

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION(S)(CIVIL) NO(S).266/2009

RAVI KANT & ANR. PETITIONER(S)

VERSUS

THE STATE OF UTTAR PRADESH & ORS. RESPONDENT(S)

O R D E R

The present petition has been filed under Article 32 of the Constitution of India. According to the two petitioners, they are advocates by profession and have filed the present writ petition in public interest challenging the policy adopted by the erstwhile Government of Uttar Pradesh, headed by the then Chief Minister of the State Ms. Mayawati, respondent No.2 to construct large number of statues of the Chief Minister; construction of parks for the glorification of the Chief Minister and installation of large statues of elephants, which is also the election symbol of the political party to which the said Chief Minister belongs. The petitioners have contended that crores of public money were spent by the Government of Uttar Pradesh in the construction of the aforementioned statues and parks using the funds from the state exchequer, only to benefit and glorify a particular individual and her party.

2. The petitioners contend that as per the State, it was an attempt to pay tribute to the great leaders of the Dalit community and was in line with the will of the founder of the Bahujan Samaj Party (BSP), Sh. Kanshiram, but the said

explanation advanced by the State is incorrect and that it is only an arbitrary move to glorify the Chief Minister. These acts by the State Government amount to grabbing of public land and public parks.

3. The petitioners have further pointed out that in the construction of parks and memorials mentioned above, the election symbol allotted to BSP, i.e., the elephant, has been widely used. Big pillars having the motif of elephant have been put up across the parks and memorials being constructed. Also, a set of 90 elephant statues have been made at the cost of Rs. 52.2 crores from the public exchequer. Public display of these statues and their permanent positioning in parks is a clear violation of the principles of free and fair election as it has an impact during the election.

4. The petitioners state that the said Chief Minister, in addition to the wasteful expenditure on the construction of the symbols mentioned above, was even constructing huge stupas, domes and memorials for herself, including a park and a memorial beside the Yamuna River in the NCT of Delhi. This is contended to be a huge misuse of public funds, and that too by the state authorities, who, on the contrary have a constitutional duty to protect the public funds and hold the resources of the community in public trust. The respondent authorities are alleged to have acted in collusion with the State of Uttar Pradesh in this act of glorification of the Chief Minister and her political party. That the creation of

parks and statues for an incumbent Chief Minister is against the basic structure of the constitution as it violates the right to equality and creates a special class of citizens.

5. In light of the same, the petitioner contended that if such unbridled action of a person in power is not checked, it will lead to replication of such arbitrary, fanciful & vague policies across the country among the people who are in power, which will be detrimental to the democratic and welfare fabric of the Constitution.

6. We have heard learned counsel for the petitioners and learned counsel for the respondent No.4-Election Commission; learned senior counsel for the respondent No.3; and learned ASG for respondent No.1. We have perused the material on record.

7. Learned counsel for the petitioners reiterated what has been averred and submitted in their memorandum of writ petition. Learned counsel for the respondent No. 2, i.e., Ms. Mayawati, the former Chief Minister of the State of Uttar Pradesh filed the counter affidavit, wherein it was submitted that the present petition is politically motivated and is a gross abuse of process of law, which is reflected by the fact that the petitioners are not aggrieved by the expenditure on construction of statues and memorials by political parties across the country. That during the Chief Ministership of the respondent No. 2, the State Government has constructed memorials at Lucknow and Noida in honor of the lives and

memories of various sants, gurus and social reformers and leaders such as Tathagat Gautam Buddha, Sant Kabir Das, Sant Ravidas, Guru Ghasidas, Mahatma Jyotiba Phule, Rajarshi Chhatrapati Shahuji Maharaj, Shri Birsa Munda, Shri Narayan Guru, Dr. Bhimrao Ambedkar, Shri Kanshiram etc. who devoted their entire life for humanity, equality and social justice. That these memorials have their statues, different murals made of bronze and museum depicting their biography. That these memorials are intended to promote the values and ideals of various Sants, Gurus and social reformers and leaders among the public and not intended to promote the symbol of BSP or to glorify the chief minister herself. That the funds for the construction of the said memorials and installation of statues have been sanctioned through budgetary allocation after approval of the budget by the State Legislature and the passing of relevant Appropriation Act by the State Legislature in accordance with the Constitution of India and the Rules. With respect to the statues of 'elephants' as a means of promoting the BSP, the respondent No. 2 submitted that elephants are a part of the Indian architectural designs and are found in a number of monuments and heritage structures, and therefore, their correlation to the election symbol of BSP is totally misconceived. Further, reliance was placed on Article 282 of the Constitution of India to contend that the power of the Union or State Legislature is not limited to the legislative powers to incur expenditure only in respect of powers conferred upon it under the Seventh Schedule, but it can incur

expenditure on any purpose not included within its legislative powers.

