

## Deendar Anjuman represented by its Secretary, Syed Siddique Hussain Vs Government of India and Others

**Court:** Andhra Pradesh High Court

**Date of Decision:** Aug. 2, 2001

**Acts Referred:** Constitution of India, 1950 " Article 19(1), 19(4), 226

Penal Code, 1860 (IPC) " Section 153A, 153B

Unlawful Activities (Prevention) Act, 1967 " Section 10, 11, 12, 3(1), 3(3)

**Citation:** (2001) 2 ALD(Cri) 373 : (2001) 4 ALT 674 : (2002) CriLJ 710

**Hon'ble Judges:** B. Sudershan Reddy, J

**Bench:** Single Bench

**Advocate:** K.G. Kannabiran, for K. Balagopal, for the Appellant; L. Narasimha Reddy, Senior Central Government Standing Counsel and Government Pleader for Home for Respondent 2 and 3, for the Respondent

**Final Decision:** Dismissed

### Judgement

B. Sudershan Reddy, J.

The petitioner in the instant writ petition is Deendar Anjuman represented by its Secretary, Syed Siddique

Hussain. The notification issued by the Government of India under proviso to section 3(3) of the Unlawful Activities (Prevention) Act, 1967 (for

short "the Act") vide Notification S.O.No.373 (E), Ministry of Home Affairs, Government of India, published in the Gazette of India,

Extraordinary on 28-4-2001 is impugned in this writ petition. By the said notification the Government of India declared the petitioner

association/organisation as an unlawful association with immediate effect. By the very said notification, the Central Government, in exercise of the

power conferred by sub-section (1) of section 3 of the Act, declared the petitioner association to be an unlawful association. The challenge in the

present writ petition has been confined to the exercise of the power by the Central Government under the proviso to sub-section (3) of Section 3.

The controversy, thus, is a limited one. The court in the instant writ petition is not concerned with the legality and validity of the notification issued

by the Government of India under sub-section (1) of Section 3(3) of the Act.

2. Before advertng to the question as to whether the impugned notification issued under proviso to sub-section (3) of Section 3 of the Act suffers

from any legal and constitutional infirmity, it may be necessary to briefly notice the relevant facts:

3. According to the averments made in the affidavit, Deendar Anjuman is an association founded by Siddiq Deendar Chennabaseshwar (1886-

1952). He was born as Syed Siddique Hussain at Balampet of Gulbarga District. In the year 1924 he experienced a revelation that he was

Chennabaseshwar whose advent is prophesied in the Kannada Kalagnanam of the Lingayat tradition. He later on moved to Hyderabad and

founded Deendar Anjuman.

4. It is claimed that the association believes in the Quaranic motto that the entire humanity is one nation, and in the prophecy of the Lingayat

tradition.

5. Be that as it may, it is the case of the petitioner association that it does not indulge in any divisive or communal activities. It is not a

fundamentalist outfit. It does not believe in the artificial Hindu-Muslim divide. The association is mainly based in India, though it has followers in

Pakistan too.

6. In the affidavit filed in support of the writ petition, it is admitted that the police of Andhra Pradesh had booked seven criminal cases in

connection with blasting of Churches and one case of criminal conspiracy to cause acts of destruction and destabilisation aimed at creating

communal disharmony and disaffection against "certain individuals who are the members or kith and kin of members of the petitioner association.

The details of the criminal cases and the allegations levelled in the charge sheets need not be noticed, as they are not relevant for the purpose of

disposal of this writ petition. Any direct or indirect comment about the same may not be appropriate at this stage. Some of the cases registered are

stated to be at the stage of investigation. Some cases are also registered in the States of Karnataka and Goa.

7. However, according to the petitioner association, there is nothing on record to show that the association, as such, is involved in any act tending

to create communal disharmony, disaffection etc. The allegations at the most may be against some individuals who happened to be associated, one

way or the other, with the petitioner association. This in brief is the case of the petitioner association.

