

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2020

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THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE Mr.JUSTICE M.NIRMAL KUMAR

W.P.No.7491 of 2020

Adv. M.Zainul Abideen

... Petitioner

...Vs...

1. The Chief Secretary,
Tamil Nadu Government,
Fort St. George,
Chennai- 600 009.

2. The Additional Director General of Police,
Tamil Nadu Police Department,
Chennai-600004.

3. The Secretary,
Ministry of Information and Broadcasting,
New Delhi.

4. The Chairperson,

The Telecom Regulatory Authority of India (TRAI),
Mahanagar Doorsanchar Bhawan,
Jawaharlal Nehru Marg (Old Minto Road),
New Delhi-110003

5. The Registrar of Newspapers of India,
9th Floor, Soochna Bhavan,
CGO Complex, Lodhi Road,
New Delhi- 110003.

... Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus

a) Directing the Respondents to issue guidelines to Print media and visual media with regards to the cautious presentation of the news items when it involves any news, update or information about Corona Covid 19 disease and maintain strict confidentiality in not revealing about anyone infected by the Corona Covid 19 including his family and

b) Directing the respondents to take strict legal action against who are spreading rumors and false information regarding the COVID 19 in Social Media.

For Petitioner : Mr.A.Syed Kaleesha

For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader

ORDER

(Order of this Court was made by M.SATHYANARAYANAN, J)

This Writ Petition, styled as a Public Interest Litigation, is filed by the petitioner, who claims to be a practising Advocate of Madras High Court seeking for a direction to the respondents to issue guidelines to Print Media and Visual Media with regard to the cautious presentation of the news items when it involves any news, update or information about Covid-19 Pandemic and maintain confidentiality in not revealing about anyone infected by the Corona Covid 19 including his family and for a direction to the respondents to take strict legal action against persons who are spreading rumors and false information regarding the COVID 19 in Social Media.

2. According to the petitioner, there are repeated news items in print as well as visual media stating among other things that certain persons who belong to a particular religion and who attended the conference at Delhi found to be affected by Covid-19, Pandemic and the names of the persons were published without their consent and without any authority and on account of the said fact they have faced social stigma. The petitioner also pointed out that especially Muslims are worstly affected, though their family

members volunteered themselves for checkup and returned home after being tested negative in the Corona Covid-19 test.

3.The learned counsel for the petitioner would submit that printing and visual media had acted contrary to TRAI Rules and other transmission laws and in contravention with Press & Registration of Books Act 1867 and further, on account of the dissemination of false information it would definitely lead to enmity towards the persons of a particular religion and hence prays for appropriate orders.

4. This Court heard the submissions of the learned counsel appearing for the petitioner as well as the learned Special Government Pleader who accepts notice on behalf of the respondents 1 and 2.

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5.Ministry of Health and Family Welfare, Government of India has issued summary of guidelines for Covid-19 and it is relevant to extract

Source 36:

“Source 36:Ministry of Information & Broadcasting, ID: 1610111 on 1stApril 2020

Don't disseminate unverified news capable of causing panic: SC to Media

The Supreme Court of India has directed the Media, including print, electronic and social media, to maintain a strong sense of responsibility and ensure that unverified news capable of causing panic is not disseminated.”

6. The petitioner, who claims to be the practising advocate is of the view that the press and media had to act irrespectively but have acted contrary to TRAI Rules and other transmission laws and in contravention with Press & Registration of Books Act, 1867. There are limitations available for the press media in the fact of supply of information, which can be gone into by the Press Council of India and appropriate action can be taken. Apart from that there are legal remedies available by way of filing a Suit for defamation as well as criminal prosecution under Sections 499 and 500 of I.P.C.

7. As far as visual media is concerned, there are no regulation in force except self-regulation. There are no laws available as on today. In the **Press and Registration of Books ACT, 1867**, sufficient regulations were placed.If the petitioner is so aggrieved it is open to the petitioner to approach the Press council of India and News Broad Casting Standards Authority and this Court also takes judicial notice to the fact that though all the entities are covered under the relevant Statutes, visual media is not coming under the ambit of the Statute and it is for the Government of India to look into the said aspect and this Court is not going to the same.

8. In the case of *Yashwant Sinha and others Vs. Central Bureau of Investigation through its Director and another* reported in (2019) 6 SCC *page 1*, the Hon'ble Supreme Court of India had dealt with Article 19 (1), 19(2) of Constitution of India which deals with freedom of press. The relevant portion is extracted hereunder:

“ 5. The fact that the three documents had been published in The Hindu and were thus available in the public domain has not been seriously disputed or contested by the respondents.

