

(1958) 01 P&H CK 0004
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 686 of 1957

Harnam Singh Arjan Singh	Vs	APPELLANT
Punjab State and Another		RESPONDENT

Date of Decision : 21-01-1958

Acts Referred:

Constitution of India, 1950 — Article 19(1)
Dramatic Performances Act, 1876 — Section 3, 7

Citation : AIR 1958 P&H 243

Hon'ble Judges : Bishan Narain, J

Bench : Single Bench

Advocate : Anand Swaroop, for the Appellant; L.D. Kaushal, Dy. Advocate-General, for the Respondent

Final Decision : Allowed

Judgement

Bishan Narain, J.—Harnam Singh alleges himself to be the General Secretary of the District Kisan Sabha, Karnal. On 27-6-1957, the District Magistrate, Karnal, served the following notice on Harnam Singh :

"It has been brought to my notice that the Communist Party and District Kishan Sabha propose to organise party conferences and to stage at some places in the district, dramas which are likely to excite feelings of disaffection to the Government. u/s 7 of the Dramatic Performances Act, 1876, I, Bhag Singh, District Magistrate, Karnal, call upon Com. Harnam Singh, General Secretary, District Kisan Sabha, Karnal and Shahabad, convener of the said conferences and dramas to furnish immediately and in any case not later than 28th June, 1957, details of the dramas proposed to be staged, in order to enable me to ascertain the true character of the same.

I hereby prohibit you Com. Harnam Singh, General Secretary, District Kisan Sabha, from performing, staging, acting, managing or doing any act in pursuance of the performance of any drama till my approval is obtained by you."

Harnam Singh has filed this petition under Article 226 of the Constitution challenging the validity of this order as well as the validity of the Act Under which this order was passed.

2. The Order which I have reproduced above purports to be u/s 7 of the Dramatic Performances Act, 1876, and by this order Harnam Singh is called upon, to furnish details of the dramas proposed to be staged in order to enable the District Magistrate to ascertain the true character of these dramas. This Order has been made in view of the information of the fact that the District Magistrate considers that these dramas are likely to excite feelings of disaffection to the Government as provided in Section 3(b) of this Act. Section Section (b) reads :

"Whenever the State Government is of opinion that any play, pantomime or other drama performed or about to be performed in a public place is

(a) * *

(b) likely to excite feelings of disaffection to to Government established by law in India or

(c) *

It is, therefore, clear that the impugned order can toe justified only u/s 3(b) of the Act. The learned counsel for the petitioner urges that this provision of law contravenes Article 19 of the Constitution and therefore is unconstitutional. There is force in this contention. Similar words occur in Section 124A Indian Penal Code, and it was held in Tara Singh Gopi Chand v. The State, AIR 1951 Punj. 27 (A) by a Division Bench of this Court that Section 124A. Indian Penal Code, contravenes Article 19 of the Constitution as it places unreasonable restrictions on the freedom of speech and expression which, is guaranteed to all citizens by Clause (1) of Article 19 of the Constitution. This decision is binding on me. Moreover, a Division Bench of the Allahabad High Court in The State Vs. Baboo Lal and Others, has held that the whole Dramatic Performances Act 1876 is ultra vires of the Constitution of India, because its procedural part imposes such restrictions on the right of freedom of speech and expression which cannot be covered by the saving Clause in Article 19(2) of the Constitution. Their Lordships have held that by leaving the matter entirely to the subjective determination of the District Magistrate it has denied the essential minimum requirements of natural justice, namely the right to be heard before final condemnation and the right to have the order reviewed and objectively determined by higher tribunal judicial or otherwise. In the present case, however, it is not necessary to decide whether the whole Act is ultra vires of the Constitution or not. It is sufficient to say that the order in question having been passed because the District Magistrate wanted to see whether the dramas were likely to excite feelings of disaffection to the Government contravenes Article 19(1) of the Constitution. Accordingly, I accept this petition and set aside the impugned order of the District Magistrate, Karnal, dated 27-6-1957. The petitioner will get costs of this petition. Counsel's fee Rs. 50/-