8. Sri K.G.Kannabiran, learned Senior Counsel appearing on behalf of the petitioner strenuously contends that the Government of India exercised

its extraordinary power under the proviso to sub-section (3) of Section 3 of the Act effectuating the ban on the petitioner association with

immediate effect without any basis whatsoever. It is contended that the notification so issued by the Government of India is ultra vires. It is

submitted that the grounds of ban are none other than the penal charges awaiting trial before the courts of competent criminal jurisdiction and, in

the circumstances, the ban based on subjective satisfaction of the executive on the basis of the same allegations amounts to usurping and prejudging

the judicial verdict. It is also contended that there are no reasons for giving immediate effect to the ban in exercise of the power under proviso to

sub-section (3) of Section 3 other than the reasons disclosed by the Government for imposing ban on the organisation in exercise of the power

under sub-section (1) of section 3 of the Act. On the same reasons, the exercise of power under proviso to sub-section (3) of Section 3 of the Act

is impermissible. The impugned notification would amount to suspension of the fundamental right guaranteed under Article 19(1)(c) of the

Constitution of India.

9. Sri L. Narasimha Reddy, learned Senior Central Government Standing Counsel, on the other hand, contends that the notification issued by the

Government of India in exercise of the power conferred by proviso to sub-section (3) of Section 3 does not suffer from any legal or constitutional

infirmity. It is submitted that the notification issued by the Government of India is supported by the reasons and grounds. The notification issued

under proviso to sub-section (3) of section 3 is not on the very same grounds on which the ban itself is imposed under sub-section (1) of Section 3

of the Act. The Government of India came to the conclusion that there is need to curb and control the unlawful activities of the petitioner

association immediately and it was a conscious decision to impose the ban with immediate effect. It is contended that the reasons are stated in the

notification itself. It is contended that this court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot go into the

adequacy or sufficiency of reasons.

10. At this stage, it may be necessary to examine the provisions of the Act so far as they are relevant for our present purpose, which are as under:

Section 2 - Definitions.- In this Act, unless the context otherwise requires,-

(a) "association" means any combination or body of individuals;

(b) .....

(c) .....

(d) ....

(e) .....

(f) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an

act or by words, either spoken or written, or by signs or by visible representation or otherwise),-

(i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the

secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or

secession;

(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India;

(g) "unlawful association" means any association---

(i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members

undertake such activity; or

(ii) which has for its object any activity which is punishable u/s 153A or Section 153B of the Indian Penal Code, 1860 (45 of 1860), or which

encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:

Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir.

Section 3 - Declaration of an association as unlawful.- (1) If the Central Government is of opinion that any association is, or has become, an

unlawful association, it may, by notification in the Official Gazette, declare such association to be unlawful.

(2) Every such notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider

necessary:

Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the public

interest to disclose.

(3) No such notification shall have effect until the Tribunal has, by an order made u/s 4, confirmed the declaration made therein and the order is

published in the Official Gazette:

Provided that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an

association to be unlawful with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall, subject to any order

that may be made u/s 4, have effect from the date of its publication in the Official Gazette.

11. Section 4 of the Act requires the Central Government to refer the notification declaring the association unlawful to the Tribunal within thirty

days from the date of publication, for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful. It

further provides that the Tribunal so constituted, on receipt of the reference, shall call upon the association concerned to show cause why

association should not be declared unlawful. The Tribunal is required to consider the cause, if any, shown by the association or its office bearers or

members, and to hold an enquiry as specified in Section 9 of the Act to adjudicate the issue as to whether there is sufficient cause or not for

declaring the association to be unlawful and make such order as it deems fit either confirming the declaration made in the notification or cancelling

the same. Section 5 provides for the constitution of the Tribunal known as "Unlawful Activities (Prevention) Tribunal".

12. Chapter III of the Act consisting of Sections 10, 11 and 12 provides for penalties. It is not necessary to refer in detail to them and to any other

provisions of the Act for our present purpose.

13. It would also be relevant to notice the whole of the notification issued by the Government of India in exercise of the powers conferred by sub-

section (1) of Section 3 of the Act and as well as the notification issued in exercise of the powers conferred by proviso to sub-section (3) of

Section 3 declaring Deendar Anjuman as an unlawful association with immediate effect:

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 28th April, 2001

S.O. 373 (E).- Whereas the Deendar Anjuman is having links in Pakistan, and is indulging in activities which are prejudicial to the security of the

country, having the potential to disturb peace and communal harmony and to disrupt the secular fabric of the country;

And whereas, the Central Government is of the opinion that,--

(i) during May to July, 2000, the Deendar Anjuman engineered bomb explosions in church premises and other places in the States of Andhra

Pradesh, Karnataka and Goa;

(ii) the said organisation was engaged in distribution of objectionable anti-Christian literature and pamphlets, and in espionage activities;

