etc.

(ix) to direct the State Administration to protect the lives of Dalits, Adiwasies, minorities from any action and retaliation of those

participated or intending to participate in such Yatras.

2. According to the petitioner, the elections of the State of M.P. Legislative Assembly are due in November 2018, on account of fears of anti

incumbency and other factors, the Chief Minister without taking the help of the Engineers, Water Resources Technocrats and Environmentalist, on

the pretext of purifying holy river Narmada, he started religious campaign on 11.12.2016. Since then, he has been going on various town on the

bank of holy river Narmada and visiting temples in the name of Hindu religious collecting the farmers, students and other officials and staffs. He is

using this "" Narmada Seva Yatra"" to polarize the politics in M.P. between Hindus and Muslims and other minority communities. He want to

polarise the Hindu votes under the cover of "Narmada Seva". He is spending crores of rupees on this mission from the State Exchequer. It has

also been alleged that large number of various news papers are reporting this news and the news bulletin of State of Madhya Pradesh with the

photograph of Chief Minister, his wife and colleagues published in various newspaper at the cost of public exchequer. In order to promote his evil

design of polarisation of Hindu votes, he started ""Narmada Seva Yatra"" on 11.12.2016 from Amarkantak. The Chief Minister and his officials and

employees have only cleared "Parikrama" pathway at the cost of State Exchequer, there have been decorations by only saffron and yellow

flowers. At various places, various slogans have been erected to welcome "Yatra". Not only this, yellow rice has been distributed at every house

like in a wedding to invite innocent and poor devotees to join in this Yatra. Various arrangements on this pathway have been made for

guesthouses, free food, free residential premises etc. Helipad has been prepared and "Ghats" have been chosen for the RSS and BJP leaders. At

Omkareshwar, for this Narmada Seva Yatra, RSS Chief Shri Mohan Bhagwat and anti minority Sadhvi Ritumbhara, Swami Avdeshanand, Swami

Chinmayanand, Sri Sri Ravishankar and Chief Minister will be there. The entire town of Omkareshwar has been decorated with lights and on the

line of ""Ganga Maha Aarti"" , "" Narmada Maha Aarti"" will be performed. All this has been managed through the Collectorate staff and ground staff.

In the middle of holy river, a stage has been erected. The entire staff of District and Commissioner were busy for this occasion.

3. The following directions have been issued by the Chief Minister :-

(i) The Municipal Corporation will arrange for shifting toilets;

(ii) Two groups of 10 people will look after cleanliness of path"

(iii) Sitting arrangements and free food arrangements will be made;

(iv) "Kalash Yatra" and "Kanya Bhoj" will also be arranged;

(v) The Education Department will arrange for competitions;

(vi) Public Works Department will fill the ditches on the path.

(vii) Following programmes will be hld on 9.2.2017.

The Minister Incharge Shri Para Jain and officers will welcome those coming in the Narmada Seva Yatra. During Yatra, painting and

cleanliness competitions will be arranged.

(viii) Plantation on the path and Narmada Aarti will be arranged.

(ix) In the primary schools, there will be arrangement for the devotees to stay and same will be decorated.

(x) In the night, there will be "Bhajan Mandal Kirtan" which obviously means in relation to Hindu religion.

The only bright spot in the entire programme is that the Forest Department will plant trees in an area of one kilometer on both sides of

the bank of Narmada.

4. Learned Senior counsel for the petitioner has submitted that as per Article 51-A (h) the State cannot mix or super impose religious activities of

Hindu religion in to secular activities of the State and placed reliance on the decisions of the Apex court in the case of Abhiram Singh V/s. C.D.

Commachen (d) By Legal Representatives & Others, reported as 2017 (2) SCC 629, Para 10, 50.2, 62 in the case of S.R. Bommai etc. etc V/s.

