

Handwritten notes at the top right: '1454.009', '29/12/16', and 'CBM'.

Government of Odisha
Home Department

No. HOME-SAPW-MISC-0056-2016

46036

/Dated, 19.12.16

From

Sri Lalit Das, IPS
Special Secretary to Government.

To

All Departments of Government/All heads of Department/All RDCs/
All Collectors/All S.P.s.

Sub-: Orders relating to the National Anthem of India .

Sir,

In enclosing herewith a copy of the letter No. 14/6/2016-public dated 06.12.2016 along with its enclosures received from Government of India, Ministry of Home Affairs on the subject noted above, I am directed to request that necessary steps may please be taken for compliance on the order dated 30.11.2016 of the Hon'ble Supreme Court in the Writ Petition(Civil) No.855 of 2016.

Yours faithfully,

Special Secretary to Government.

Handwritten notes on the left side: 'MKS', '3/12/16', and a checkmark.

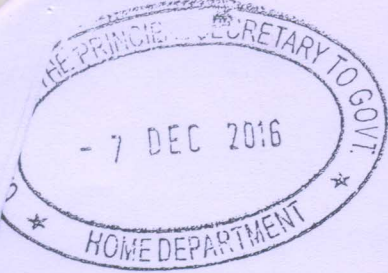
Memo No. 46037 /Dated, 19.12.16

Copy alongwith copy of the enclosures forwarded to the Director, Information and Public Relation Department for information and necessary action.

It is requested that wide publication of the instructions may be made in the News Papers and Electronic Media to create public awareness for strict compliance of the order dated 30.11.2016 of Hon'ble Supreme Court.

Special Secretary to Government.

Handwritten notes at the bottom left: '19/11', 'ESR', and a signature dated '11/12/16'.



DyMO 1/25/S.P.W.
7/12/16

No. 14/6/2016-Public
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya
Public Section

1109
85

North Block, New Delhi-1
Dated the 06th December, 2016

To,

The Chief Secretaries of all State Governments,
The Chief Secretaries/Administrators of all Union Territories.

Subject:- Orders relating to the National Anthem of India.

Sir/Madam,

I am directed to enclose a copy of the Hon'ble Supreme Court's Order dated 30.11.2016 delivered in the Writ Petition (Civil) No. 855 of 2016 on the above subject. The Hon'ble Supreme Court in the above said Order has directed as follows:-

- (a) There shall be no commercial exploitation to give financial advantage or any kind of benefit. To elaborate, the National Anthem should not be utilized by which the person involved with it either directly or indirectly shall have any commercial benefit or any other benefit.
- (b) There shall not be dramatization of the National Anthem and it should not be included as a part of any variety show. It is because when the National Anthem is sung or played it is imperative on the part of every one present to show due respect and honour. To think of a dramatized exhibition of the National Anthem is absolutely inconceivable.
- (c) National Anthem or a part of it shall not be printed on any object and also never be displayed in such a manner at such places which may be disgraceful to its status and tantamount to disrespect. It is because when the National Anthem is sung, the concept of protocol associated with it has its inherent roots in National identity, National integrity and Constitutional Patriotism.
- (d) All the cinema halls in India shall play the National Anthem before the feature film starts and all present in the hall are obliged to stand up to show respect to the National Anthem.
- (e) Prior to the National Anthem is played or sung in the cinema hall on the screen, the entry and exit doors shall remain closed so that no one can create any kind of disturbance which will amount to disrespect to the National Anthem. After the National Anthem is played or sung, the doors can be opened.

9/12

APW
Dy Secy
Grih Mantraya.

9/12/2016

(f) When the National Anthem shall be played in Cinema Halls, it shall be with the National Flag on the screen.


(g) The abridge version of the National Anthem made by any one for whatever reason shall not be played or displayed.

2. The above is conveyed to you for compliance and necessary action in this regard. You are also requested to give wide publicity in the local print and electronic media so that above Order is followed in letter and spirit.

