

(2014) 01 AHC CK 0299
In the Allahabad High Court
Case No : Misc. Bench No. 10942 of 2013

Amitabh Thakur and Another

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 09-01-2014

Acts Referred:

Constitution of India, 1950 — Article 18, 18(1), 51A

Citation : (2014) 2 ALJ 260

Hon'ble Judges : Imtiyaz Murtaza, J;Devendra Kumar Upadhyaya, J

Bench : Division Bench

Advocate : Ashok Pande and Tripuresh Tripathi, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Devendra Kumar Upadhyaya, J.—This writ petition by husband-wife duo has been filed purportedly in public interest with the prayer to quash award of "Bharat Ratna" to Sri. Sachin Tendulkar. The petitioners have also prayed that the office memorandum issued by the Government of India regarding bestowing of "Bharat Ratna" as contained in annexure No. 1 to the writ petition be also quashed. Another prayer has also been made for issuing writ in the nature of mandamus to the respondents and the National Selection Committee for "Bharat Ratna" to ensure that certain great men of this country including Ashoka the Great, Harsha Vardhan, Kalidas, Surdas, Tulsidas, Meera Bai, Kamban, Tiruvalluvar, Shankaracharya, Swami Vivekananad, Netaji Subhash Chandra Bose, Sardar Bhagat Singh are also awarded by "Bharat Ratna". Thrust of the argument advanced by learned counsel for the petitioners, Sri. Asok Pande is that cricket is an anti-development activity and, therefore, it is anti national and hence, any award or honour in recognition of personal contribution in the field of cricket is absolutely unwarranted. In support of his argument. Sri. Pande has further submitted that since the cricket matches being organized compel the employees and other citizens of the country to refrain from their work place as such, any award to an individual excelling in the field of cricket is not in public interest. He

further submitted that Government should not do anything which ultimately glorifies the cricket. It has also been argued by learned counsel for the petitioners that the issue relating to National Award of "Bharat Ratna" and "Padma Awards" had earlier decided by the Hon"ble Apex Court and the constitutional Bench of Hon"ble Apex Court in the case of Balaji Raghavan and S.P. Anand Vs. Union of Inddia, had issued certain guidelines and directions which have not been followed by the Government of India while announcing the "Bharat Ratna" Award to Sri. Sachin Tendulkar.

2. Further submission of learned counsel for the petitioners is that announcement of award to Sri. Sachin Tendulkar is in violation of judgment of Hon"ble Apex Court in the case of Balaji Raghavan (supra). It has also been submitted that so far as "Padma Awards" are concerned, certain guidelines have been framed which have been annexed as annexure No. 2 to the writ petition and, therefore, in respect of "Bharat Ratna", the Government of India be directed to frame guidelines in light of directions/guidelines issued by the Hon"ble Apex Court in the case of Balaji Raghavan (supra).

3. Per contra, vehemently opposing the petition, Sri. Sunil Sharma, learned counsel appearing for Union of India has submitted that instant writ petition has not been filed in public interest, nor the prayers made in the petition serve any public purpose and further that the writ petition lacks bona fide. He has stated that decoration of "Bharat Ratna" is regulated by the regulations promulgated by notification dated 02.01.1954 as amended from time to time. He has also stated that said regulations were amended by the Government of India by means of recent notification dated 16.11.2011 whereby provision has been made for decoration of "Bharat Ratna" for exceptional service/performance of highest order in "any field of human endeavour". He has stated that cricket is a widely acclaimed sport and excellence achieved by any individual in the field of sports will be covered by the expression "any field of human endeavour". Hence, there is no illegality in announcing the decoration to Sri. Sachin Tendulkar with "Bharat Ratna".