8. Learned Counsel for respondent No. 3, i.e., the Bahujan Samaj Party, has also filed their counter affidavit. They have raised objections to the maintainability of such a writ petition and have reiterated the position taken by the respondent no. 1 and 2 as stated above, and have drawn parallels with other political parties in the country who also spend considerable amount on the glorification of their political leaders.

9. We have perused the material on record.

10. It is stated at the Bar, that the prayers sought for by the petitioner in this writ petition said to have been filed in Public Interest are as under:

"1. To issue an appropriate writ, order or direction in the nature of Mandamus directing the respondent to stop the further construction and expenditure of public fund for building and installing statues of the incumbent chief minister and party symbol of Bahujan Samaj Party in Public Land.

2. To issue an appropriate writ, order or direction in the nature of Mandamus directing the respondent to remove the statues of the incumbent Chief Minister and the Party symbol of Bahujan Samaj Party from public land.

3. To issue an appropriate writ, order or direction in the nature of Mandamus directing the Central Bureau of Investigation to investigate the misuse of public fund.

4. To issue an appropriate writ, order or direction in the nature of Mandamus directing the Bahujan Samaj Party and the Chief Minister to compensate the state exchequer for the misuse of public money by them.

5. To issue guidelines for building of memorials and installation of Statue of National Leaders of public places by the State.

6. To issue any other order(s), direction (s) as your lordship may deem fit and appropriate."

11. It is now submitted at the Bar by the learned counsel for the respondent No. 4 that the ECI has duly considered the petitions filed by the petitioners and has passed appropriate orders. The counsel submitted a compilation of documents for the perusal of this Court and the same was taken on record. The said compilation contains orders passed by respondent No. 4 in the complaints filed against the respondent No. 1 and 2, including the complaint filed by the petitioners herein.

12. From the perusal of such documents, it is observed that by the order dated 11.10.2010, the respondent No. 4-Commission has refused the petitioners the reliefs sought by them. The ECI held that on the basis of the facts available and the records adduced, the ECI is not in a position to gauge the impact of the construction of statues and the extent of such impact on the minds of the electors. Therefore, before taking any decision with regard to the withdrawal of the symbol of 'elephant' allotted to a national political party, the Commission has to carefully weigh the implications which such withdrawal may have and the confusion that may be caused in the minds of millions of electors across the party who identify that party with the symbol of 'elephant'. Therefore, the ECI held the reliefs sought by the petitioners as not capable of being granted and the petitions filed were not maintainable.

However, the ECI has assured that at the time of elections, they would no doubt take appropriate steps and measures to see that the statues of Ms. Mayawati and BSP's symbol 'elephant' do not disturb the level playing field and give undue advantage to the BSP *vis-à-vis* other political parties.

13. The said order of the ECI, dated 11.10.2010, was challenged before the High Court of Delhi in W.P.(C) No.8363/2010. Meanwhile, this Court in the case of *Common Cause Vs. Union of India, (2015) 7 SCC 1*, had the occasion to deal with a public interest litigation seeking restraint on the Union of India and the State Governments from using public funds on government advertisements which were primarily intended to project individual functionaries of the Government or a political party. This Court had constituted a Committee to suggest guidelines to regulate government action in the matter, so as to prevent misuse/wastage of public funds in connection with such advertisements and by the said judgment, this Court approved of the guidelines framed, *inter alia*, to the effect that the government advertising must not be directed at promoting political interest of a political party.

