

(2015) 05 AHC CK 0202
In the Allahabad High Court
Case No : Misc. Bench No. 3536 of 2015

Satya Narain Shukla

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 29-05-2015

Acts Referred:

Constitution of India, 1950 — Article 136, 14, 141, 142, 144

Citation : (2015) 4 ALJ 578

Hon'ble Judges : Narayan Shukla, J;Rajan Roy, J

Bench : Division Bench

Advocate : S.N. Shukla, for the Appellant

Final Decision : Dismissed

Judgement

Narayan Shukla, J—Heard Mr. Satya Narayan Shukla, petitioner in person, Mr. Ashok Mehta, learned Additional Solicitor General of India assisted by Mr. Ajay Kumar Singh, Senior Standing Counsel, Union of India as well as Mr. H.K. Bhatt, learned Additional Chief Standing Counsel. The petitioner being an Advocate, has filed this petition styled as Public Interest Litigation to issue a mandamus to the respondents to come out with a comprehensive concrete time bound action plan for fulfilling by 2030 the promise made in the Preamble of Constitution and mandate formulated in the Directive Principles for eradication of poverty along with some ancillary reliefs. The petitioner has also proposed some suggestions to ensure prompt and effective action to achieve the objectives of the directive principles of the Constitution of India.

2. The petitioner has made the submissions that the preamble of the Constitution of India promises to provide justice to socially, economically and politically backward people of India. The concept of social and economic justice to build a welfare State has been recognized as a basic feature of our Constitution. He has enumerated so many principles enshrined as directive principles under Part IV of the Constitution of India. He has cited a decision of the Hon"ble Supreme Court i.e. Miss. Mohini Jain Vs. State of Karnataka and others, AIR 1992 SC 1858 :

(1992) 4 JT 292 : (1992) 2 SCALE 90 : (1992) 3 SCC 666 : (1992) 3 SCR 658 : (1992) 2 UJ 331 . In this case the Hon"ble Supreme Court has held as under:--

"9. The directive principles which are fundamental in the governance of the country cannot be isolated from the fundamental rights guaranteed under Part HI. These principles have to be read into the fundamental rights. Both are supplementary to each other. The State is under a constitutional mandate to create conditions in which the fundamental rights guaranteed to the individuals under part HI could be enjoyed by all...."

3. As per contentions of the petitioner he had sought some information from the Planning Department of the State Government with respect to various schemes in the State Sector for the persons living below poverty line as to what schemes have been framed by the Government for their empowerment, but the department concerned had refused to provide the information and replied that it was not possible to ascertain from the details given by the planning department as to which schemes are for persons living below poverty line. Similarly he had asked the similar information from the different departments of the State Government but those had also not been supplied to him.

4. It has further been contended that in his message to the Hon"ble Supreme Court Bar Association on the occasion of National Law Day on 26.11.2014 the Hon"ble Prime Minister had expressed his concern for the deprived sections of the society. He cited a case of Vineet Narain and Others Vs. Union of India (UOI) and Another, AIR 1998 SC 889 : (1998) CriLJ 1208 : (1997) 10 JT 247 : (1999) 1 SCALE 442 : (1997) 7 SCALE 656 : (1997) 6 SCALE 16 : (1998) 1 SCC 226 : (1997) 6 SCR 595 Supp : (1998) AIRSCW 645 : (1997) 10 Supreme 476 . In the said case the Hon"ble Supreme Court has held as under:--

"49. There are ample powers conferred by Article 32 read with Article 142 to make orders which have the effect of law by virtue of Article 141 and there is mandate to all authorities to act in aid of the orders of this Court as provided in Article 144 of the Constitution. In a catena of decisions of this Court, this power has been recognized and exercised, if need be, by issuing necessary directions to fill the vacuum till such time the legislature steps in to cover the gap or the executive discharges its role...."