4. We have heard learned counsel for the parties.

5. The makers of our Constitution have consciously made a provision in the form of Article 18 of the Constitution of India prohibiting the State from conferring any title with the exclusion of military or academic distinction. However, the "Padma Award" and "Bharat Ratna" are clearly distinguishable from title as laid down by the Hon"ble Apex Court in the case of Balaji Raghavan (supra). In para 28 of the aforesaid judgment, it has been held by the Hon"ble Apex Court as under:--

28. From the discussion in the preceding paragraphs, it is clear that in enacting Article 18(1), the framers of the Constitution sought to put an end to the practice followed by the British in respect of conferment of titles. They, therefore, prohibited titles of nobility and all other titles that carry suffixes or prefixes as they result in the creation of a distinct unequal class of citizens. However, the

framers did not intend that the State should not officially recognise merit or work of an extraordinary nature. They, however, mandated that the honours conferred by the State should not be used as suffixes or prefixes, i.e., as titles, by the recipients.

6. Further, in para 30 of the said judgment, the Hon"ble Apex Court has also held that National Awards i.e. "Padma Award" and "Bharat Ratna" are not violative of principles of equality. The opinion of Hon"ble Apex Court in this respect finds expression in para 30 of the aforesaid judgment, which runs as under-

30. The National Awards are not violative of the principles of equality as guaranteed by the provisions of the Constitution. The theory of equality does not mandate that merit should not be recognized. Article 51A of the Constitution speaks of the fundamental duties of every citizen of India. In this context, we may refer to the various clauses of Article 51A and specifically clause (j) which exhorts every citizen "to strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement." It is, therefore, necessary that there should be a system of awards and decorations to recognise excellence in the performance of these duties.

7. Thus, it is clear that taking a clue from Article 51A of the Constitution of India, it has been stated by Hon"ble Apex Court that it is necessary that there should be a system of awards and decorations to recognize excellence in performance of duties enumerated in Article 51A of the Constitution of India.

8. We may not loose sight of sub-clause (j) of Article 51A which expects every citizen of the country "to strive towards excellence in all spheres of individual and collective activity.

9. Initially the regulation framed for award or decoration of "Bharat Ratna" was promulgated by the notification dated 08.01.1955 which is quoted below:--

Office of the Secretary to the President Notification New Delhi, the 8th January, 1955

No. 1-Press/55 - The President is pleased to make the following revised regulations for the award of the decoration BHARAT RATNA in supersession of those published in Notification No. 1 Pres./54, dated the 2nd January, 1954:-

1. The decoration shall be conferred by the President by a Sanad under his hand and seal.

2. The decoration shall be in the form of a Peepul leaf, two and five-sixteenth inches in length, one and seven-eighth inches at its greatest breadth and one-eighth of an inch in thickness. It shall be of toned/bronze. On its observe shall be embossed a replica of the Sun five-eighths of an inch in diameter with rays spreading out from five-sixteenths of an inch to half an inch from the centre of the Sun, below which shall be embossed the words BHARAT RATNA in Hindi. On

the reverse shall be embossed the State Emblem and motto in Hindi. The Emblem (but not the motto), the Sun and the rim shall be of platinum. The inscriptions shall be of @ burnished bronze.

3. A sealed pattern of the decoration (manufactured according to the specification described above and the drawing in the annexure to these regulation) shall be deposited and kept.

4. The decoration shall be worn round the neck by a white riband % one and a half inches in width.

5. The decoration shall be awarded for exceptional service towards the advancement of Art, Literature and Science, and in recognition of public service of the highest order.

6. Any person without distinction of race, occupation, position or sex shall be eligible for the award.

7. The decoration may be awarded posthumously.

8. The names of the persons, upon whom the decoration is conferred, shall be published in the Gazette of India and a register of all such recipients shall be maintained under the direction of the President.

9. The miniature of the decoration which may be worn on certain occasions by recipients shall be half the size of the BHARAT RATNA, and a sealed pattern of the said miniature shall be deposited and kept.

10. The President may cancel and annul the award of the decoration to any person and thereupon his name shall be erased from the Register and he shall be required to surrender the decoration and the Sanad. But it shall be competent for the President to restore the decoration and Sanad and to withdraw the orders of cancellation and annulment. The notice of cancellation or restoration in every case shall be published in the Gazette of India.

11. All persons upon whom the decoration BHARAT RATNA was conferred under the Regulations issued with Notification No. 1-Pres./54, dated 2nd January, 1954, shall, for all purposes of these Regulations, be deemed to be persons on whom the decoration BHARAT RATNA has been conferred by the President.