(iii) the Deendar Anjuman has links at Mardan in Pakistan and has been organizing bands of disgruntled Muslim youths in India into a militant outfit

for launching Jihad with the avowed objective of total Islamisation of the sub-continental;

(iv) the said organisation planned to create disturbances, particularly by promoting hatred and creating suspicion and ill-will among the Christians

and Hindus as well as among other communities;

(v) the organisation had directed its activists to attack Christian institutions with the objective of embarrassing the Government, particularly in the

international community and weakening it internally; and

(vi) the organisation had plans to target major infrastructural installation including railways, telecom network, electricity grids, oil refineries and

defence installations;

14. And whereas, the Central Government is also of the opinion that for the aforesaid reasons, the activities of Deendar Anjuman are detrimental

to the peace, communal harmony, internal security and maintenance of secular fabric of the Indian society, and that it is an unlawful association;

15. Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of

1967), the Central Government hereby declares Deendar Anjuman to be an unlawful association;

16. And whereas, the Central Government is further of the opinion that if the unlawful activities of Deendar Anjuman are not curbed and controlled

immediately, it will take the opportunity to-

(i) create tension among the Christians and other communities with a view to disrupting the social fabric and tarnish the secular credentials of the

country;

(ii) re-organize itself and indulge in sabotage of vital installations;

17. And whereas, the Central Government is also of the opinion that having regard to the activities of Deendar Anjuman as mentioned above, it is

necessary to declare it as an unlawful association with immediate effect, and accordingly, in exercise of the powers conferred by the proviso to

sub-section (3) of section 3, the Central Government hereby directs that this notification shall, subject to any order that may be made u/s 4 of the

said Act, have effect from the date of its publication in the Official Gazette.

18. Whether the notification is ultra vires? Whether the satisfaction of the government is vitiated for lack of reasons?

19. It is apparent from the notification that two additional reasons have been given for declaring the Deendar Anjuman as an unlawful association

with immediate effect, that is to say, from the date of publication of the notification. The Central Government does not rely upon the same reasons

that are stated in the notification issued under sub-section (1) of Section 3, which promoted it to declare the petitioner association as an unlawful

association.

20. It is clear from the record made available by the Central Government that the competent authority had some facts before it and the requisite

material in its possession to declare the petitioner association as unlawful with immediate effect. The said material is in addition to the facts and

material for taking action against the petitioner association under sub-section (1) of section 3. In the circumstances, it is not possible to accept the

submission made by the learned Senior Counsel that the reasons for declaring the petitioner association as unlawful by the Central Government in

exercise of the power conferred by sub-section (1) of section 3 of the Act and the reasons given in the notification issued declaring it as an unlawful

association with immediate effect are one and the same. The reasons for exercising the power conferred upon the Central Government by proviso

to sub-section (3) of Section 3 are in addition to the reasons and grounds for declaring the petitioner association to be unlawful in exercise of the

power conferred by sub-section (1) of section 3 of the Act.

21. It is apparent that the said reasons are not only found in the record, but also notified in the notification published in the official Gazette. The

Central Government after considering the material available on record came to the conclusion that if the unlawful activities of the petitioner

association are not curbed and controlled immediately, it will take the opportunity to----

(i) create tension among the Christians and other communities with a view to disrupting the social fabric and tarnish the secular credentials of the

country;

(ii) re-organize itself and indulge in sabotage of vital installations.

22. It is required to notice that the Central Government upon careful consideration of the material available on record came to the conclusion that

the petitioner association indulged in activities which are prejudicial to the security of the Country and accordingly issued a notification in exercise

of the power conferred by sub-section (1) of section 3 of the Act. In arriving at such a conclusion, the Central Government noticed the various acts

of the petitioner association alleged to have been committed by it during May to July, 2000. The details are mentioned in the notification. The

details relate to what the petitioner association is alleged to have already done and accomplished. In contradistinction, the Central Government on

the basis of the material available on record noticed as to what the petitioner association is likely to do in case it is not declared as an unlawful

association with immediate effect. The distinction is absolutely clear. The reasons and grounds recorded and notified in the Official Gazette for

imposing ban with immediate effect are clearly in addition to the reasons and grounds for declaring the petitioner association as unlawful in exercise

of the power under sub-section (1) of Section 3 of the Act. The grounds are clearly specified on which the declaration is made.