5. In the case of Common Cause (A Regd. Society) Vs. Union of India (UOI) and Others, AIR 2008 SC 2116 : (2008) 4 JT 317 : (2008) 4 SCALE 848 : (2008) 5 SCC 511 : (2008) AIRSCW 3164 : (2008) 2 Supreme 865 the Hon"ble Supreme Court has referred another judgment of the Hon"ble Supreme Court i.e. Union of India (UOI) Vs. Association for Democratic Reforms and Another, AIR 2002 SC 2112 : (2002) 4 JT 501 : (2002) 4 SCALE 297 : (2001) 4 SCALE 110 : (2002) 5 SCC 294 : (2002) 3 SCR 696 , in which the Hon"ble Supreme Court has propounded the following law:--

"The Supreme Court cannot give any directions for amending the Act or the statutory Rules. It is for Parliament to amend the Act and the Rules. It is also

established law that no direction can be given, which would be contrary to the Act and the Rules. However, it is equally settled that in case when the Act or Rules are silent on a particular subject and the authority implementing the same has constitutional or statutory power to implement it, the Court can necessarily issue directions or orders on the said subject to fill the vacuum or void till a suitable law is enacted."

6. He further cited a case of Razakbhai Issakbhai Mansuri and Others Vs. State of Gujarat and Others, (1993) 1 SCALE 5 : (1993) 2 SCC 659 Supp : (1992) 3 SCR 369 Supp , relevant part of judgment is reproduced hereunder:--

"11. Although the Directive Principles of State Policy as contained in Part IV of the Constitution are not enforceable by Courts, nonetheless it is the duty of the State to give effect to those principles by making appropriate laws. It has been described as matters of constitutional obligation of the State to do so in the public interest. A large body of legislation under Article 19(1)(g) when challenged, has been upheld by Courts, as being in furtherance of such policy, as valid on the ground of the Directive Principle...."

7. He further cited a case of Air India Statutory Corporation, etc. Vs. United Labour Union and others [overruled], AIR 1997 SC 645 : (1996) 11 JT 109 : (1997) 1 LLJ 1113 : (1996) 9 SCALE 70 : (1997) 9 SCC 377 : (1997) SCC(L&S) 1344 : (1996) 9 SCR 579 Supp : (1997) AIRSCW 430 : (1997) 2 Supreme 165 . In this case the Hon"ble Supreme Court has referred its judgment of eleven Judges i.e. His Holiness Kesavananda Bharati Sripadagalvaru Vs. State of Kerala, AIR 1973 SC 1461 : (1973) 4 SCC 225 : (1973) SCR 1 Supp , in which the preamble was held as the part of the Constitution. In S.R. Bommai and others Vs. Union of India and others etc. etc., AIR 1994 SC 1918 : (1994) 2 JT 215 : (1994) 2 SCALE 37 : (1994) 3 SCC 1 : (1994) 2 SCR 644 , the Hon"ble Supreme Court has held that the preamble of the Constitution of Minerva Mills Ltd. and Others Vs. Union of India (UOI) and Others, AIR 1980 SC 1789 : (1980) 3 SCC 625 : (1980) 2 SCC 591 : (1981) 1 SCR 206 : (1980) 12 UJ 727 the Constitution Bench of the Hon"ble Supreme Court has held that the fundamental rights and the directive principles are two wheels of the chariot in establishing the egalitarian of the social order.

8. On the aforesaid backdrop the petitioner has emphasized his argument to issue a mandamus to the respondents to fulfill the promise enumerated in the preamble of the Constitution of India and further to fulfill the mandate described in the directive principles enumerated under part IV of the Constitution of India.

9. Mr. Ashok Mehta, learned Additional Solicitor General, Union of India and Mr. H.K. Bhatt, learned Additional Chief Standing Counsel State of U.P. has raised objection against the maintainability of the writ petition with the submission that the petitioner being General Secretary of "Lok Prahari" had instituted a Public Interest Litigation being writ petition (Civil) No. 125 of 2014 under Article 32 of the Constitution of India before the Hon"ble Supreme Court for the same very

relief based on the same pleadings. The petitioner had prayed before the Hon''ble Supreme Court to issue a writ of mandamus to the respondents to prepare a separate five year plan and annual plans for below poverty line peoples and issue directions to the respondents to provide adequate funds for implementation of the plans. It has been submitted that the said writ petition had been dismissed by the Hon''ble Supreme Court, therefore the order passed by the Supreme Court constitutes res judicata upon the issue determined by the Court between the parties.