No question has been raised and, in our considered opinion, very rightly, with regard to the publication of the documents in The Hindu newspaper. The right of such publication would seem to be in consonance with the constitutional guarantee of freedom of speech. No law enacted by parliament specifically barring or prohibiting the publication of such documents on any of the grounds mentioned in Article 19 (2) of the Constitution has been brought to our notice. In fact, the publication of the said documents in The Hindu newspaper reminds the Court of the consistent views of this Court upholding the freedom of the Press in a long line of decisions commencing from RomeshThappar v State of Madras and BrijBhushan v State (UT of Delhi). Though not in issue, the present could very well be an appropriate occasion to recall the views expressed by this Court from time to time illustratively and only because of its comprehensiveness, the following observations in Indian Express Newspapers (Bombay) (P) Ltd. Vs. Union of India may be extracted: (Indian Express Newspapers case, SCC pp.660-61, para 25).

“25. The freedom of Press, as one of the members of the Constituent Assembly said is one of the items around which the greatest and the bitterest of constitutional struggles have been waged in all countries where liberal constitution prevail. The said freedom is attained at considerable Sacrifice and suffering and ultimately it has come to be

incorporated in the various written constitutions. James Madison when he offered the Bill of Rights to the Congress in 1789 is reported as having said: 'The right of freedom of speech is secured, the liberty of press is expressly declared to be beyond the reach of this Government.' [See 1 Annals of Congress (1789-96) p.141]. Even where there are no written constitution, there are well-established constitutional conventions or judicial pronouncements securing the said freedom for the people. The basic documents of the United Nations and of some other international bodies to which reference will be made hereafter give prominence to the said right. The leaders of Indian Independence movement attached special significance to the freedom of speech and expression which included freedom of Press apart from other Freedoms. During their struggle for freedom, they were moved by the American Bill of Rights containing the First Amendment to the Constitution of the United States of America which guaranteed the freedom of the press. Pandit Jawaharlal Nehru in his historic resolution containing the aims and objects of the Constitution to be enacted by the Constituent Assembly said that the Constitution should guarantee and secure to all the people of India among others freedom of thought and expression. He also stated elsewhere that 'I would rather have a completely free press with all the dangers involved in the wrong use of that freedom than a suppressed or regulated Press' [See. D.R Mankekar: The Press under Pressure (1973) p.25]. The Constituent Assembly and its various committees and sub committees considered freedom of speech and expression which included freedom of Press also as a precious right. The

*Preamble to the Constitution that it is intended to secure to all citizens among others liberty of thought, expression, and belief... In **RomeshThappar v. State of Madras and BrijBhushanV.State (U.T. of Delhi)**, this Court firmly expressed its view that there could not be any kind of restriction on the freedom of speech and expression other than those mentioned in Article 19 (2) andthereby made it clear that there could not be any interference with that freedom in the name of public interest. Even when clause (2) of Article 19 was subsequently substituted under the Constitution (First Amendment) Act, 1951 by a new clause which permitted the imposition of reasonable restrictions on the freedom of speech and expression in the interests of sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality in relation to contempt of court, defamation or incitement to an offence, Parliament did not choose to include a clause enabling the imposition of reasonable restrictions in the public interest.”*

9. The Hon'ble Supreme Court of India in **Sahara India Real Estate Corp. Ltd. &Ors.Vs Securities & Exchange Board of India &anr.reported in (2012) 6 MLJ 772** , while deciding the issue whether the Court can frame guidelines for the visual media, observed that deferment of publication of such matters pending trial can be ordered. Even in the said decision also, the Hon'ble Supreme Court of India has declined to pass orders as to the

framing of guidelines for the visual media.

10. Source 36 of the summary of guidelines for Covid-19 issued by the Ministry of Health and Family Welfare, Government of India also speaks about the directions issued by the Hon'ble Supreme Court of India by which the Hon'ble Supreme Court had directed the Media to maintain strong sense of responsibility.

11. In view of the aforesaid circumstances, this Court cannot issue position direction to pass a legislature in any particular manner. It is for the Government of India to look into the aspect with regard to the framing of necessary statutory provisions for visual media.

12. In the light of the above facts and circumstances, this Court is not in a position to issue a positive direction as sought for by the petitioner. It is also made clear that if any individuals are aggrieved on account of false information, they are entitled to avail the remedy through Common Law or

criminal prosecution.

13.This Writ Petition stands dismissed subject to above observations.

No costs.

(M.S.N.J.,) (M.N.K., J.)
22.04.2020

arr

Internet:Yes

Index:Yes/no

Speaking/Non speaking order

To

1. The Chief Secretary,
Tamil Nadu Government,
Fort St. George,
Chennai- 600 009.

सत्यमेव जयते

M.SATHYANARAYANAN, J

and

M.NIRMAL KUMAR, J

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