23. The Supreme Court in Mohammad Jafar Vs. Union of India<sup>1</sup> in categorical terms held that ""the Act requires the reasons to be stated in the

notification or in a communication accompanying the notification or simultaneously issued with the notification or addressed to the affected

association. Reasons which are ""recorded"" in file are not reasons which are stated for the benefit of the aggrieved party. The intention of the

legislature is that the aggrieved party must know the reasons why the grave step of banning it is taken without giving it an opportunity to be heard.

If the reasons are non-existent or irrelevant, the association has a right to challenge the same by showing cause against it. The fundamental right of

the citizens and the associations cannot be taken away even temporarily for reasons which are not known to the individual or the association.

24. In the instant case, additional reasons as is required are clearly stated in the notification itself and published not only for the benefit of the

petitioner association, but also to the public in general. Those reasons cannot be said to be irrelevant. At any rate, no such contention is put forth

by the petitioner. The reasons that are notified in the notification are the same found in the record. Thus the notification satisfies the twin test, viz.,

(i) that there should be additional grounds for declaring the association as an unlawful one with immediate effect in addition to and distinct from

those which are necessary for taking action under sub-section (1) of Section 3; and (ii) such additional grounds and reasons must be disclosed in

the notification itself and communicated to the association concerned. This is not a case where there is any attempt on the part of the Central

Government to supplement the reasons by way of averments in the counter affidavit in support of its decision to impose immediate ban in exercise

of the power conferred by proviso to sub-section (3) of Section 3 of the Act. The reasons are found in the record and notified in the notification

and accordingly published in the Official Gazette.

25. The expression ""for reasons to be stated in writing"" did not necessarily mean that the entire material available on record itself is to be published

or made available to the aggrieved person. What is required is disclosure of reasons. The grounds must be disclosed. The notification issued under

sub-section (1) of Section 3 alone is required to be referred to the Tribunal ""for the purpose of adjudicating whether or not there is sufficient case

for declaring the association unlawful."" The Tribunal after such reference is required to issue notice to the affected association to show cause, why

the association should not be declared unlawful. The Tribunal is required to hold an enquiry in the manner specified in Section 9 and after calling for

such further information as it may consider necessary from the Central Government or from the association and then decide whether or not there is

sufficient cause for declaring the association to be unlawful. The Tribunal is required ""to adjudicate whether or not there is sufficient cause for

declaring the association unlawful."" As held by the Supreme Court in *Jamaat-e-Islami Hind Vs. Union of India*<sup>2</sup> the Tribunal is required to weigh

the material on which the notification under sub-section (1) of Section 3 is issued by the Central Government after taking into account the cause

shown by the Association in reply to the notice issued to it and by taking into consideration such further information which it may call for, to decide



the existence of sufficient cause for declaring the action to be unlawful. The Tribunal is required to objectively determine the points in controversy.

The Supreme Court further held that subject to non-disclosure of information which the Central Government considers to be against the public

interest to disclose, all information and evidence relied on by the Central Government to support the declaration made by it of an association to be

unlawful, has to be disclosed to the association to enable it to show cause against the same. The Tribunal is entitled to ascertain the credibility of

conflicting evidence relating to the points in controversy. It is observed by the Supreme Court:

To satisfy the minimum requirements of a proper adjudication, it is necessary that the Tribunal should have the means to ascertain the credibility of

conflicting evidence relating to the points in controversy. Unless such a means is available to the Tribunal to determine the credibility of the material

before it, it cannot choose between conflicting material and decide which one to prefer and accept. In such a situation, the only option to it would

be to accept the opinion of the Central Government, without any means to test the credibility of the material on which it is based. The adjudication

made would cease to be an objective determination and be meaningless, equating the process with mere acceptance of the ipse dixit of the Central

Government. The requirement of adjudication by the Tribunal contemplated under the Act does not permit abdication of its function by the Tribunal

to the Central Government providing merely its stamp of approval to the opinion of the Central Government. The procedure to be followed by the

Tribunal must, therefore, be such which enables the Tribunal to itself assess the credibility of conflicting material on any point in controversy and

evolve a process by which it can decide whether to accept the version of the Central Government or to reject it in the light of the other view

asserted by the association. The difficulty in this sphere is likely to arise in relation to the evidence of material in respect of which the Central

Government claims non-disclosure on the ground of public interest.