10. The petitioner had disputed the aforesaid argument and submitted that since the Supreme Court has not decided any issue which had been raised before the Hon''ble Supreme Court, it is still open for consideration of this Court under Article 226 of the Constitution of India.

11. He cited a case of Daryao and Others Vs. The State of U.P. and Others, AIR 1961 SC 1457 : (1962) 1 SCR 574 in which the Constitution Bench of the Hon''ble Supreme Court has held as under:--

"19. We, must now proceed to state our conclusion on the preliminary objection raised by the respondents. We hold that if a writ petition filed by a party under Art. 226 is considered on the merits as contested matter, and is dismissed the decision thus pronounced would continue to bind the parties unless it is otherwise modified or reversed by appeal or other appropriate proceedings permissible under the Constitution. It would not be open to a party to ignore the said judgment and move this Court under Art. 32 by an original petition made on the same facts and for obtaining the same or similar orders of writs. If the petition filed in the High Court under Art. 226 is dismissed not on the merits but because of the laches of the party applying for the writ or because it is held that the party had an alternative remedy available to it, then the dismissal of the writ petition would not constitute a bar to a subsequent petition under Art. 32 except in cases where and if the facts thus found by the High Court may themselves be relevant even under Art. 32. If a writ petition is dismissed in limine and an order is pronounced in that behalf. whether or not the dismissal would constitute a bar would depend upon the nature of the order. If the order is on the merits it would be a bar; if the order shows that the dismissal was for the reason that the petitioner was guilty of laches or that he had an alternative remedy it would not be a bar, except in cases which we have already indicated. If the petition is dismissed in limine without passing a speaking order then such dismissal cannot be treated as creating a bar of res judicata. It is true that, prima facie, dismissal in limine even without passing a speaking order in that behalf may strongly suggest that the Court took the view that there was no substance in the petition at all; but in the absence of a speaking order it would not be easy to decide what factors weighed in the mind of the Court and that makes it difficult and unsafe to hold that such a summary dismissal is a dismissal on merits and as such constitutes a bar of res judicata against a similar the petition filed under Art. 32. If the petition is dismissed as withdrawn it cannot be a bar to a subsequent writ

petition under Art. 32, because in such a case there has been no decision on the merits by the Court. We wish to make it clear that the conclusions thus reached by us are confined only to the point of res judicata which has been argued as a preliminary issue in these writ petitions and no other. It is in the light of this decision that we will now proceed to examine the position in the six petitions before us."

12. In case of Arati Ray Choudhary Vs. Union of India (UOI) and Others, AIR 1974 SC 532 : (1974) LabIC 393 : (1974) 1 LLJ 239 : (1974) 1 SCC 87 : (1974) 2 SCR 1 the Constitution Bench of the Hon"ble Supreme Court has followed its earlier judgment rendered in the case of Daryao and Others Vs. The State of U.P. and Others, AIR 1961 SC 1457 : (1962) 1 SCR 574 and held that as the petition filed in the High Court under Article 226 was not dismissed on merits, the present petition cannot be barred by res judicata or by the application of any principle analogous to it."

