



2025 INSC 647

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION NO. 466/2025

VISHAL TIWARI

..... PETITIONER(S)

VERSUS

UNION OF INDIA & ORS

..... RESPONDENT(S)

O R D E R

This petition under Article 32 read with Article 129 of the Constitution of India seeks initiation of *suo motu* criminal contempt proceedings against respondent No. 4, Nishikant Dubey, for having made deliberate and scandalizing remarks against the Supreme Court of India and the Chief Justice of India; for a direction to the Union of India, Ministry of Home Affairs, to lodge a First Information Report under the Bharatiya Nyaya Sanhita, 2023; and for a direction to the Union of India, Ministry of Home Affairs, to issue an advisory to all Chief Secretaries to curb hate and provocative speeches by political parties and their leaders relating to the Waqf (Amendment) Act, 2025, and its hearing before this Court.

2. Normally, this Bench would not have heard this matter but as we are not inclined to issue notice and the Waqf matter¹ was heard

¹ W.P. (C) Nos. 276/2025, 314/2025, 284/2025, 331/2025 & 269/2025.

by the two of us, we would dispose of the writ petition with some observations and, accordingly, we have proceeded to consider the issue.

3. Judicial pronouncements result in an order or a decision which may aggrieve a party or sometimes a section of the public. Critical analysis and objective criticism of an order's reasoning or even its outcome is protected under the fundamental right to free speech and expression under clause (a) of Article 19(1) of the Constitution of India. The power of criminal contempt, however, is exercised by courts when publication by words, spoken or written, by signs, or by visible representation or otherwise, in terms of clause (c) of Section 2 of the Contempt of Courts Act, 1971,² is with the intent to scandalize or lower the authority of the courts; or tends to scandalize or lower such authority; prejudices or interferes or tends to interfere with the due course of judicial proceedings; or interferes or tends to interfere with or obstructs or tends to obstruct the administration of justice in any manner. Exercise of the power of contempt, nevertheless, is discretionary.

4. We have examined the contents of the assertions made by respondent no. 4, which no doubt tend to scandalize and lower the authority of the Supreme Court of India, if not interfere or tend to interfere with the judicial proceedings pending before this Court, and have the tendency to interfere and obstruct the administration of justice. The statements made reflect the clear intent to impute motives to the Bench itself by naming the Chief Justice of India as "responsible for all the civil wars happening

² For short, "the Act".

in India” and “in order to incite religious wars in this country, it is only and only the Supreme Court that is responsible”. Sections 3 and 4 of the Act carve out exceptions which, *prima facie*, are not attracted. There is no ‘civil war’ in India.

5. In our opinion, the comments were highly irresponsible and reflect a penchant to attract attention by casting aspersions on the Supreme Court of India and the Judges of the Supreme Court. This apart, the statements show ignorance about the role of the constitutional courts and the duties and obligations bestowed on them under the Constitution. At the same time, we are of the firm opinion that courts are not as fragile as flowers to wither and wilt under such ludicrous statements. We do not believe that the confidence in and credibility of the courts in the eyes of the public can be shaken by such absurd statements, though it can be said without the shadow of doubt that there is a desire and deliberate attempt to do so.

6. We, therefore, refrain from taking any action. This Court in, *In Re S. Mulgaokar*,³ observed that the judiciary is not immune from criticism, but when criticism is an obvious distortion or a gross misstatement, which is made in a manner designed to lower the respect of the judiciary and destroy public confidence, it should not be ignored. However, the power to initiate contempt is discretionary in its unsheathed exercise. Every commission of contempt need not erupt in an indignant committal or levy of punishment, however deserving it may actually be. It is so because judges are judicious, their valour non-violent and their wisdom

3 (1978) 3 SCC 339.

springs into action when played upon by a volley of values, the least of which is personal protection. Courts believe in values like free press, fair trial, judicial fearlessness and community confidence. Thus, courts need not protect their verdicts and decisions by taking recourse to the power of contempt. Surely, courts and judges have shoulders broad enough and an implicit trust that the people would perceive and recognize when criticism or critique is biased, scandalous and ill-intentioned.

7. Each branch of the State in a democracy, be it the legislature, executive or the judiciary, especially in a constitutional democracy, acts within the framework of the Constitution. It is the Constitution that is higher than all of us. It is the Constitution which imposes limits and restrictions on the powers vested in the three organs. The power of judicial review is conferred by the Constitution on the judiciary. Statutes are subject to judicial review to test their constitutionality as well as for judicial interpretation. Therefore, when the constitutional courts exercise their power of judicial review, they act within the framework of the Constitution.

8. In the course of dispensation of justice, courts draw inspiration from consecrated principles. The judiciary, as an institution, is accountable to the people through various mechanisms. Arguments take place in open court. Decisions and judgments are reasoned. Judicial procedure ensures transparency and accountability. Judgments are put to scrutiny and critique. Decisions are debated and if required, corrected by exercise of

right of appeal, review, in curative jurisdiction and by reference to a larger bench. The judiciary's legitimacy and credibility are rooted in public trust and are maintained through fair, impartial and transparent decision-making.

9. To deny the power of judicial review to the courts would be to rewrite and negate the Constitution, as the power of judicial review is one of the cornerstones of democracy. This power is conferred in express terms by Articles 32 and 226 by the framers of the Constitution and hinges on the system of checks and balances. We believe that the general public does know the relationship amongst the three wings of the Government and their different roles. They are aware of the function and the role of the judiciary, which is to judicially review the actions of the other branches and to evaluate whether the other branches are acting lawfully under the Constitution. Judicial decisions are made in accordance with legal principles and not in keeping with political, religious or community considerations. When citizens approach the court praying for exercise of the power of judicial review, they do so in furtherance of their fundamental and/or legal rights. The court's consideration of such a prayer is the fulfilment of its constitutional duty.

10. While we are not entertaining the present writ petition, we make it clear that any attempt to spread communal hatred or indulge in hate speech must be dealt with an iron hand. Hate speech cannot be tolerated as it leads to loss of dignity and self-worth of the targeted group members, contributes to disharmony amongst groups,

and erodes tolerance and open-mindedness, which is a must for a multi-cultural society committed to the idea of equality. Any attempt to cause alienation or humiliation of the targeted group is a criminal offence and must be dealt with accordingly.

11. Recording the aforesaid, we dismiss the present writ petition.
12. Pending application(s), if any, shall stand disposed of.

.....CJI.
(SANJIV KHANNA)

.....J.
(SANJAY KUMAR)

NEW DELHI;
MAY 05, 2025.