
(2010) 08 P&H CK 0139
In the Punjab And Haryana At Chandigarh

Dr. Gaurav Chhabra

APPELLANT

Vs

U.T. Administration and Others

RESPONDENT

Date of Decision : 13-08-2010

Acts Referred:

Citation : (2010) 08 P&H CK 0139

Hon'ble Judges : Mukul Mudgal, C.J;Ajay Tewari, J

Bench : Division Bench

Judgement

Mukul Mudgal, C.J.—This writ petition is filed in Public Interest and raises various issues arising from the proposal of the petitioner for holding of a National Anthem Ceremony at ""Open Hand Memorial"" in Capitol Complex at August 15, 2010 and to allow the petitioner and the other citizens of City Chandigarh to sing national anthem and other nationalistic songs at Open Hand Monument. The main prayer made in the writ petition reads as follows:

i) To permit the petitioner and other citizens to celebrate the national independence day on 15th August at the Open Hand Monument as per the intimation letter sent by the petitioner Annexure P-11.

2. Mr. Kaushal accepts notice and with the consent of counsel the petition is taken up for final hearing.

3. The main grievance of the petitioner raised by Shri Mehla arises from the restrictions imposed by the respondents in and around the Open Hand monument and in particular from the order dated August 09, 2010 issued by the respondents which reads as follows:

Chandigarh, August 9th: Chandigarh Administration has received a request from some citizens of Chandigarh for grant of permission to organize National Anthem Ceremony in Tribute to martyrs of the Indian Freedom Struggle at the Open Hand Monument and Martyr Memorial at Capital Complex, Sector 1, Chandigarh on 15thAugust, 2010 between 9 AM to 11.30 AM. At the same time the Hon''ble Punjab and Haryana High Court is organizing the Independence Day function at

the same venue. Therefore, the permission to organize the Ceremony by the applicants at the Open Hand Monument and Martyr Memorial at Capital Complex venue, Sector 1, Chandigarh cannot be given. The concerned applicants are requested to cooperate with the Administration to maintain law and order at the Capitol Complex venue. They are advised to organize the ceremony to pay tribute to the martyrs at the War memorial at Bougainvillea Garden for which the Administration will extend all cooperation.

4. We have ascertained the time for the High Court function. The High Court function will start at 9 AM and will be over by 10.45 AM. The learned Counsel for the Administration has stated that they would require one hour after the completion of the function of the High Court for security purposes and to sensitize the place of function at the Open Hand monument particularly when a large number of people are likely to visit the place. We are of the view that the citizens of Chandigarh must be free to celebrate the Independence day. Shri Mehla has contended that a citizen's rights to freely express themselves on a significant day such as the independence day at the time of their choice i.e. At 9 AM itself cannot be curtailed for security reasons. Shri Kaushal, however, states that the State has resource crunch on the independence day and would have no objection if the function of the petitioner was to be held an hour after the High Court function is over. However, we cannot lose sight of the authorities' perception of security requirements. This Court is thus required to balance the rights of the citizens to express their nationalistic sentiments and emotions on the independence day and the security concerns of the State.

5. Thus we are of the view that the following order would balance equities and serve the interests of justice.

(i) An hour after the closure of the High Court function and clearance of those who attended the function i.e, any time after 11.45 AM, the petitioner would be permitted to organize the ceremony for which permission was sought. This order in our view substantially redresses the grievance of the petitioner. The writ petition stands disposed of accordingly. A copy of the order be given dasti to counsel for the Administration, and the petitioner under the signatures of Bench Secretary of this Court.