13. In case of Indian Oil Corporation Ltd. Vs. State of Bihar and others, AIR 1986 SC 1786 : (1987) 27 ELT 578 : (1987) 167 ITR 897 : (1986) JT 132 : (1987) 1 LLJ 17 : (1986) 2 SCALE 233 : (1986) 4 SCC 146 : (1986) 3 SCR 553 : (1987) 66 STC 408 : (1986) 2 UJ 704 the Hon"ble Supreme Court in paragraphs 6 and 8 of its judgment has held as under:--

"6. We are clearly of opinion that the view taken by the High Court was not right and that the High Court should have gone into the merits of the writ petition without dismissing it on the preliminary ground. As observed by this Court in Workmen of Cochin Port Trust Vs. Board of Trustees of The Cochin Port Trust and Another, AIR 1978 SC 1283 : (1978) 37 FLR 85 : (1978) 2 LLJ 161 : (1978) 3 SCC 119 : (1978) 3 SCR 971 : (1978) 10 UJ 489 , the effect of a non-speaking order of dismissal of a special leave petition without anything more indicating the grounds or reasons of its dismissal must, by necessary implication, be taken to be that this Court had decided only that it was not a fit case where special leave should be granted. This conclusion may have been reached by this Court due to several reasons. When the order passed by this Court was not a speaking one, it is not correct to assume that this Court had necessarily decided implicitly all the questions in relation to the merits of the award, which was under challenge before this Court in the special leave petition. A writ proceeding is a wholly different and distinct proceeding. Questions which can be said to have been decided by this Court expressly, implicitly or even constructively while dismissing the special leave petition cannot, of course, be re-opened in a subsequent writ proceeding before the High Court. But neither on the principle of res judicata nor on any principle of public policy analogous thereto, would the order of this Court dismissing the special leave petition operate to bar the trial of identical issues in a separate proceeding namely, the writ proceeding before the High Court merely on the basis of an uncertain assumption that the issue must have been decided by this Court at least by implication. It is not correct or safe to extend the principle of res judicata or constructive res judicata to such an extent so as to

found it on mere guesswork.

8. It is not the policy of this Court to entertain special leave petitions and grant leave under Article 136 of the Constitution save in those cases where some substantial question of law of general or public importance is involved or there is manifest injustice resulting from the impugned order or judgment. The dismissal of a special leave petition in limine by a non-speaking order does not therefore justify any inference that by necessary implication the contentions raised in the special leave petition on the merits of the case have been rejected by this Court. It may also be observed that having regard to the very heavy backlog of work in this Court and the necessity to restrict the intake of fresh cases by strictly following the criteria aforementioned, it has very often been the practice of this Court not to grant special leave except where the party cannot claim effective relief by approaching the concerned High Court under Article 226 of the Constitution. In such cases also the special leave petitions are quite often dismissed only by passing a non-speaking order especially in view of the rulings already given by this Court in the two decisions afore-cited, that such dismissal of the special leave petition will not preclude the party from moving the High Court for seeking relief under Article 226 of the Constitution. In such cases it would work extreme hardship and injustice if the High Court were to close its doors to the petitioner and refuse him relief under Article 226 of the Constitution on the sole ground of dismissal of the special leave petition."

14. In view of the law laid down by the Hon'ble Supreme Court on the principles of res judicata in the case dismissed in limine, we are of the view that since the Hon'ble Supreme Court has dismissed the writ petition without making any discussion on merit, the present writ petition is not barred by res judicata and, therefore, we proceed to decide the writ petition on merit. The objection raised by learned counsels for respondents stand rejected.

Nature and purpose of Preamble of the Constitution of India.

15. The larger Bench of the Hon'ble Supreme Court in the case of His Holiness Kesavananda Bharati Sripadagalvaru Vs. State of Kerala, AIR 1973 SC 1461 : (1973) 4 SCC 225 : (1973) SCR 1 Supp has discussed the nature and purpose of preamble of the Constitution of India as under:--

"1153. It is clear from the above views of Story that: (a) the Preamble is a key to open the mind of the makers as to the mischiefs, which are to be remedied; (b) that it is properly resorted to, where doubts or ambiguities arise upon the words of the enacting part; (c) even where the words are clear and unambiguous, it can be used to prevent an obvious absurdity or to a direct overthrow of the intention expressed in the Preamble, and it would be much more so, if they were ambiguous; (d) there is no reason why, in fundamental law or constitution of Government, an equal attention should not be given to the intention of the framers, as stated in the Preamble; (e) the Preamble can never be resorted to, to enlarge the powers expressly given, nor to substantively create

any power or to imply a power which is otherwise withdrawn from the Constitution; (f) its true function is to expound the nature, extent, and application of the powers actually conferred by the Constitution."

