

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 2833 of 2023

Applicant :- Moti Lal Yadav

Opposite Party :- Sri Rajiv Gowba, Cabinet Secy. Central Secrtt. Govt. Of India, New Delhi And Another

Counsel for Applicant :- In Person

Counsel for Opposite Party :- Ambrish Rai

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Sri Moti Lal Yadav, learned Advocate, who appears in person and Sri S.B. Pandey, learned Deputy Solicitor General of India and the learned Senior Advocate assisted by Sri Ambrish Rai, learned counsel for the Union of India.

2. It would be pertinent to incorporate here the order dated 09.10.2023 passed in this contempt petition, which reads as under:-

"1. Shri Ambrish Rai has filed affidavit of compliance on 03.10.2023 which is already on record.

2. Heard Shri Moti Lal Yadav, learned advocate, who appears in person and Shri S.B. Pandey, learned Senior Advocate and Deputy Solicitor General of India assisted by Shri Ambrish Rai, learned counsel for the Central Government.

3. This Court has passed the order dated 24.08.2023, which reads as under:-

"1. Heard Sri Moti Lal Yadav, who appears in person.

2. Attention has been drawn towards the order of the writ court dated 22.9.2022 passed in Public Interest Litigation No. 646 of 2022 (Moti Lal Yadav vs. Union of India and others) whereby this Court while disposing of the writ petition issued two directions which reads as under :

"Sri Moti Lal Yadav, a practising lawyer of this Court by instituting these proceedings under Article 226 of the Constitution of India has raised certain issues in public interest concerning the alleged participation of celebrities, especially 'Padma Awardees', in advertisements/endorsements of certain products/items which are harmful to health of public at large.

With the assertion that 'Padma Awardees' have been participating in such endorsements and advertisements, a prayer has been made seeking a direction to the Central Consumer Protection Authority of India, which is a statutory body created under the Consumer Protection Act, 2019 (hereinafter referred to as 'Act, 2019') to take appropriate action against the private respondents by imposing penalty as per the provisions contained in Section 21 (2) of the Act, 2019. Another prayer made in the

petition is that certain individuals i.e. 'Padma Awardees' as named in the writ petition be directed to deposit entire amount earned by them from such advertisements and further that an equal amount be also ordered to be deposited by them in relief fund of the Government of India.

The petitioner has relied upon a judgment of Hon'ble Supreme Court in the case of Balaji Raghavan vs Union of India reported in (1996) 1 SCC 361 and has argued that Hon'ble Supreme Court in the said case had expressed its concerns about the manner in which 'Padma Awards' are conferred.

He, specifically drawing our attention to para 40 of the said judgment, has argued that Hon'ble Supreme Court had suggested that a committee at national level be constituted by the Prime Minister of India in consultation with the President of India which may include, amongst others, the Speaker of the Lok Sabha, the Chief Justice of India or his nominee and Leader of Opposition in the Lok Sabha to appropriately administer the process of conferment of 'Padma Awards'. He has also stated that Hon'ble Supreme Court in the said judgment had also suggested that at the State Level as well, similar committees may be formed by the Chief Minister of the State in consultation with the Governor and the said committee may include the Speaker of the Legislative Assembly, the Chief Justice of the State or his nominee and the Leader of the Opposition.

Sri Moti Lal Yadav, the petitioner has submitted that despite the aforesaid suggestion having been given by Hon'ble Supreme Court way back on 15.12.1995 till date no such committees have been formed.

When we enquired from the petitioner as to the concern expressed by him in the petition relates to formation of committee for selecting/choosing the individuals for conferment of 'Padma Awards' or for dis-conferment of such Awards in case Padma Awardee is not found conducting himself/herself in a manner expected of national awardee, he submits that certain individuals/ celebrities named in the writ petition though have been conferred with the award, however, they are still indulging in advertisements/endorsements which are harmful to the health of public at large and as such the petitioner's concern is that guidelines be issued for dis-conferment of the awards in case an awardee is not found conducting himself appropriately.

