

(2022) 02 RAJ CK 0097

In the Rajasthan High Court

Case No : S.B. Civil Writ Petition No. 20049, 20051 Of 2019

Bhagwati Singh And Others

APPELLANT

Vs

Raja Laxman Singh And Others

RESPONDENT

Date of Decision : 03-02-2022

Acts Referred:

Constitution Of India, 1950 — Article 14, 18, 51(c), 363A

Citation : (2022) 02 RAJ CK 0097

Hon'ble Judges : Sameer Jain, J

Bench : Single Bench

Advocate : Suruchi Kasliwal, Vagish Kr. Singh, Aashish Kr. Singh, MS Singhv

Final Decision : Allowed

Judgement

Sameer Jain, J

1. Vide order dated 11/01/2022, this Court observed as under:-

"On perusal of the cause title of the petition, it was analyzed that respondent No.1 was titled "Raja Laxman Singh".

In the light of 26th Amendment in the Constitution of India and on perusal of Article 363-A is as below:-

"363 A. Recognition granted to Rulers of Indian States to cease and privy purses to be abolished.— Notwithstanding anything in this Constitution or in any law for the time being in force —

(a) the Prince, Chief or other person who, at any time before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was recognised by the President as the Ruler of an Indian State or any person who, at any time before such commencement, was recognised by the President as the successor of such ruler shall, on and from such commencement, cease to be recognised as such Ruler or the successor of such Ruler;

(b) on and from the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, privy purse is abolished and all rights, liabilities and obligations in respect of privy purse are extinguished and accordingly the Ruler or, as the case may be, the successor of such Ruler, referred to in clause (a) or any other person shall not be paid any sum as privy purse."

and Article 14 reproduced below:-

"14. Equality before law.—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

It is analyzed from above Articles of Constitution of India that recognition, titles granted to the rulers of the Indian State no more persist and is abolished.

The counsel for the petitioner submits that the said title was filed before the trial court and as a result of the same had to be repeated/ generated.

Let limited notices be issued to the Additional Solicitor General- Shri R.D Rastogi representing Central Government and learned Advocate General-Shri M.S Singhvi for the State to address upon the same issue. Whether after the insertion of Article 363-A and 26th Amendment in the Constitution of India, the said title of Raja, Nawab, Maharaja, Rajkumar as prefix can be filed/ addressed in the constitutional court or the learned trial court below.

Registry is directed to issue notices of the said petition as well as certified copy of this order upon the respective offices of learned ASG and learned AG so that the issue can be addressed on the next date.

List the matter on 03.02.2022.

Interim order, if any, to continue till the next date."

2. In compliance of the above order, necessary records were duly served upon in the office of learned Advocate General and Learned Additional Solicitor General.

3. The matter was listed for hearing on the instant issue.

4. The contention raised by Mr. M.S. Singhvi, learned Advocate General for the State is that in the light of Articles 14, 18 and 363A of the Constitution of India as well as the judgment of the Apex Court in Raghunathrao Ganpatrao Vs. Union of India: 1994 (Suppl.)1 SCC 191, Paras 66, 108, 109 and 112, the Constitutional validity of 26th Amendment of the Constitution of India has been upheld. The State of Rajasthan do endorse the view that use of prefixes and suffixes, other than military or academic distinction in terms of Article 18 of the Constitution of India, are abolished and are violative of Article 14 of the Constitution of India. As per learned Advocate General's submission, the same cannot be used in the public offices, Constitutional Courts or in public domains. Though he submitted that the State has a respect for the contribution and the public welfare, philanthropy offered by the royal families in the past.

5. The Apex Court in its judgment rendered in Raghunathrao Ganpatrao (supra)

observed in Para 66, 108, 109 and 112 as under:-

"66. After the judgment of Madhav Rao Scindia the twenty-sixth amendment was brought to overcome the effect of the judgment. The objects and reasons of the twenty-sixth amendment makes the position clear, which read thus:

"The concept of rulership, with privy purses and special privileges unrelated to any current functions and social purposes, was incompatible with an egalitarian social order. Government, therefore, decided to terminate the privy purses and privileges of the Ruler of former Indian States. It was necessary for this purpose, apart from amending the relevant provisions of the Constitution to insert a new article therein so as to terminate expressly the recognition already granted to such Rulers and to abolish privy purses and extinguish all rights, liabilities and obligations in respect of privy purses. Hence this Act."