Directions for Legislation

16. In *Vishaka and others Vs. State of Rajasthan and Others*, AIR 1997 SC 3011 : (1997) 3 Crimes 188 : (1997) 7 JT 384 : (1997) 5 SCALE 453 : (1997) 5 SCALE 451 : (1997) 6 SCC 241 : (1997) 3 SCR 404 Supp : (1997) AIRSCW 3043 : (1997) 7 Supreme 323 the Supreme Court has discussed the violation of fundamental rights of "Gender Equality"" and the "Right to Life and Liberty" and has held that definitely such violations, attract the remedy under Article 32 for enforcement of these fundamental rights of women. However, it held that the primary responsibility for ensuring such safety and dignity through suitable, legislation, and the creation of a mechanism for its enforcement, is of the legislature and the executive. When, however, instances of sexual harassment resulting in violation of fundamental rights of women workers under Articles 14, 19 and 21 are brought before us for redress under Article 32, an effective redressal requires that some guidelines should be laid down for the protection of these rights to fill the legislative vacuum.

17. In *Union of India (UOI) Vs. Association for Democratic Reforms and Another*, AIR 2002 SC 2112 : (2002) 4 JT 501 : (2002) 4 SCALE 297 : (2001) 4 SCALE 110 : (2002) 5 SCC 294 : (2002) 3 SCR 696 the Supreme Court has held that it is not possible for this Court to give any directions for amending the Act or the statutory Rules. It is for the Parliament to amend the Act and Rules. It is also established law that no direction can be given, which would be contrary to the Act and the Rules. However, it is equally settled that in case when the Act or Rules are silent on a particular subject and the authority implementing the same has Constitutional or statutory power to implement it, the Court can necessarily issue directions or orders on the said subject to fill the vacuum or void till the suitable law is enacted.

18. In *Common Cause (A Regd. Society) Vs. Union of India (UOI) and Others*, AIR 2008 SC 2116 : (2008) 4 JT 317 : (2008) 4 SCALE 848 : (2008) 5 SCC 511 : (2008) AIRSCW 3164 : (2008) 2 Supreme 865 . In this case the petitioner had prayed for issuing a writ in the nature of mandamus to set up fully satisfactory procedures of licensing of vehicles and licensing of drivers, for ensuring that the vehicles are fully equipped with all the safety travel requirements, and also ensure that drivers of private vehicles as well as drivers of public vehicles including buses and trucks, are fully trained and are competent to drive the respective types of vehicles, and also to organize high-level training arrangements for the drivers of respective types of vehicles; appropriate procedures for suspension/cancellation of driving licenses in the event of any default or for involvement in any accident so on.

19. The Hon''ble Supreme Court expressed the opinion that the prayers made by

the petitioner required us to give directions of a legislative or executive nature, which can only be given by the Legislature or executive.

20. The Supreme Court had further held that the position has been clarified by the seven-Judges Bench decision of this Court in *P. Ramachandra Rao Vs. State of Karnataka*, AIR 2002 SC 1856 : (2002) CriLJ 2547 : (2002) 2 Crimes 200 : (2002) 4 JT 92 : (2001) 4 SCALE 226 : (2002) 4 SCC 578 : (2002) 3 SCR 68 : (2002) AIRSCW 1841 : (2002) 3 Supreme 260 , which has clearly observed (in paras 22-27) that giving directions of a legislative nature is not a legitimate judicial function. It has further been held that it must be realized by the courts that they are not equipped with the skills, expertise or resources to discharge the functions that belong to the other co-ordinate organs of the Government (the legislature and executive). Its institutional equipment is wholly inadequate for undertaking legislation or administrative functions.