3. The receipt of this letter may please be acknowledged and action taken in the matter be communicated to this Ministry.

Encl.: As above.

Yours faithfully,



(V.K. Rajan)

Deputy Secretary to the Govt. of India
Tel. 2309 4376

Copy to:-

1. All Ministries/Departments of Government of India.
2. President's Secretariat, Rashtrapati Bhawan, New Delhi.
3. Vice-President's Secretariat, New Delhi.
4. Prime Minister's Office, South Block, New Delhi.
5. Cabinet Secretariat, New Delhi.
6. Election Commission of India, New Delhi.
7. Lok Sabha Secretariat, New Delhi.
8. Rajya Sabha Secretariat, New Delhi.
9. Registrar, Supreme Court of India, New Delhi.
10. All High Courts.
11. Office of Comptroller and Auditor General of India, New Delhi.
12. The Union Public Service Commission, New Delhi.
13. Central Vigilance Commission, New Delhi.
14. NITI Aayog, Yojana Bhawan, New Delhi.
15. All attached & Subordinate Offices of the Ministry of Home Affairs.
16. 20 Spare copies.

(107)

तत्काल
समयबद्ध

संख्या 14/6/2016-पब्लिक
भारत सरकार
गृह मंत्रालय
पब्लिक अनुभाग

नॉर्थ ब्लॉक, नई दिल्ली -1
दिनांक 06 दिसम्बर, 2016

सेवा में,

सभी राज्य सरकारों के मुख्य सचिव/
सभी संघ राज्य क्षेत्रों के मुख्य सचिव/प्रशासक

विषय : भारत के राष्ट्रगान से संबंधित आदेश।

महोदय/महोदया,

मुझे उपर्युक्त विषय पर वर्ष 2016 की रिट याचिका (सिविल) संख्या 855 में माननीय उच्चतम न्यायालय द्वारा दिये गए दिनांक 30/11/2016 के आदेश की प्रति संलग्न करने का निदेश हुआ है। माननीय उच्चतम न्यायालय ने उपर्युक्त आदेश में निम्नानुसार निदेश दिया है:-

- (क) इसका वित्तीय फायदा अथवा किसी प्रकार का लाभ देने के लिए किसी प्रकार का व्यवसायिक दुरुपयोग नहीं किया जाएगा। स्पष्टतः, राष्ट्रगान का उपयोग इस प्रकार नहीं किया जाएगा कि जिससे प्रत्यक्ष अथवा अप्रत्यक्ष रूप से जुड़े व्यक्ति का किसी प्रकार का व्यवसायिक लाभ अथवा अन्य किसी प्रकार का लाभ हो।
- (ख) राष्ट्रगान का नाट्य रूपांतर नहीं किया जाएगा और इसे किसी वैरायटी शो के भाग के रूप में शामिल नहीं किया जाना चाहिए। ऐसा इसलिए, क्योंकि जब राष्ट्रगान गाया जाता है अथवा बजाया जाता है तो वहां उपस्थित प्रत्येक व्यक्ति के लिए यह अनिवार्य है कि वह इसे यथोचित आदर और सम्मान दे। राष्ट्रगान के नाट्यरूपांतर प्रदर्शन के बारे में सोचना भी पूर्णरूपेण कल्पनातीत है।
- (ग) राष्ट्रगान अथवा इसके किसी भाग को किसी वस्तु पर छपा नहीं जाएगा और उसे कभी भी ऐसे स्थान पर इस प्रकार से प्रदर्शित नहीं किया जाएगा जो इसकी मर्यादा के लिए असम्मानजनक और असम्मान के समतुल्य हो। यह इसलिए, क्योंकि जब राष्ट्रगान गाया जाता है तो इससे संबद्ध प्रोटोकॉल की संकल्पना राष्ट्रीय पहचान, राष्ट्रीय अखंडता और संवैधानिक देशभक्ति की भावना में अंतर्निहित है।