26. It is, therefore, evident that disclosure of all the facts and material available on record subject to the claim of any privilege in this regard by the

Central Government is only after the reference of the notification issued under sub-section (1) of section 3 of the Act to the Tribunal for the

purpose of adjudication whether or not there is sufficient cause for declaring the association unlawful. The material available on record may have to

be revealed to the association or its members. In a case wherever any privilege is claimed, the Tribunal has to examine the material itself in the

manner it considers appropriate, to assess its credibility without disclosing the same to the association. Therefore, there is no requirement to

disclose the material itself and publish the same in the notification or provide to the association along with the notification issued in exercise of the

power under proviso to sub-section (3) of Section 3 declaring the association to be unlawful with immediate effect. The requirement is disclosure

of additional reasons and grounds and not the material. The notification issued in exercise of the power under proviso to sub-section (3) of section

3 cannot be set aside on the ground that the material relied upon for stating the reasons is not communicated to the association concerned declaring

it to be an unlawful with immediate effect. Such notification would become vulnerable only when the reasons are not notified. The record should

contain the reasons in writing and the same is required to be revealed and published in the notification or communicated to the association

concerned. Such reasons are required to be distinct and different and cannot be the same for imposing ban u/s 3 of the Act. The reasons are

required to be communicated but not the entire material. Disclosure of the material is only after reference of the notification issued u/s 3 of the Act

to the Tribunal.

27. It is neither necessary nor desirable to make any comment about the material that is available on record, since the Tribunal is seized of the

reference made to it to decide whether or not there is sufficient case for declaring the association to be unlawful. The petitioner would be entitled

for all its defence in the matter. The Tribunal is bound to objectively consider and decide whether or not there is sufficient cause for declaring the

petitioner association to be unlawful. The Tribunal is entitled either to confirm the declaration made in the notification or cancel the same. The

Tribunal is required to make an objective determination on the basis of the material placed before the Tribunal by both the sides. In terms of the

judgment of the Supreme Court in *Jamaat-e-Islami Hind* (2 supra) "the information and evidence relied upon by the Central Government to

support the declaration made by it on an association to be unlawful has to be disclosed to the association to enable it to show cause against the

same." There cannot be any doubt that the entire information and evidence based upon which the declaration has been made u/s 3(1) of the Act

shall be made available to the petitioner, of course, subject to the non-disclosure of information which the Central Government considers to be

against the public interest to disclose. The Tribunal in its discretion may examine even such material if it considers appropriate. Nothing further need

be stated as to how the Tribunal is required to dispose of the matter.

28. Whether the allegations made in the criminal cases cannot be taken into consideration for the purpose of exercising the power u/s 3 of the Act?

29. The contention that the Central Government could not have taken the allegations made in the criminal charges against some of the members or

associates of the petitioner association into consideration for the purpose of imposing immediate ban on the petitioner association and declare it as

an unlawful association. The submission is totally misconceived. The entire material including the material leading to allegations and charges in

criminal cases is bound to be taken into consideration by the Central Government in arriving at a conclusion as to whether it is a fit case where the

declaration is to be made in exercise of the power conferred u/s 3 of the Act. The Central Government could not have eschewed the said material

from its consideration. The government has not made any pronouncement with regard to the truth or otherwise of the allegations levelled against the

concerned individuals in the criminal cases nor the Central Government has any jurisdiction to make any such pronouncement. The given material

available with the government may give rise to a criminal action against the concerned individuals and simultaneously form basis for taking

appropriate action u/s (3) of the Act.

30. In the instant case, the activities of the petitioner association have been taken into consideration by the Government of India in reaching the

conclusion for declaring the petitioner association to be unlawful association with immediate effect. The conclusion is not reached only on the basis

of the allegations levelled against some of the members or associates of the petitioner association. It is not a case of usurping and prejudging the

judicial verdict.

31. Whether the impugned notification is violative of Article 19(1)(c) of the Constitution of India?

32. The case on hand confronts us again with the duty our system places on this court to say where the individual's freedom ends and the State's

power begins.

33. It would be necessary to bear in mind the principle and the law laid down by the Supreme Court that "the test of reasonableness, wherever

prescribed, should be applied to each individual statute impugned, and no abstract standard, or general pattern, of reasonableness can be laid

down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent

and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into

the judicial verdict." (See: The State of Madras Vs. V.G. Row3).