21. Relevant paragraphs 22, 37, 38, 39, 40, 44, 45, 53, 54, 55 and 56 of the case of *Common Cause (A Regd. Society) Vs. Union of India (UOI) and Others*, AIR 2008 SC 2116 : (2008) 4 JT 317 : (2008) 4 SCALE 848 : (2008) 5 SCC 511 : (2008) AIRSCW 3164 : (2008) 2 Supreme 865 are extracted below:--

"22. As observed by Hon"ble Dr. Justice A.S. Anand, former Chief Justice of India :

"Courts have to function within the established parameters and constitutional bounds. Decisions should have a jurisprudential base with clearly discernible principles. Courts have to be careful to see that they do not overstep their limits because to them is assigned the sacred duty of guarding the Constitution. Policy matters, fiscal, educational or otherwise, are thus best left to the judgment of the executive. The danger of the judiciary creating a multiplicity of rights without the possibility of adequate enforcement will, in the ultimate analysis, be counter productive and undermine the credibility of the institution. Courts cannot "create rights" where none exists nor can they go on making orders which are incapable of enforcement or violative of other laws or settled legal principles. With a view to see that judicial activism does not become "judicial adventurism", the courts must act with caution and proper restraint. They must remember that judicial activism is not an unguided missile failure to bear this in mind would lead to chaos. Public adulation must not sway the Judges and personal aggrandizement must be eschewed. It is imperative to preserve the sanctity and credibility of judicial process. It needs to be remembered that courts cannot run the Government. The judiciary should act only as an alarm bell; it should ensure that the executive has become alive to perform its duties".

37. We have gone deep into the subject of judicial activism and public interest litigation because it is often found that courts do not realize their own limits. Apart from the doctrine of separation of powers, courts must realize that there are many problems before the country which courts cannot solve, however much they may like to. It is true that the expanded scope of Articles 14 and 21 which

has been created by this Court in various judicial decisions e.g. *Mrs. Maneka Gandhi Vs. Union of India (UOI) and Another*, AIR 1978 SC 597 : (1978) 1 SCC 248 : (1978) 2 SCR 621 , have given powerful tools in the hands of the judiciary. However, these tools must be used with great circumspection and in exceptional cases and not as a routine manner. In particular, Article 21 of the Constitution must not be misused by the Courts to justify every kind of directive, or to grant every kind of claim of the petitioner. For instance, this Court has held that the right to life under Article 21 does not mean mere animal existence, but includes the right to live with dignity vide *Olga Tellis and Others Vs. Bombay Municipal Corporation and Others*, AIR 1986 SC 180 : (1985) 2 SCALE 5 : (1985) 3 SCC 545 : (1985) 2 SCR 51 Supp , *Delhi Transport Corporation Vs. D.T.C. Mazdoor Congress and Others*, AIR 1991 SC 101 : (1991) 1 CompLJ 1 : (1990) 3 JT 725 : (1991) LabIC 91 : (1991) 1 LLJ 395 : (1991) 1 SCC 600 Supp : (1990) 1 SCR 142 Supp : (1991) 1 SLJ 56 , *Francis Coralie Mullin Vs. Administrator, Union Territory of Delhi and Others*, AIR 1981 SC 746(1) : (1982) 52 CompCas 554 : (1981) CriLJ 306 : (1981) 1 SCALE 79 : (1981) 1 SCC 608 : (1981) SCC(Cri) 212 : (1981) 2 SCR 516 . However, these decisions must be understood in a balanced way and not in an unrealistic sense. For example, there is a great deal of poverty in this country and poverty is destructive of most of the rights including the right to a dignified life. Can then the Court issue a general directive that poverty be abolished from the country because it violates Article 21 of the Constitution? Similarly, can the Court issue a directive that unemployment be abolished by giving everybody a suitable job? Can the Court stop price rise which now- a-days has become an alarming phenomenon in our Country? Can the Court issue a directive that corruption be abolished from the country? Article 21 is not a "brahmastra" for the judiciary to justify "every kind of directive."

38. The concern of the petitioner is that many people die in road accident. But many people also die due to murders. Should then the Court issue a general directive that murders be not committed in the country? And how would such a directive (even if issued) be implemented?