- (घ) भारत में स्थित सभी सिनेमा हाल फीचर फिल्म प्रारंभ होने से पहले राष्ट्रगान बजाएंगे और हाल में उपस्थित सभी व्यक्ति राष्ट्रगान को गायान देने के लिए खड़ा होने के लिए बाध्य हैं।
- (ङ) सिनेमा हाल में पर्दे पर राष्ट्रगान बजाए जाने अथवा गाए जाने से पहले प्रवेश और निकास द्वार बंद रहेंगे ताकि कोई भी व्यक्ति किसी प्रकार की अंशाति न फैला सके जो राष्ट्रगान के प्रति असम्मान स्वरूप होगी। राष्ट्रगान के बज जाने अथवा गाए जाने के पश्चात द्वार खोले जा सकते हैं।
- (च) जब सिनेमा हालों में राष्ट्रगान बजाया जाएगा तो पर्दे पर राष्ट्रीय ध्वज दिखाई देता रहेगा।
- (छ) किसी भी व्यक्ति द्वारा किसी भी कारण से बनाया गया राष्ट्रगान का लघु रूप न तो बजाया जाएगा और ना ही प्रदर्शित किया जाएगा।

2. आपसे अनुरोध है कि माननीय उच्चतम न्यायालय के उपर्युक्त निदेशों का कड़ाई से अनुपालन सुनिश्चित किया जाए और इस संबंध में आवश्यक कार्रवाई की जाए। आपसे यह भी अनुरोध है कि इसका स्थानीय समाचार पत्रों और इलैक्ट्रॉनिक मीडिया में व्यापक रूप से प्रचार किया जाए ताकि उपर्युक्त आदेश का अक्षरशः पालन किया जा सके।

3. कृपया इस पत्र की पावती दी जाए और की गई कार्रवाई से इस मंत्रालय को अवगत कराया जाए।

संलग्नक - यथोपरि

भवदीय,

वी.के. राजन

(वी.के. राजन)

भारत सरकार के उप सचिव

दूरभाष : 2309 4376

प्रति प्रेषित:-

1. भारत सरकार के सभी मंत्रालय/विभाग।
2. राष्ट्रपति सचिवालय, राष्ट्रपति भवन, नई दिल्ली।
3. उप-राष्ट्रपति सचिवालय, नई दिल्ली।
4. प्रधानमंत्री कार्यालय, साउथ ब्लॉक, नई दिल्ली।
5. मंत्रिमंडल सचिवालय, नई दिल्ली।
6. भारत का निर्वाचन आयोग, नई दिल्ली।
7. लोक सभा सचिवालय, नई दिल्ली।
8. राज्य सभा सचिवालय, नई दिल्ली।
9. रजिस्ट्रार, भारत का उच्चतम न्यायालय, नई दिल्ली।
10. सभी उच्च न्यायालय।
11. भारत के नियंत्रक एवं महालेखापरीक्षक का कार्यालय, नई दिल्ली।
12. संघ लोक सेवा आयोग, नई दिल्ली।
13. केन्द्रीय सतर्कता आयोग, नई दिल्ली।
14. नीति आयोग, योजना भवन, नई दिल्ली।
15. गृह मंत्रालय के सभी संबंधित और अधीनस्थ कार्यालय।
16. 20 अतिरिक्त प्रतियां।

वी.के. राजन

(वी.के. राजन)

भारत सरकार के उप सचिव

दूरभाष : 2309 4376

ITEM NO.7

COURT NO.3

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 855/2016

SHYAM NARAYAN CHOUKSEY

Petitioner(s)

VERSUS

UNION OF INDIA
(With office report)

Respondent(s)

Date : 30/11/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. Abhinav Shrivastav, Adv.
Mr. Rituvendra Singh, Adv.
Mr. Harmeet Singh Ruprah, Adv.

For Respondent(s) Mr. Mukul Rohtagi, AG
Mr. Ashok Kumar Panda, Sr. Adv.
Mr. Avijit Prasad, Adv.
Ms. Movita, Adv.
Mr. B.K. Prasad, Adv.

