
(1997) 11 SC CK 0067

In the Supreme Court Of India

Case No : Civil Appeal No's. 7728-29 of 1997

Communist Party of India (M)

APPELLANT

Vs

Bharat Kumar and Others

RESPONDENT

Date of Decision : 12-11-1997

Acts Referred:

Citation : AIR 1998 SC 184 : (1998) 1 ALLMR 155 : (1998) 1 CTC 46 : (1997) 9 JT 101 : (1997) 2 KLT 1007 : (1998) 1 LW 406 : (1998) 1 MLJ 99 : (1998) 1 PLJR 19 : (1998) 1 RLW 55 : (1997) 7 SCALE 21 : (1998) 1 SCC 201 : (1997) 5 SCR 131 Supp : (1998) 1 UJ 60

Hon'ble Judges : J. S. Verma, C.J.; V. N. Khare, J.; B. N. Kirpal, J

Bench : Full Bench

Advocate : Soli J. Sorabjee and Harish Salve, G. Prakash, Beena Prakash and P.P. Vineeth, for the Appellant; Mathai M. Paikeday, Senior Advocate, P.I. Jose, A. Raghunath and Krishnamurthy Swami, for the Respondent

Final Decision : Dismissed

Judgement

1. Leave granted.

2. We have heard Mr. Harish Salve and Mr. Soli J. Sorabjee, learned counsel for the appellant and Mr. Mathai M. Paikeday, learned counsel for the respondents.

3. On a perusal of the impugned judgement of the High Court, referring to which learned counsel for the appellant pointed out certain portions, particularly in paras 13 and 18 including the operative part in support of their submissions, we find that the judgment does not call for any interference. We are satisfied that the distinction drawn by the High Court between a "Bandh" and a call for general strike or "Hartal" is well made out with reference to the effect of a "Bandh" on the fundamental rights of other citizens. There cannot be any doubt that the fundamental rights of the people as a whole cannot be subservient to the claim of fundamental right of an individual or only a section of the people. It is on the basis of this distinction that the High Court has rightly concluded that there cannot be any right to call or enforce a "Bandh" which interferes with the

exercise of the fundamental freedoms of other citizens, in addition to causing national loss in many ways. We may also add that the reasoning given by the High Court, particularly those in paragraphs 12, 13 and 17 for the ultimate conclusion and directions in paragraph 18 is correct with which we are in agreement. We may also observe that the High Court has drawn a very appropriate distinction between a "Bandh" on the one hand and a call for general strike or "Hartal" on the other. We are in agreement with the view taken by the High Court.

4. The appeals are dismissed accordingly. No costs.