

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition (Civil) No. 943/2021

ASHWINI KUMAR UPADHYAY

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

[only WP (C) 940/2022, CP 776/2023 in WP(C) 940/2022, IA No. 30382/2023 in WP (C) 24/2022 and C. P (C) D. NO. 11853 of 2023 are listed on 28.04.2023]

WITH

W.P.(C) No. 24/2022 (PIL-W)
(IA No. 30382/2023 - INTERVENTION APPLICATION)

W.P.(C) No. 940/2022 (PIL-W)
(IA No. 23156/2023 - APPROPRIATE ORDERS/DIRECTIONS and IA No. 6915/2023 - APPROPRIATE ORDERS/DIRECTIONS and IA No. 176938/2022 - APPROPRIATE ORDERS/DIRECTIONS and IA No. 60674/2023 - APPROPRIATE ORDERS/DIRECTIONS and IA No. 35185/2023 - APPROPRIATE ORDERS/DIRECTIONS and IA No. 30794/2023 - INTERVENTION/IMPLEADMENT)

CONMT.PET.(C) No. 776/2023 in W.P.(C) No. 940/2022 (PIL-W)
(IA No. 63957/2023 - APPROPRIATE ORDERS/DIRECTIONS)

Diary No(s). 11853/2023 (PIL-W)

Date : 28-04-2023 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s)

Mr. Ashwani Kumar Dubey, AOR

Mr. Nizam Pasha, Adv.
Ms. Rashmi Singh, Adv.
Ms. Sumita Hazarika, AOR

For Respondent(s)

Mr. Tushar Mehta, Solicitor General
Mr. K M Nataraj, A.S.G.
Mr. Rajat Nair, Adv.
Mr. Sanjay Kumar Tyagi, Adv.
Mr. Kanu Agarwal, Adv.

Mr. Rajan Kumar Chourasia, Adv.
Mr. Varun Chugh, Adv.
Mr. Mayank Pandey, Adv.
Mr. Amit Sharma, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Gurmeet Singh Makker, AOR

Mr. Tushar Mehta, Solicitor General
Mr. K.m.nataraj, A.S.G.
Mr. Shreekant Neelappa Terdal, AOR
Mr. Kanu Agrawal, Adv.
Mr. Rajat Nair, Adv.
Mr. Mayank Pandey, Adv.
Mr. Sanjay Kr.tyagi, Adv.
Mr. Varun Chugh, Adv.
Dr. N. Visakamurthy, Adv.

Mr. Abhishek Atrey, AOR
Mr. Jatinder Kumar Sethi, D.A.G.
Mr. Ashutosh Kumar Sharma, Adv.
Ms. Ambika Atrey, Adv.
Dr. Abhishek Atrey, Adv.

Mr. Amit Sharma, AOR
Mr. Dipesh Sinha, Adv.
Ms. Pallavi Barua, Adv.
Ms. Sakshi Upadhyaya, Adv.
Ms. Aparna Singh, Adv.

Mr. Lokesh Sinhal, Sr. A.A.G.
Mr. Nikunj, Adv.
Dr. Monika Gusain, AOR

Mr. Sumeer Sodhi, AOR
Ms. Tanya Verma, Adv.

Mr. Vishal Meghwal, Adv.
Ms. Yashika Bum, Adv.
Mr. Milind Kumar, AOR

Mr. Anirban Tripathi, Adv.
Mr. Ashutosh Dubey, AOR
Mr. Abhishek Chauhan, Adv.
Ms. Rajshri Dubey, Adv.
Mr. H.B. Dubey, Adv.
Mr. Amit P. Shahi, Adv.
Mr. Amit Kumar, Adv.
Mr. Manish Dhingra, Adv.
Mr. Gaganmeet Singh Sachdeva, Adv.
Ms. Ramya Khanna, Adv.

Mr. Hari Shankar Jain, Adv.
Mr. Vishnu Shankar Jain, AOR
Ms. Mani Munjal, Adv.
Mr. Parth Yadav, Adv.
Mr. Vinay Rajput, Adv.
Mr. Devendra Singh, AOR
Mr. Mishra Saurabh, AOR

Mr. Abhishek, AOR
Mr. Barun Kumar Sinha, Adv.
Mrs. Pratibha Sinha, Adv.
Mr. Niraj Kumar, Adv.

Mr. Tushar Mehta, Solicitor General
Mr. S.v. Raju, A.S.G.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.

Ms. Garima Prashad, Sr. A.A.G.
Ms. Ruchira Goel, AOR
Mr. Satwik Misra, Adv.
Mr. Adit Jayeshbhai Shah, Adv.
Ms. Priyanka Swami, Adv.

Mr. Hari Shankar Jain, Adv.
Mr. Vishnu Shankar Jain, AOR
Ms. Mani Munjal, Adv.
Mr. Parth Yadav, Adv.
Mr. Vinay Rajput, Adv.

Mr. Gurmeet Singh Makker, AOR

Mr. Kaleeswaram Raj, Adv.
Ms. Thulasi K Raj, Adv.
Mr. Mohammed Sadique T.A., AOR
Mr. Anu K. Joy, Adv.
Mr. Alim Anvar, Adv.

Mr. Abhishek Atrey, AOR
Mr. Jatinder Kumar Sethi, D.A.G.
Mr. Ashutosh Kumar Sharma, Adv.
Ms. Ambika Atrey, Adv.
Dr. Abhishek Atrey, Adv.