39. We would be very happy to issue such directives if they could really be implementable. However, the truth is that they are not implementable (for various reasons, particularly lack of financial and other resources and expertise in the matter). For instance, the directives issued by this Court regarding road safety in *M.C. Mehta Vs. Union of India (UOI) and Others*, AIR 1998 SC 190 : (1997) 10 JT 16 : (1997) 6 SCALE 14 : (1998) 1 SCC 363 : (1997) 6 SCR 368 Supp hardly seem to have had any effect because everyday we read in the newspapers or see the news on TV about Blue Line buses killing or injuring people. In the *Hawala case (Vineet Narain and Others Vs. Union of India (UOI) and Another*, AIR 1998 SC 889 : (1998) CriLJ 1208 : (1997) 10 JT 247 : (1999) 1 SCALE 442 : (1997) 7 SCALE 656 : (1997) 6 SCALE 16 : (1998) 1 SCC 226 : (1997) 6 SCR 595 Supp : (1998) AIRSCW 645 : (1997) 10 Supreme 476 a valiant effort was made by this Court to check corruption, but has it made even a dent on the rampant corruption prevailing in the country? It is well settled that

futile writs should not be issued by the Court.

40. The justification given for judicial activism is that the executive and legislature have failed in performing their functions. Even if this allegation is true, does it justify the judiciary in taking over the functions of the legislature or executive? In our opinion it does not, firstly because that would be in violation of the high constitutional principle of separation of powers between the three organs of the State, and secondly because the judiciary has neither the expertise nor the resources for this. If the legislature or executive are not functioning properly it is for the people to correct the defects by exercising their franchise properly in the next elections and voting for candidates who will fulfill their expectations, or by other lawful means e.g. peaceful demonstrations and agitations, but the remedy is surely not by the judiciary in taking over the functions of the other organs.

44. Moreover, if once the Courts take upon themselves the task of issuing ukases as to how administrative agencies should function, what is there to prevent them from issuing directions as to how the State Government or Central Government should administer the State and run the country? In our opinion such an approach would not only disturb the delicate balance of powers between the three wings of the State, it would also strike at the very basis of our democratic polity which postulates that the governance of the country should be carried on by the executive enjoying the confidence of the legislature which is answerable and accountable to the people at the time of elections. Such an approach would in our opinion result in judicial oligarchy dethroning democratic supremacy.

45. In our opinion the Court should not assume such awesome responsibility even on a limited scale. The country can ill afford to be governed through court decrees. Any such attempt will not only be grossly undemocratic. it would be most hazardous as the Courts do not have the expertise or resources in this connection. The judiciary is not in a position to provide solutions to each and every problem. although human ingenuity would not be lacking to give it some kind of shape or semblance of a legal or constitutional right, e.g. by re-sorting to Article 21.

53. The people must know that Courts are not the remedy for all ills in society. The problems confronting the nation are so huge that it will be creating an illusion in the minds of the people that the judiciary can solve all the problems. No doubt, the judiciary can make some suggestions/recommendations to the legislature or the executive, but these suggestions/recommendations cannot be binding on the legislature or the executive, otherwise there will be violation of the seven-Judge Bench decision of this Court in P. Ramachandra Rao Vs. State of Karnataka, AIR 2002 SC 1856 : (2002) CriLJ 2547 : (2002) 2 Crimes 200 : (2002) 4 JT 92 : (2001) 4 SCALE 226 : (2002) 4 SCC 578 : (2002) 3 SCR 68 : (2002) AIRSCW 1841 : (2002) 3 Supreme 260 , and violation of the principle of separation of powers. The judiciary must know its limits and exercise judicial restraint vide Divisional Manager, Aravali Golf Club and Another Vs. Chander Hass

and Another, (2008) 2 CLT 620 : (2008) 3 JT 221 : (2008) 149 PLR 485 : (2007) 14 SCALE 1 : (2008) 1 SCC 683 : (2008) 1 SCC(L&S) 289 : (2007) 12 SCR 1084 : (2008) 1 UJ 17 . The people must also realize that the judiciary has its limits and cannot solve all their problems, despite its best intentions.