34. The American Supreme Court in Schenck Vs. United States<sup>4</sup> speaking through Justice Oliver Wendell Holmes enunciated the test to be

adopted by the court in deciding the difficult task of safeguarding the freedoms in the face of substantial societal interest, such as, preservation of

peace and order ever since the test is known as "clear-and-present-danger". It is observed that "the question in every case is whether the words

used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils

that Congress has a right to prevent." The doctrine was applied to decide in free speech case. But the doctrine later on has been applied in cases

involving the complaint of infringement of other freedoms also, such as, freedom of expression, assembly and association.

35. In *Dennis Vs. United States*<sup>5</sup> the U.S. Supreme Court observed that "knowledge of the existence of a group aiming at disruption "as speedily

as circumstances would permit" was deemed sufficient to justify restrictive governmental action.

36. It is true that the latitude and opportunity promised in the fundamental rights were not supposed to be suspended on the pretext of some crisis.

But the framers did not intend the fundamental rights to be a suicide pact, in which licence for insurrectionaries might undermine the Indian society

itself. The competing interest of individual's freedom and societal interest are to be balanced in each case.

37. It is true, as contended by the learned Senior Counsel and as held by the Supreme Court in *Mohammad Jafar* (1 *supra*), that "the provisions of

the Act banning an organisation with immediate effect without giving it an opportunity to represent its case would be violative of" Article 19(1)(c) of

the Constitution "unless such ban has been covered by the exception enacted by clause (4) of the said Article. It cannot be overemphasized that

the invocation of the proviso to sub-section (3) of Section 3 has a drastic effect of curtailing the freedom under Article 19(1)(c) with immediate

effect. If such a ban is imposed arbitrarily it would operate till at least the date of the publication of the Tribunal's order u/s 4(4). Thus the action

taken under the proviso amounts to suspension of the citizens' right under Article 19(1)(c), for the period in question. Even a temporary

suspension of the fundamental right, unless it is covered by the exception provided under Article 19(1)(c), would be invalid in law. Hence it is

necessary that the Central Government justifies its action under the said proviso by bringing it within the exception of Article 19(1)(c). Thus both

by the language of the said proviso as well as by the requirement of the Constitution, it is necessary for the Central Government to justify by

adducing proper reasons, the immediacy by bringing it within the purview of Article 19(1)(c).....

38. In the counter affidavit filed by the Government of India it is explained that "the nature and sequence of activities undertaken by the petitioner

were such that any further delay in giving effect to the ban would have posed a major threat to national security, peace, communal harmony and to

safety of strategic installations. What was a stray incident had already developed into a serious and tense situation of disturbing proportions. By the

date of notification, the problem and issue had spread to the States of Andhra Pradesh, Karnataka, Goa and Maharashtra. Unless prevented

immediately, it was not only likely to become serious in these States, but was also likely to spread to other parts of the Country." It is under those

circumstances, the Central Government thought it fit to exercise the power under proviso to sub-section (3) of Section 3. What is stated in the

counter is only an amplification of the grounds and reasons stated in the notification itself. The Government was of the opinion that unless the ban is

imposed on Deendar Anjuman (petitioner association) with immediate effect, the same would have taken the opportunity to create tension among

the Christians and other communities with a view to disrupting the social fabric and tarnish the secular credentials of the country. It could have

resulted in sabotage of vital installations.

39. In the instant case, the Central Government came to the conclusion that if the unlawful activities of the petitioner association are not curbed and

controlled immediately, it will take the opportunity- (i) to create tension among the Christians and other communities with a view to disrupting the

social fabric and tarnish the secular credentials of the country; and (ii) re-organize itself and indulge in sabotage of vital installations. Clearly the

notification is covered by the exception provided under Article 19(1)(c) of the Constitution of India.

40. The record, which is made available for the perusal of the court, would disclose the material for stating the said reasons. In the circumstances,

the Government's action cannot be said to be outside the exception of Article 19(1)(c). The immediate action appears to have been taken in the

interest of public order.

41. In the circumstances, it cannot be held that the impugned notification is an arbitrary and unreasonable exercise of power unwarrantably

infringing the freedom of association; the court must sustain its constitutionality.

42. It is not a case of any phobic over reaction of the Central Government.

43. It is needless to observe that the observations, if any, made in this order shall have no bearing whatsoever upon the proceedings pending

before the Tribunal. The Tribunal shall decide the matter strictly in accordance with law uninfluenced by the observations, if any, made in this order.

44. For all the aforesaid reasons, I do not find any merit in this writ petition. The writ petition shall accordingly stand dismissed. There shall be no

order as to costs.