

(2015) 09 AHC CK 0015

In the Allahabad High Court

Case No : Public Interest Litigation (PIL) No. 49055 of 2015

Ajeet Gaur

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 22-09-2015

Acts Referred:

Constitution of India, 1950 — Article 51-A

Citation : (2015) 9 ADJ 98 : (2015) 113 ALR 327 : (2015) 6 AWC 5854 : (2015) 4 UPLBEC 2777

Hon'ble Judges : D.Y. Chandrachud, C.J.; Yashwant Varma, J

Bench : Division Bench

Advocate : Arun Kumar Mishra and Prabhakar Awasthi, for the Appellant

Final Decision : Disposed off

Judgement

1. The petitioner who is an elected representative of the Zila Panchayat, Aligarh has moved these proceedings. While invoking the jurisdiction in a public interest litigation, he seeks the following relief:

"i. Issue a writ, order or direction in the nature of mandamus commanding the State Government or its agent too compel the Madarsa's to unfurl National Flag and pay due respect to it on Independence Day and Republic Day respectively."

2. The averments in the petition are that Madarsas in the State of Uttar Pradesh are recognized by the Board established under Section 3 of the Uttar Pradesh Board of Madarsa Education Act, 2004. The petitioner submits that every educational institution recognized under legislation enacted by the state legislature must ensure observance of the duties cast by the Constitution, one of them being respect for the National Flag and the National Anthem. The basis on which the petition has been moved is stated in paragraph 9 and ground-II of the petition as follows:

"That it is a matter of common knowledge that none of the Madarsa located in State of Uttar Pradesh unfurl National Flag on Independence Day and Republic

Day."

3. On 1 September 2015, the learned Standing Counsel had placed on the record the instructions which were received by him from the Collector, Aligarh, stating that in his district, all Madarsas do observe the flag hoisting ceremony on the occasion of Independence Day and Republic Day.

4. This Court made it clear in its order dated 1 September 2015 that no material was brought before the Court by the petitioner at that stage, to indicate that any particular institution had not observed the flag hoisting ceremony. While calling for a counter affidavit, this Court made it abundantly clear that the canvas of the issue which would be scrutinized by the Court was not confined to any particular religion, sect or denomination. Hence, this Court clarified the nature of the enquiry in the following observations in the order dated 1 September 2015:

"Every educational institution irrespective of affiliation-religious or otherwise, must foster adherence to constitutional values: democracy, liberty, equality, secularism and the integrity of the nation."

5. The Standing Counsel was directed to file a counter affidavit within three weeks, setting out the regime of instructions of the Education Department of the State already in place. This Court also directed that if suitable instructions have not been issued by the State, it is necessary to ensure that directions at all levels are issued to ensure the due observance of the flag hoisting ceremony on the occasion of Independence Day and Republic Day by all educational institutions in the State.

6. A counter affidavit has been filed in these proceedings by the Director of Minority Welfare. The counter affidavit states that the Secretary to the State Government issued a communication dated 14 September 2015 to the Director of Minority Welfare recording the statement contained in a letter dated 14 July 2015, wherein it has been stated that all Madarsas do observe the flag hoisting ceremony on the occasion of Independence Day, Republic Day and on 2 October, the birth anniversary of the Father of the Nation. The Secretary to the State Government has issued a direction for ensuring compliance. The Director of Minority Welfare has similarly issued a communication to the District Minority Welfare Officers for compliance.

7. Article 51-A of the Constitution elucidates the fundamental duties of every citizen of India. Among them, in clause (a), is the duty to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem. Clause (e) requires every citizen, to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; and to renounce practices derogatory to the dignity of women.

8. In view of the provisions of Article 51-A of the Constitution, every educational institution irrespective of affiliation-religious or otherwise, must foster adherence

to the fundamental duties recognized in Article 51-A. Every educational institution must foster adherence to constitutional values, among them, being democracy, liberty, equality, secularism and the integrity of the nation. Observance of these duties and values must be inculcated through the medium of educational institutions and must be implemented at every stage of education. The solemn duties cast upon every Indian citizen under Article 51-A transcend affiliations of a sectional, denominational, religious, political or any other character or nature. Hence the intervention of the Court in the present proceedings should not be construed as a value judgment in regard to the observance of the duties of citizenship by any community. A duty of compliance is cast on every Indian and the directions, which we have issued and now proceed to confirm, would cover every educational institution across the State. All that remains to be observed is that the Principal Secretaries of the Departments concerned shall take due and necessary steps to ensure the observance of the flag hoisting ceremony on the occasion of Independence Day and Republic Day by all educational institutions irrespective of affiliation.

9. The petition is, accordingly, disposed of. There shall be no order as to costs.