10. In the aforesaid regulation, certain amendments have been made by the subsequent notification dated 16.11.2011 whereby Regulation 5 has been substituted. The notification dated 16.11.2011 is also being quoted herein below:

PRESIDENTS SECRETARIAT NOTIFICATION New Delhi, the 16th November, 2011

No. 133-Pres/2011.-- The President is pleased to direct that the following amendment be made in the Regulations for the award of the BHARAT RATNA published in the Gazette of India of the 15th January, 1955 under Notification No. 1-Pres/55 dated the 8th January, 1955, namely:--

In Regulation 5, for the sentence:

The decoration shall be awarded for exceptional service towards the advancement of Art, Literature and Science, and in recognition of public service of the highest order.

the following sentence shall be substituted:

The decoration shall be awarded in recognition of exceptional service/ performance of the highest order in any field of human endeavour.

11. Thus, as per the aforesaid amendments brought by Government of India in the regulations for award of "Bharat Ratna", though earlier decoration of "Bharat Ratna" could be made to an individual only in case of some exceptional service rendered in the area of advancement of Art, Literature and Science and also in recognition of public service of the highest order, however, as per amended regulation, now the decoration of "Bharat Ratna" can be made in recognition of exceptional service and the performance of highest order in any field of human endeavour. We have no hesitation to hold that performance or achievement by an individual in an internationally acclaimed sports like cricket will certainly be covered by the expression "in any field of human endeavour" which occurs in the amended regulation. It goes without saying that cricket is one of the most popular sports in our country, now thus, in our opinion, there is no doubt that in case an individual excels and attains achievement and performance of highest order in any sport, including cricket, can be considered for decoration with "Bharat Ratna" in terms of the regulation framed for the said purpose by the Government of India as amended by the notification dated 16.11.2011.

12. Submission made by learned counsel for the petitioners to the effect that cricket is anti-development and anti-national activity for the reason that it compels a person to refrain from his work place is absolutely unfounded and is without any basis. Thus, the same is, in our view, highly misplaced and misconceived.

13. As regards the submission in respect of the procedure adopted by Government of India at present for choosing an individual for being decorated with "Bharat Ratna" being in violation of the judgment of Hon^{ble} Apex Court in the case of Balaji Raghavan (supra), we may only state that pursuant to the aforesaid constitutional Bench judgment of Hon^{ble} the Apex Court, which was delivered on 15.12.1995, general regulations/procedures and practices governing "Bharat Ratna" and "Padma Awards" have been framed by the Ministry of Home Affairs, Government of India. According to the said regulation, "Bharat Ratna" has to be treated on a different footing from "Padma Awards". The recommendations for "Bharat Ratna" are made by the Prime Minister to the President and no formal recommendations are necessary for the same.

14. A High Level Review Committee was constituted in May, 1996 which considered all the aspects of the matter in compliance of the judgment of

Hon"ble Apex Court dated 15.12.1995 in the case of Balaji Raghavan (supra). The said High Level Review Committee was constituted under the Chairmanship of the then Vice President of India and it comprised of Cabinet Secretary, Attorney General of India, Home Secretary, Foreign Secretary, Secretary to the President of Sahitya Academi, Chairperson, University Grant Commission, Vice Chancellor, Kashmir University and Professor Yash Pal, National Research Professor. The recommendation of said High Level Review Committee clearly stipulated that recommendation for decoration of "Bharat Ratna" will be made by Prime Minister who will be free to consult anyone he chooses.

15. General regulations and procedures and practices governing "Bharat Ratna" have since been framed by the Government of India in compliance of the judgment rendered by Hon"ble Apex Court in the case of Balaji Raghavan (supra), we do not find any force in the submissions of learned counsel for the petitioners that current practice/procedure for choosing a person to be decorated with "Bharat Ratna" is, in any manner, in violation of the aforesaid judgment of Hon"ble Apex Court.

16. In view of the aforesaid discussion, we do not find any good ground to interfere in the instant writ petition. Accordingly, the writ petition fails and is hereby dismissed. Costs made easy.