We have also heard Sri Surya Bhan Pandey, learned Senior Advocate/Deputy Solicitor General of India, assisted by Sri Ambrish Rai, learned counsel representing the Union of India and Sri Siddharth Dhaon, learned Additional Chief Standing Counsel representing the State-respondents.

Having regard to the issues and concerns raised in this petition, we find it appropriate to require the petitioner to approach the Government of India drawing its attention to alleged in appropriate conduct of some of the 'Padma Awardees' and also in respect of their alleged participation in harmful and misleading advertisements. In fact, we are of the considered opinion that all these issues including the issue relating to framing of any such guidelines fall in the exclusive domain of the executive/legislature and hence, it would be appropriate for the petitioner to make an appropriate representation to the Central Government in respect of such grievances expressed by him in the petition.

The consumer protection regime in our country has now been revolutionized by the Parliament which has enacted Consumer Protection Act, 2019.

Under Section 10 of the said Act, a Central Consumer Protection Authority has been established by means of notification issued on 24th July, 2020. The Central Authority even has an Investigation Wing in terms of the provision contained in Section 15 of the Act, 2019.

Section 16 confers powers upon the District Collector to enquire into or investigate complaints regarding violation of rights of consumers as a class, in respect of matters relating to violation of consumer rights. Thus, Section 16 of the Act, 2019 permits even a class action in case of not only infringement of consumer rights but also in case of unfair trade practices and even false or misleading advertisements. The District Collector may accordingly make inquiries as contemplated in Section 16 of the Act on a complaint received by him or on a reference which may be made to him by the Central Authority or the Commissioner.

Section 17 of the Act permits a complaint to be made to the Central Authority in respect of violation of consumer rights or unfair trade practices or false or misleading advertisements which are prejudicial to the interests of consumers as a class. The Central Authority under Section 18 of the Act has been conferred with certain powers and functions which include an inquiry or investigation to be made into violations of consumer rights/unfair trade practices, either suo motu or on a complaint received or on the directions from the Central Government.

Section 21 of the Act, 2019 confers the power with the Central Authority not only to issue directions but also impose penalties against false or misleading advertisements. Thus, under the scheme of Consumer Protection Act, 2019, a complete statutory mechanism has been made available for seeking redressal of the grievances not only in case of an individual consumer but also in case of consumers as a class, in case of infringement of consumer rights, unfair trade practices, false or misleading advertisement.

Nothing in the writ petition has been indicated by the petitioner that he has approached, for framing the guidelines, as is being prayed by him in the writ petition, the competent authority in the Central Government. In the writ petition, it has also not been indicated that the petitioner has taken recourse to the statutory remedy available to the consumers as a class under Consumer Protection Act, 2019, as discussed above.

In the aforesaid circumstances, we dispose of this petition with the following directions;-

(1) For framing the guidelines as prayed for by the petitioner in the petition, he may approach the competent authority in the Central Government by way of making an appropriate representation setting forth therein all the pleas which may be available to him under law.

(2) For redressal of the grievances relating to violation of consumer rights/unfair trade practices/false and misleading advertisement, he may take recourse to the statutory mechanism for redressal of the grievances available to him under the Consumer Protection Act, 2019 by

approaching the Collector/Commissioner or even the Central Consumer Protection Authority. In case the petitioner approaches the aforesaid authorities, grievances which may be raised by him shall appropriately be attended to in accordance with law, with expedition."

3. In compliance of the aforesaid direction the petitioner has approached the Cabinet Secretary, Government of India preferring a detailed representation dated 15.10.2022 enclosing therewith the copy of the writ court and to the Chief Commissioner, Central Consumer Protection Authority, New Delhi on 15.10.2022 through registered post but till date no decision has been taken by the authorities in compliance of the order of the writ court. He has also stated that the issue in question is no more res-integra as the Apex Court in a case of Balaji Raghavan vs. Union of India, (1996) 1 Supreme Court Cases 361 has issued positive guidelines to address the issue in question.

