

(2016) 04 AHC CK 0069

In the Allahabad High Court

Case No : Public Interest Litigation (Pil) No. 11218 of 2016.

Anurag Mishra

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 04-04-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 5 ADJ 72 : (2016) 3 AllWC 2598 : (2016) 117 ALR 81 : (2016) 2 UPLBEC 1525

Hon'ble Judges : Dr. Dhananjaya Yeshwant Chandrachud, C.J.;Yashwant Varma, J.

Bench : Division Bench

Advocate : Yogesh Mishra, Advocate, for the Appellant

Final Decision : Disposed off

Judgement

1. The grievance which has been urged before this Court in the public interest litigation is in regard to the defacement of public signboards erected on the streets in Allahabad. The petitioner has annexed photographs to indicate that public signboards are defaced across the city by pasting notices and advertisements of private persons. The signboards outside the High Court are no exception and are victim of such practices, particularly when elections to the representative associations of the Bar are held. The petitioner submits that signboards near important hospitals are also defaced, thereby defeating the purpose of providing information through them to the members of the public. The grievance is that the Public Works Department, Allahabad Development Authority and the Nagar Nigam, Allahabad do not take any action.

2. The Nagar Nigam has appeared in these proceedings through learned counsel and has filed a counter affidavit. For completing the record, we allow the impleadment of the Nagar Nigam. The amendment shall be carried out during the course of the day.

3. The issue which is posed before the Court is not as much about the want of statutory authority as much as it is about enforcement. Now, insofar as the statutory authority is concerned, the Nagar Nigam has adopted bye laws which have been framed under Section 298 of the U.P. Municipal Corporation Act, 1959(1). The Corporation adopted these bye laws on 18 September 2015 and they have been gazetted on 16 January 2016. These bye laws are called the "bykgkckn uxj fuxe] foKkiuksa dk izfr"ks/k] fofu;eu vkSj vfHkizk;ksa ds fdz;kUo;u mifof/k and 2015". Bye law 12 specifically confers a power upon the Nagar Nigam to remove any advertisement or billboard which has been erected in violation of the bye laws. Bye law 28 empowers the Nagar Nigam to recover the cost of removal from the offender. This being the position, the issue is not of an absence of power but of enforcing the provisions of law. Moreover, as a consideration of many aspects pertaining to the defacement of public or civic amenities would establish, a large part of the responsibility must also lie with an informed citizenry. An awareness has to be generated among the citizens in regard to the need to maintain the sanctity of signboards erected by the civic authorities on public streets. These are meant to inform the members of the public and to furnish them directions in regard to important landmarks. Where the signboards are themselves defaced, the purpose of erecting them is defeated. For some, the signboards become an avenue for the erection of unauthorized advertisements. The photographs which have been annexed by the petitioner to the petition are a matter of record and judicial notice can be taken of the manner in which unauthorized billboards continue to proliferate across the cities in the State. The civic authorities must take immediate enforcement action. Where there are sufficient enabling provisions in the governing legislation or, as the case may be, in the case of the Allahabad Nagar Nigam in the bye laws, these provisions must be strictly enforced. Hence, the first direction that we issue is that the Allahabad Nagar Nigam shall take necessary steps for enforcing the bye laws of 2015. Enforcement must also be in the matter of imposing a penalty on whoever is responsible for setting up the signboards. A presumption can well be drawn that where a billboard has been set up on a public signage in the name of an individual or organization, that individual or organisation has implicitly or explicitly authorised the use of his or its name. The Municipal Corporation must proceed to impose a penalty in such cases and enforce recovery action in accordance with law.

(1) (Corporation)

4. The second aspect on which we issue a direction is the need for adequate supervision. The supervision for removal of defacing signboards on public signages should not be taken up only once in a way when a public interest litigation is brought before the Court. Such supervision must be entrusted to the authorities in charge of maintaining hygiene and cleanliness in the respective wards or divisions of every local authority. The responsibility should be assigned and accountability must be extracted. We hence direct the Principal Secretaries both in the Public Works Department and in the Urban Development Department

of the State to issue a mandatory circular to all the local authorities and bodies in the State to enforce compliance of this order and to maintain a periodic vigil to ensure that such illegal advertisements on public signages are dealt with both in terms of imposition of a fine and by cleaning up the signages.

5. Thirdly, it is a matter of common knowledge that there are certain periods when these signages come up and proliferate. This may be at the time of a festival or during an impending election period. During these periods and soon thereafter, the local bodies must take necessary action to enforce the Rules and Regulations prohibiting the erection of such illegal advertisements or billboards. There can be no manner of doubt that permission can never be granted for defacing a public signage by erecting a billboard or notice which is in the nature of an advertisement of a private individual or organisation without the permission of the concerned local body.

6. Fourthly, it is necessary for the authorities to launch awareness campaigns in civic areas so as to make the citizenry alive to its obligation of maintaining cleanliness in the matter of public signages. In particular, we would like to appeal to the members of the Bar to observe their duty as responsible officers of the Court particularly during the period of elections when such billboards proliferate and deface public signages. The Bar Council on its part should also conduct an awareness campaign and take steps to inform the Bar Associations across the State that while the members of the Bar do have the freedom and liberty to conduct elections to their respective bodies, this should be done in a manner which does not deface the civic amenities available in the State. The putting up of unauthorized signboards, burdening of streets with leaflets and such other activities should be voluntarily restrained by all persons concerned. We hope and trust that this observation of the Court would be taken in its right spirit being aimed to ensure maintenance of civic consciousness.

7. We also direct that the bye laws which have been framed by the Nagar Nigam, Allahabad should serve as a model for other local bodies across the State. The Principal Secretary, Urban Development shall upon scrutinising the bye laws, issue necessary directions for other local bodies across the State to also adopt the same bye laws so as to enable enforcement action to be taken in accordance with law.

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