54. The problems facing the people of India have to be solved by the people themselves by using their creativity and by scientific thinking and not by using judicial crutches like PILs.

55. These problems (e.g. poverty, unemployment, price rise, corruption, lack of education. medical aid and housing, etc.) are so massive that they can only be solved by certain historical, political and social forces that can only be generated by the people themselves using their creativity and scientific thinking.

56. The view that the judiciary can run the Government and can solve all the problems of the people is not only unconstitutional, but also it is fallacious and creates a false impression and false illusion that the judiciary is a panacea for all ills in society. Such illusions, in fact, do great harm to the people because it makes the people believe that their problems can be solved by others and not by the people themselves. It debilitates their will and makes them believe that they can solve their problems and improve their conditions not by their own struggles and creativity but by filing a PIL in Court."

22. In Divisional Manager, Aravali Golf Club and Another Vs. Chander Hass and Another, (2008) 2 CLT 620 : (2008) 3 JT 221 : (2008) 149 PLR 485 : (2007) 14 SCALE 1 : (2008) 1 SCC 683 : (2008) 1 SCC(L&S) 289 : (2007) 12 SCR 1084 : (2008) 1 UJ 17 the Hon"ble Supreme Court has discussed again the same situation and expressed the opinion in para 31:--

"31. If the legislature or the executive are not functioning properly it is for the people to correct the defects by exercising their franchise properly in the next elections and voting for candidates who will fulfill their expectations, or by other lawful methods e.g. peaceful demonstrations. The remedy is not in the judiciary taking over the legislative or executive functions, because that will not only violate the delicate balance of power enshrined in the Constitution, but also the judiciary has neither the expertise nor the resources to perform these functions."

23. In the case on hand the petitioner has shown his concern in implementation of promises made by the people of the Country through the Preamble of the Constitution of India with the directions of the Court, whereas in view of the law laid down by the Hon"ble Supreme Court in the case of Common Cause (A Regd. Society) Vs. Union of India (UOI) and Others, AIR 2008 SC 2116 : (2008) 4 JT 317 : (2008) 4 SCALE 848 : (2008) 5 SCC 511 : (2008) AIRSCW 3164 : (2008) 2 Supreme 865 we are of the view that it is the promises of the people of the country for themselves to be fulfilled by themselves. The promises as raised by the petitioner can be addressed by the public representatives being members of the Parliament or the Legislative Assemblies or the Legislative Councils. The Court should not be made answerable to any fault committed by the State

machinery or to come forward for implementation of the schemes made by the government for its people. The role of judiciary is very limited, particularly in the matter of governance of the country. It should not take the functions of the Legislative or Executive in its hand. The Court should use its power only in exceptional cases and not in a routine manner,

24. The petitioner has pleaded that while the percentage of population below poverty line declined by 15% of the country, but in Uttar Pradesh its decrease was only 11%, thus it has been stated that the Uttar Pradesh has been looking behind in reduction of poverty and thereby also, pulling down the over all national achievement. He has suggested to set up a separate department for poverty eradication and reduction of inequality. All things which have been suggested as measures to be adopted by the State for eradication of poverty, can be taken care either by the Legislatures, if there is no Legislation on the subject or by the executives to implement the legislation if it is already there. It is not the domain of the judicial court to step in the domain of the Legislatures or the executives to take up the policy matter or for issuing direction for implementation of directive principles enshrined in Part IV of the Constitution of India.

25. Regarding what has to be the judicial pronouncements discussed above, we are of the view that this Court would be exceeding its jurisdiction in grant of reliefs as sought by the petitioner. Therefore, we refrain ourselves to issue any such direction to the respondents as to come out with a comprehensive concrete time bound action plan for fulfilling the promises made in the Preamble of the Constitution and mandate formulated in the directive principles for eradication of poverty by 2030. In the result the writ petition stands dismissed.