Mr. Vishal Prasad, AOR
Ms. Ritika Sethi, Adv.

Mr. Shadan Farasat, AOR
Ms. Warisha Farasat, Adv.
Mr. Shourya Dasgupta, Adv.

Mr. Aman Naqvi, Adv.
Ms. Hrishika Jain, Adv.
Ms. Natasha Maheshwari, Adv.
Ms. Mreganka Kukreja, Adv.

Mr. Nishe Rajen Shonker, AOR
Mrs. Anu K Joy, Adv.
Mr. Alim Anvar, Adv.

Ms. Bansuri Swaraj, Adv.
Ms. Ana Upadhyay, Adv.
Mr. Chetanya Puri, Adv.
Ms. Jyoti Taneja, Adv.
Ms. Aastha Gupta, Adv.
Mr. Himanshu Bidhuri, Adv.
Ms. Seema Patnaha, Adv.
Mr. Surender Kumar Gupta, AOR

Ms. K. Enatoli Sema, AOR
Ms. Limayinla Jamir, Adv.
Mr. Amit Kumar Singh, Adv.
Ms. Chubalemla Chang, Adv.
Mr. Prang Newmai, Adv.

Mr. Sanjay Parikh, Sr. Adv.
Ms. Aparna Bhat, Adv.
Ms. Srishti Agnihotri, AOR
Ms. Karishma Maria, Adv.
Ms. Sanjana Grace Thomas, Adv.

Mr. Upendra Pratap Singh, AOR
Ms. Snehal Uday Kanzarkar, Adv.
Mr. Harsh Singh Rawat, Adv.
Mr. Shailja Nanda Mishra, Adv.
Ms. Aastha Gupta, Adv.
Mr. Dushyant Pratap Singh, Adv.

Mr. Abhimanyu Tewari, AOR
Ms. Eliza Barr, Adv.

Mr. Sumit Teterwal, AOR

Mr. Sunil Dalal, Sr. Adv.
Mr. Shoumendu Mukherji, AOR
Mr. Soumava Karmakar, Adv.
Ms. Manisha Saroha, Adv.
Mr. Nikhil Beniwal, Adv.
Ms. Megha Sharma, Adv.
Ms. Akanksha Gupta, Adv.
Mr. Satya Ranjan Swain, Adv.
Mr. Sahaj Garg, Adv.

Mr. Deepanshu Badiwal, Adv.
Mr. Ashish Singh, Adv.

Mr. Shovan Mishra, AOR

Mr. Kirti Uppal, Sr. Adv.
Mr. Piyush Beriwal, AOR
Mr. Aman Jha, Adv.
Mr. Amit Tiwari, Adv.
Mr. Rishi Tutu, Adv.
Ms. Priyanka Garg, Adv.
Ms. Priya Mishra, Adv.
Mr. Rudra Paliwal, Adv.
Mr. Sanjay Pal, Adv.
Mr. Shrey Sehrawat, Adv.
Mr. Kushagra Kumar Kansal, Adv.
Mr. Shekhar, Adv.
Mr. Abhinav Goswami, Adv.
Ms. Divya Srivastava, Adv.

Mr. Mehmood Umar Faruqi, AOR

Mr. Aaditya Vijay Kumar, Adv.
Ms. Shreya Shree Singh, Adv.
Mr. Chitranshul A. Sinha, AOR

Ms. Radhika Chaturvedi, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. S. K. Rajora, Adv.
Mr. Akhileshwar Jha, Adv.
Mr. Amit Kumar Chawla, Adv.
Mr. Ravish Kumar Goyal, Adv.

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

All the intervention/impleadment applications allowed.

Learned counsel for the petitioner in W.P. (C)No. 940/2022 requests that the State and the Union Territories which were not made parties may also be impleaded and similar order which has been passed on 21.10.2022 may be passed. Petitioner has also placed before us an Interlocutory Application which it would appear has not yet been numbered. We direct that in writ petition, persons

shown as Additional Respondent Nos. 9 to 36 in I.A. (unnumbered) be added as additional respondents in the writ petition.

Respondent Nos. 9 to 36 shall ensure that immediately as and when any speech or any action takes place which attracts offences such as Sections 153A, 153B and 295A and 505 of the IPC etc., suo motu action will be taken to register cases even if no complaint is forthcoming and proceed against the offenders in accordance with law.

Respondent Nos.9 to 36 will therefore issue direction(s) to their subordinates so that appropriate action in law will be taken at the earliest. We make it clear that any hesitation to act in accordance with this direction will be viewed as contempt of this Court and appropriate action will be taken against the erring officers.

We further make it clear that such action will be taken irrespective of the religion that the maker of the speech or the person who commits such act may profess, so that the secular character of India, that is, Bharat as is envisaged by the Preamble, is preserved and protected.

Issue notice to all the proposed respondent Nos. 9-36.

Petitioner will take out notice to all the additional respondents.

Mr. S. V. Raju, learned Additional Solicitor General would submit that in CONMT.PET.(C) No. 776/2023 in W.P.(C)

No. 940/2022, counter affidavit has been filed in the matter but the learned counsel for the petitioner would point out that the copy of the same has not been served on the petitioner.

In fact the copy of the counter affidavit is not placed before the Court.

Copy of the counter affidavit be served on the counsel for the petitioner and the Registry to put up the same by the next date of hearing.

Place these matters for further consideration on 12th May, 2023.

(NIDHI AHUJA)
AR-cum-PS

(RENU KAPOOR)
ASSISTANT REGISTRAR