4. The matter requires consideration.

5. Issue notice to opposite parties returnable at an early date.

6. Steps within a week.

7. Office to proceed accordingly.

8. List on 9.10.2023.

9. By that date the opposite party shall explain as to why compliance of the order dated 22.9.2022 passed in WPIL No. 646 of 2023 has not been done in its letter and spirit."

4. At the very outset, Shri S.B. Pandey, learned Senior Advocate has drawn attention of this Court towards office memorandum No. F 29(6)/2015-Judl. Government of India, Ministry of Law and Justice, Department of Legal Affairs, Judicial Section, dated:- New Delhi, 8th May, 2015 by submitting that the Cabinet Secretary, Government of India may not be impleaded as opposite party/contemnor in the contempt petition.

5. Shri Moti Lal Yadav has stated that since this Court has directed to approach the Central Government, therefore, having bonafide intention to approach the highest executive authority in the bureaucracy, he preferred a representation to Cabinet Secretary. Since he preferred a representation to the Cabinet Secretary, therefore, he impleaded the Cabinet Secretary in the array of opposite party. Shri Yadav has submitted that he no other intention except to seek compliance of the order of the writ Court which was issued in a Public Interest Litigation.

6. Considering the submission of Shri S.B. Pandey and Shri Moti Lal Yadav, Shri Yadav is permitted to delete opposite party no.1 from the array of opposite party during the courses of the day.

7. Shri S.B. Pandey, learned Senior Advocate has drawn attention of this Court towards Annexure No. C.A.-2 which is an order dated 15th September, 2023 passed by the Ministry of Home Affairs (Public Section), Government of India by one Debobroto Basu, Under Secretary, Government of India. The aforesaid order appears to have been passed in

compliance of the order of the writ Court. For convenience the order dated 15th September, 2023 is being reproduced hereinbelow:-

" No. 1/22/2023-Public

Government of India

Ministry of Home Affairs

(Public Section)

North Block, New Delhi

Dated the 15th September, 2023

ORDER

Whereas, a representation dated 15.10.2022 was received from the petitioner Shri Moti Lal Yadav in pursuant to the Order dated 22.09.2022 passed by the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench in the WPIL No. 646 of 2022 (Shri Moti Lal Yadav versus Union of India and others) filed by him.

2. And whereas, the Hon'ble Court had directed the petitioner to file a representation to the Government of India and also the Government of India & the State Governments, in pursuance of judgement dated 15.12.1995 of the Hon'ble Supreme Court. In his representation, the petitioner has represented that the Government of India and the State Governments should form Committees at National Level and State Level respectively to select suitable and talented persons for the Awards and make guidelines for the Awardees who misuse the Awards. It was, inter alia, also prayed that the Padma Awards in respect of Shri Amitabh Bachhan, Shri Sharukh Khan, Shri Akshay Kumar, Shri Ajay Devgan, Shri Saif Ali Khan and Shri Ranbeer Singh may be withdrawn as they advertise/endorse Tobacco products.

3. And whereas, in pursuance of the judgement dated December 15, 1995 of the hon'ble Supreme Court in the Transfer Cases (Civil) No. 9 of 1994 and No. 1 of 1995, relating to the constitutional validity of Padma Awards, a High Level Review Committee (under the Chairmanship of Vice-President of India) was constituted by the Prime Minister in May 1996, in consultation with the President of India, to go into the guidelines for Padma Awards and certain other aspects.

4. And whereas, the Committee inter alia recommended that the persons selected for the Awards should be subjected to verification by the Investigating agencies of the Government with a view to ensuring that their character and antecedents are above board.