108. Mr. R.F. Nariman has contended that by removing the 'real and substantial distinction between the erstwhile Princes forming a class and the rest of the citizenry of India the Constitutional amendment has at one stroke violated the basic structure of the Constitution as reflected both in Articles 14 and 51(c) and treated unequals as equals thereby giving a go by to a solemn treaty obligation which was sanctified as independent Constitutional guarantee. He has drawn strength in support of his above argument from the decisions in Md. Usman and Ors. v. State of Andhra Pradesh and Ors. : 1971 (Supp) SCR 549 and Ramesh Prasad Singh v. State of Bihar and Ors. (1978) 1 LLJ 197 SC :

109. After carefully going through the above decisions which relate to service matters, we are afraid that such an argument as one made by Mr. Nariman could be substantiated on the principles laid down in these two decisions that Article 14 will be violated if unequals are treated as equals. In our considered opinion this argument is misconceived and has no relevance to the facts of the present case. One of the objectives of the Preamble of our Constitution is 'fraternity assuring the dignity of the individual and the unity and integrity of the nation.' It will be relevant to cite the explanation given by Dr. Ambedkar for the word 'fraternity' explaining that 'fraternity means a sense of common brotherhood of all Indians.' In a country like ours with so many disruptive forces of regionalism, communalism and linguism, it is necessary to emphasise and reemphasise that the unity and integrity of India can be preserved only by a spirit of brotherhood. India has one common citizenship and every citizen should feel that he is Indian first irrespective of other basis. In this view, any measure at bringing about, equality should be welcome. There is no legitimacy in the argument in favour of continuance of princely privileges. Since we have held that abolition of privy purses is not violative of Article 14, it is unnecessary for us to deal with the cases, cited by Mr. Nariman, which according to him go to say that any law violating Article 14 is equally violative of the basic structure of the Constitution, inasmuch as Article 14 is held to be a basic postulate of the Constitution.

112. On a careful consideration of the various aspects of both the writ petitions,

we hold that the Constitution (Twenty-sixth Amendment) Act of 1971 is valid in its entirety."

6. Articles 14, 18 and 363A of the Constitution of India provide as under:-

14. Equality before law.—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

18. Abolition of titles.—(1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

(4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

363A. Recognition granted to Rulers of Indian States to cease and privy purses to be abolished.—Notwithstanding anything in this Constitution or in any law for the time being in force—

(a) the Prince, Chief or other person who, at any time before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was recognised by the President as the Ruler of an Indian State or any person who, at any time before such commencement, was recognised by the President as the successor of such ruler shall, on and from such commencement, cease to be recognised as such Ruler or the successor of such Ruler;

(b) on and from the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, privy purse is abolished and all rights, liabilities and obligations in respect of privy purse are extinguished and accordingly the Ruler or, as the case may be, the successor of such Ruler, referred to in clause (a) or any other person shall not be paid any sum as privy purse."

7. The question raised by this Court on prohibition of titles in the public domain, public offices, Constitutional Courts or in public was not objected to by the petitioners, respondents or any other person.

8. The Office of learned Additional Solicitor General has also not filed any objection to the order passed by this Court and against the provisions of Articles 14, 18 and 363A of the Constitution of India as well as use of the titles which are unconstitutional.

9. Learned counsel has relied upon the judgment rendered by the Apex Court in *Balaji Raghavan Vs. Union of India*: AIR 1996 SC 770 Para 31, which is reproduced as under:-

31. Hereditary titles of nobility conflict with the principle of equality insofar as they create a separate, identifiable class of people who are distinct from the rest of society and have access to special privileges. Titles that are not hereditary but carry suffixes or prefixes have the same effect, though, the degree may be lesser. While other Constitutions also prohibit the conferment of titles of nobility, ours may perhaps be unique in requiring that awards conferred by the State are not to be used as suffixes or prefixes. This difference is borne out of the peculiar problems that these titles had created in pre-independent India and the earnest desire of the framers to prevent the repetition of these circumstances in Free, Independent India."

10. While relying upon the said judgment, learned counsel for the respondents Mr. Vagish Kr. Singh has submitted that the Apex Court has upheld the validity of 26th Amendment and Article 363A of the Constitution of India and has imposed prohibition on the conferment of titles of nobility and the hereditary titles of nobility as the same are in conflict with the principles of equality.

11. This Court has considered the submissions made by respective counsels, learned Advocate General as well as the judgments cited at bar.

12. On perusal of Article 14, 18 and 363A of the Constitution of India as well as the judgments rendered by the Apex Court in Raghunathrao Ganpatrao (supra) & Balaji Raghavan (supra), this Court is of the view that any title awarded to the citizen of India by a Foreign State cannot be accepted nor used and no such title, other than the military or academic distinctions, can be conferred other than by the State. In terms of Article 363A of the Constitution of India, the hereditary titles of nobility being in conflict with the principles of equality and contrary to Article 14 of the Constitution of India cannot be used as prefixes or suffixes.

13. In the light of above, this Court holds that in Constitutional Courts, all other Courts, Tribunals, public offices of the State etc., the use of salutation and titles is prohibited in terms of Articles 14, 18 and 363A of the Constitution of India. The said restriction will also apply in the public domain as well as public documents & public offices.

14. Accordingly, the petitioners are directed to file amended cause title at all respective places.

13. Registry to send copy of this order to the office of the learned Advocate General, Rajasthan; learned Additional Solicitor General for the Union of India; Registrar General of this Court as well as the Chief Secretary, Govt. of Rajasthan, Secretariat, Jaipur for necessary implementation, circulation and to issue necessary directions.

14. Interim order to continue. Office to proceed.