Union of India & Others etc etc, reported as 1994 (3) SCC 1, Sri Adivishveshwar of Kashivishwanath Temple Varanasi & Others V/s. State of

U.P. & Others, reported as 1997 (4) SCC 606 and Ms. Aruna Roy & Others V/s. Union of India & Others, reported as 2002 (7) SCC 368 and

submitted that the necessary directions be issued to the respondents.

5. The jurisdiction of public interest litigation should be invoked very sparingly and in favour of vigilant litigant and not for the persons who invoke

this jurisdiction for the sake of publicity.

6. Religion and State power of freedom and tolerance of religion is distinct from the secular life of the State, and the latter falls in the exclusive

domain of the State. The Constitution does not recognize or permit mixing religion and State power and the two must be kept apart. Further more,

as the Constitution requires the State to be secular in thought and action, the same requirement attaches to political parties as well. That India is a

secular State has no longer res integra. Secularism has been declared by the Supreme Court to be one of the basic feature of the Constitution. No

one religion should be given preferential status, or unique distinction, and no one religion should accorded special privileges in national life or

international relations for that would be a violation of the basic principles of democracy and contrary to the best interests of religion and

Government. This view of religious impartiality, of comprehension and forbearance, has a prophetic role to play within the national and international

life.

7. From the averments made in the writ petition the move of the Government of M.P. is to clean the holy river Narmada, which flows from

Amarkantak to Alirajpur. A decision has been taken by the Government of planting five crores of trees on both sides of Narmada for the

involvement protection of forest of Satpura and Vidhyanchal. The Narmada Seva Yatra is not to polarise Hindu vote in the name of holy river. The

whole purpose for the Narmada Yatra to purify the holy river Narmada. The Chief Minister and his Government are not acting against the basic

structure of the Constitution. The cleaning of holy Narmada is a secular activity of the State and nothing to do with any religion even the Hindu

religion. The said Yatra is not against the provisions under Article 14, 19, 25, 26, 38, 39, 39A, 48A and Part XII of the Constitution. There is no

prohibition of participation of any person or class or any other leader of political party. They all are free to participate in the Narmada Seva Yatra,

nor this court can issue a writ of prohibition to stop Narmada Seva Yatra.

8. Every good that is perceived to be in the interest of society cannot be mandated by the court. Nor is the judicial process an answer to every

social ill which a public interest petitioner perceives.

9. Public interest litigation in simple words, means, litigation filed in a court of law, for the protection of "Public interest", such as pollution,

terrorism, road safety, constructional hazards etc. Public interest litigation is not defined in any statute or in any act. It has been interpreted by

judges to consider the intent of public at large. Although, the main and only focus of such litigation is only "Public Interest" there are various areas

where a public interest litigation can be filed. For eg., violation of basic human rights of the poor, content or conduct of the government policy,

compel municipal authorities to perform a public duty. Violation of religious right or other basic fundamental rights.

10. A speech with a secular stance alleging discrimination against any particular religion and promising removal of the imbalance cannot be treated

as an appeal on the ground of religion as its trust is for promoting secularism. The whole purpose for "Narmada Seva Yatra" is to clean holy

Narmada river, so that water of Narmada holy river may not be polluted and awareness to the villagers, who are residing near the bank of holy

river Narmada.

11. The rule of locus standi have been relaxed and a person acting bonafide and having sufficient interest in the proceeding of Public Interest

Litigation will alone have a locus standi and can approach the court to wipe out violation of fundamental rights and genuine infraction of statutory

provisions, but not for personal gain or private profit or political motive or any oblique considerations.

12. It is well settled law that, there must be real and genuine public interest involved in the litigation and not merely an adventure of knight errant

borne out of wishful thinking. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or

their personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary

jurisdiction. A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and

can approach the court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private

profit or political motive or any oblique consideration PIL filed without thorough study of factual situation. Nor specific pleadings are made to

substantiate allegations.

13. For these reasons, we find no merit to issue show cause notice in the writ petition. The writ petition shall accordingly, stand dismissed.