5. And whereas, Padma Awards, instituted in the year 1954, are conferred in three categories viz Padma Vibhushan, Padma Bhushan and Padma Shri Award. Padma Vibhushan is awarded for 'exceptional and distinguished service'; Padma Bhushan for 'distinguished service of a high order', and Padma Shri for 'distinguished service' in any field of activity. Any person without distinction of race, occupation, position or sex is eligible for these Awards.

6. And whereas, nominations/ recommendations are invited every year for Padma Awards. All nominations/recommendations so received for Padma Awards, even 'self' recommendations, are placed before the Padma Awards Committee for consideration. The names of the persons recommended by the Padma Awards Committee are submitted to the President of India for approval. Padma Awards are conferred taking into consideration the body of work and the life-time achievement of a person.

7. And whereas, the persons recommended by the Padma Awards Committee are subjected to verification by agencies of the Central Government with a view to ensure that their character and antecedents are above board before announcement of their names on the occasion of Republic Day.

8. And whereas, the Petitioner in his representation dated 15.10.2022 has raised issues relating to the activities including advertisements/ endorsements of Tobacco products which are harmful to health of citizens. Such activities are governed under the Consumer Protection Act, 2019 which is being dealt by the Department of Consumer Affairs, Ministry of Consumer Affairs, Food and Public Distribution, Government of India. For any violation of the Consumer Protection Act, 2019 related to Misleading Advertisements and Endorsements, action is taken by the Department of Consumer Affairs, Ministry of Consumer Affairs, Food and Public Distribution, Government of India. The Central Consumer Protection Authority (CCPA) under the Department of Consumer Affairs, Government of India vide F. No. J-25/4/2020- CCPA (Reg), dated 09 June, 2022 has also notified 'Guidelines' for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements-2022 with an objective to curb misleading advertisements and protect the consumers, who may be exploited or affected by such advertisements.

9. And therefore, the representation dated 15.10.2022 of the petitioner (Shri Moti Lal Yadav) is disposed of accordingly.

(Debobroto Basu)
Under Secretary to the Govt. of India
Tel. 2309 2421

Shri Moti Lal Yadav,

Advocate,

**A-Block, High Court, Lucknow,
Uttar Pradesh"**

8. Shri S.B. Pandey, learned Senior Advocate has further drawn attention of this Court towards Annexure No. C.A.-8, which is an order dated 12th September, 2023 passed by the Under Secretary on behalf of Central Consumer Protection Authority (CCPA), whereby the notices have been issued to Vimal Pan Masala, Kamla Pasand and Ashok & Company Pan Bahar Ltd. dated 14.03.2023, 01.09.2023 and 01.09.2023 respectively. Shri Pandey has further submitted that some more notices have been issued to other company dealing with Pan Masala etc.

9. Shri Pandey has also drawn of this Court towards two Notifications bearing Nos. 2-Pres/54, dated the 2nd January, 1954 and 2-Pres/54, dated

the 2nd January, 1954, relating to regulations for award of the decoration PADMA BHUSHAN and PADMA SHRI. Paras 2 and 10 thereof are relevant, the same are being reproduced hereinbelow:-

"2. The decoration shall be mainly circular in design with a geometrical pattern superimposed on the circle (as in the representative drawing in the annexure). The diameter of the circular portion of the decoration shall be one and three-fourth inches and the thickness of the decoration shall be one-eighth of an inch. The geometrical pattern shall be composed of the outer lines of a square of one and three-sixteenths inches side, centrally placed on each side of which shall be a rectangle projecting beyond the rim thereby breaking the circumference of the circular design of the decoration. A knob shall be embossed within each of the outer angles of the geometrical pattern. There shall be a raised circular space of diameter one and six-sixteenth inches forming the centre-piece of the decoration. On the obverse a lotus flower shall be embossed in this circular space. The name of the decoration shall be embossed in Hindi, with the word PADMA placed above and the word BHUSHAN placed below the lotus flower. On the reverse shall be embossed the State Emblem and motto in Hindi below it. The decoration shall be of toned bronze. @ The inscription PADMA BHUSHAN on the obverse of the decoration, the geometrical pattern on either side and the border around the periphery, shall be of burnished bronze. All embossing on either side of the decoration shall be of standard gold.