14. The High Court of Delhi, *vide* its judgment dated 07.07.2016, finally disposed of W.P.(C) No.8363/2010 that had challenged the order dated 11.10.2010 passed by the ECI, with a request to the ECI to consider issuing appropriate direction/guideline within the meaning of Clause 16A(b) of the Symbols (Reservation and Allotment) Order 1968, preventing a

recognized political party in power from using public places and public funds for propagating its reserve symbol and/or its leaders, so as to come in the way of conducting of free, fair and peaceful election and to safeguard the interest of the general public and the electorate in future. The High Court further requested the ECI to thereafter consider whether the actions already taken by the respondent BSP and as complained of by the petitioner(s) are in violation of the said guideline and if it finds so, to give an opportunity to the respondent BSP to undo the same and if the respondent BSP does not avail of the said opportunity, to initiate proceedings under Clause 16A of the Symbols Order for withdrawal of recognition thereof.

15. In compliance with the aforesaid directions of the High Court of Delhi, the ECI first issued an instruction on 07.10.2016 vide letter No. 56/4LET/ECI/FUNC/FP/PPS-11/2015 addressed to the political parties to the effect that no political party shall henceforth either use or allow the use of any public funds or public place or government machinery for carrying out any activity that would amount to advertisement for the party or propagating the election symbol allotted to the party. Secondly, the ECI passed an order dated 05.01.2017, after taking into consideration the views and comments of the BSP, and held that the construction of the statues in question was carried out in the 2009-10 period and therefore the instructions issued now in 2016 cannot be enforced retrospectively so as to take action against the BSP. The ECI

also observed that in light of the judgment of the High Court and direction of the ECI dated 07.10.2016, any activity using public funds or government resources for propagating election symbol of any party, either by the party itself or by the government, could invite action against the party.

16. In light of the facts, circumstances and developments discussed above and having heard learned counsel and learned senior counsel for the respective parties, we are not inclined to consider or adjudicate upon any of the aforesaid prayers.

17. Hence, the Writ Petition stands disposed of.

18. However, it is necessary to observe that **the instructions issued by ECI on 07.10.2016 or its modified or substituted version referred to above shall be complied with not only by respondent No.2 but all political parties in the country.**

Pending application(s), if any, shall stand disposed of.

.....J.
(B.V. NAGARATHNA)

.....J.
(SATISH CHANDRA SHARMA)

NEW DELHI;
JANUARY 15, 2025.

ITEM NO.59

COURT NO.8

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).266/2009

RAVI KANT & ANR.

PETITIONER(S)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

RESPONDENT(S)

(IA NO. 4/2010 - DIRECTIONS
IA NO. 2/2009 - DIRECTIONS
IA NO. 6/2015 - EXEMPTION FROM FILING O.T.
IA NO. 5/2010 - EXEMPTION FROM FILING O.T.
IA NO. 44086/2019 - INTERVENTION APPLICATION
IA NO. 86750/2017 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 15-01-2025 This matter was called on for hearing today.

CORAM : HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

For Petitioner(s) : Mr. Prakash Kumar Singh, AOR
Ms. Pooja Singh, Adv.
Mr. Gopi Nagar, Adv.
Mr. Ashok Kumar Singh, Adv.
Ms. Vinita Singh, Adv.
Ms. Anchal Bindal, Adv.

For Respondent(s): Mr. Tushar Mehta, Solicitor General
Ms. Aishwarya Bhati, A.S.G.
Mr. Rana Mukherjee, Sr. Adv.
Mr. Rajeev Kumar Dubey, Adv.
Mr. Ashiwan Mishra, Adv.
Ms. Poornima Singh, Adv.
Mr. Kamlendra Mishra, AOR

Mr. Rakesh Khanna, Sr. Adv.
Mr. Satish Chandra Mishra, Sr. Adv.
Mr. Shail Kumar Dwivedi, AOR
Mr. Gunnam Venkateshwara Rao, Adv.

Mr. Sidhant Kumar, Adv.

Mr. Sahil Tagotra, AOR
Ms. Manyaa Chandok, Adv.
Mr. Sujay Jain, Adv.

Mr. P C Sen, Sr. Adv.
Mr. P. S. Sudheer, AOR
Mr. Rishi Maheshwari, Adv.
Ms. Anne Mathew, Adv.
Mr. Bharat Sood, Adv.
Mr. Jai Govind M J, Adv.

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

Writ Petition is disposed of in terms of the signed
order.

Pending application(s), if any, shall stand disposed
of.

(B. LAKSHMI MANIKYA VALLI)
COURT MASTER (SH)

(DIVYA BABBAR)
COURT MASTER (NSH)

(signed order is placed on file)