UPON hearing the counsel the Court made the following
O R D E R

We have heard Mr. Abhinav Srivastav, learned counsel for the petitioner and Mr. Mukul Rohatgi, learned Attorney General for India along with Mr. A.K. Panda, learned senior counsel for the Union of India.

This Court on 28.10.2016 while entertaining the Writ Petition under Article 32 of the Constitution of India had noted the submissions advanced by the learned counsel for the petitioner, made reference to the enactment, namely, Prevention of Insults to National Honour Act, 1971. It had also taken note

(103) 111

of the averments in the petition.

It has been averred in the petition that sometimes National Anthem is sung in various circumstances which are not permissible and can never be countenanced in law. The emphasis is on showing requisite and necessary respect when the National Anthem is sung or played. The assertion is that it is the duty of every person to show respect when the National Anthem is played or recited or sung.

Having heard the learned counsel for the parties and awaiting the reply from the Union of India, as an interim measure, it is directed that the following directions shall be scrupulously followed:-

(a) There shall be no commercial exploitation to give financial advantage or any kind of benefit. To elaborate, the National Anthem should not be utilized by which the person involved with it either directly or indirectly shall have any commercial benefit or any other benefit.

(b) There shall not be dramatization of the National Anthem and it should not be included as a part of any variety show. It is because when the National Anthem is sung or played it is imperative on the part of every one present to show due respect and honour. To think of a dramatized exhibition of the National Anthem is absolutely inconceivable.

(c) National Anthem or a part of it shall not be printed on any object and also never be displayed in such a manner at such places which

7102 175
may be disgraceful to its status and tantamount to disrespect. It is because when the National Anthem is sung, the concept of protocol associated with it has its inherent roots in National identity, National integrity and Constitutional Patriotism.

(d) All the cinema halls in India shall play the National Anthem before the feature film starts and all present in the hall are obliged to stand up to show respect to the National Anthem.

(e) Prior to the National Anthem is played or sung in the cinema hall on the screen, the entry and exit doors shall remain closed so that no one can create any kind of disturbance which will amount to disrespect to the National Anthem. After the National Anthem is played or sung, the doors can be opened.

(f) When the National Anthem shall be played in the Cinema Halls, it shall be with the National Flag on the screen.

(g) The abridge version of the National Anthem made by any one for whatever reason shall not be played or displayed.

We have so directed as Mr. Mukul Rohtagi, learned Attorney General for India submits with all humility at his command and recommend that National Anthem has to be respected. The directions are issued, for love and respect for the motherland is reflected when one shows respect to the National

101

Anthem as well as to the National Flag. That apart, it would instill the feeling within one, a sense committed patriotism and nationalism.

In this regard, we may refer to clause (a) of Article 51(A), Fundamental Duties occurring in Part IVA of the Constitution. It reads as follows:

"51A. Fundamental duties - It shall be the duty of every citizen of India -
(a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem".

From the aforesaid, it is clear as crystal that it is the sacred obligation of every citizen to abide by the ideals engrafted in the Constitution. And one such ideal is to show respect for the National Anthem and the National Flag. Be it stated, a time has come, the citizens of the country must realize that they live in a nation and are duty bound to show respect to National Anthem which is the symbol of the Constitutional Patriotism and inherent national quality. It does not allow any different notion or the perception of individual rights, that have individually thought of have no space. The idea is constitutionally impermissible.

Mr. Rohatgi has submitted that the Union of India shall circulate this order to the Chief Secretaries of all the States and Union Territories. That apart, Mr. Rohatgi submits that the order shall be shown in the electronic Media and

100
176
5
published in the print media so that every one knows that such an order has been passed and follow the same in letter and spirit.

This order shall be given effect to within a period of 10 days.

Let the matter be listed on 14th February, 2017 for further hearing.

(Madhu Bala)
Court Master

(H.S. Parashar)
Court Master

~~MS~~