10. The President may cancel and annul the award of the decoration to any person and thereupon his name shall be erased from the Register and he shall be required to surrender the decoration and the Sanad. But it shall be competent for the President to restore the decoration and Sanad and to withdraw the orders of cancellation and annulment. The notice of cancellation or restoration in every case shall be published in the Gazette of India."

10. Therefore, Shri Pandey has stated that the substantial compliance has been done.

11. Shri Moti Lal Yadav, Advocate, who appears in person, has submitted that the compliance in terms of the order of the writ court has not been done till date inasmuch as the authorities concerned have not informed the Court as to what action has been taken against those persons, who have breached the guidelines so issued for awarding the decoration of 'Padma Bhushan' and 'Padma Shri'. Even if the notices have been issued to some Pan Masala Companies, it will not serve the purpose in terms of the concern of the writ court. Sri Yadav has prayed that he may be given some time to file reply/objection to the affidavit of compliance which has been filed by learned counsel for Central Government.

12. Sri Yadav has also submitted that since the issue in question is regulated by the Ministry of Home Affairs, therefore, he may be permitted to file impleadment application impleading the competent authority/officer of the Ministry of Home Affairs.

13. List this case on 29.11.2023 within top ten cases.

14. In the meantime, Shri Moti Lal Yadav, learned Advocate may file reply/objection to the affidavit of compliance which has been filed today

and application for impleadment, as requested."

3. Sri S.B. Pandey, learned Deputy Solicitor General of India has informed the Court that for disposal of the similar/ identical issues the special bench is to be constituted before the Apex Court by Hon'ble the Chief Justice and the issue in question may likely be adjudicated by the Apex Court, therefore, the proceedings of the present contempt petition may be deferred. He has also informed the Court that after the indulgence having been given by this Court, notices have been issued to some of the Padma recipients by the Central Consumer Protection Authority. Further, one of the Padma recipient, namely, Sri Amitabh Bachchan has sent a legal notice to 'Pan Masala Brand' as he is said to have discontinued himself from the advertisement of the Brand, but he is being shown in such advertisement.

4. In nutshell, Sri Pandey has stated that all appropriate and requisite exercises have been undertaken and after the order, if any, being passed by the Apex Court appropriate action shall be taken in terms of that order and appropriate orders may also be passed accordingly.

5. Having considered the aforesaid submissions of Sri S.B. Pandey, learned Deputy Solicitor General of India and Sri Moti Lal Yadav, Advocate, the petitioner that he is only concerned to the public interest at large that any appropriate steps should be taken in terms of order of the Apex Court which has already been passed and proper guidelines should be formulated, therefore, he has no objection if the contempt proceedings are deferred for sometime, I hereby defer the hearing of the present contempt petition for five months.

6. List this case on **09.05.2024**.

7. On that date, learned counsel for the Union of India and Sri Moti Lal Yadav, Advocate, the petitioner, shall apprise the Court about the status of the proceedings, if any, pending before the Apex Court and also about the further action, if so taken in compliance of order of the Apex Court, which has already been passed and has been considered by the Division Bench of this Court in the Public Interest Litigation (PIL) of the petitioner.

8. This contempt petition may be decided finally after coming to know the aforesaid development, if any, and also in terms of the order of the Apex Court, if any.

(Order on the Impleadment Application i.e. C.M. Application (IA) No.06 of 2023)

9. Heard Sri Moti Lal Yadav, Advocate, the petitioner.

10. On due consideration, the application is allowed.

11. Let the necessary impleadment be carried out during the course of day.

12. Let notice be issued to the newly impleaded opposite party, for which, necessary steps be taken within a week.

13. Office to proceed accordingly.

[Rajesh Singh Chauhan,J.]

Order Date :- 8.12.2023

Suresh/