

NARMADA BACHAO ANDOLAN

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v

UNION OF INDIA AND ORS.

OCTOBER 15, 1999

[DR. A.S. ANAND, C.J., S.P. BHARUCHA AND B.N. KIRPAL, JJ.]

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*Contempt of Courts Act, 1971 :*

*Contempt of Court—Interim order passed by Supreme Court with regard to Height of Dam on river Narmada—Application filed by State of Gujarat stating that leaders of Narmada Bachao Andolan had been reacting to order passed by this Court by way of threat of protests, public meetings, undertaking Satyagrahas, news reports, press releases, articles in news magazines etc.—Objectionable passages in a book also brought to notice of the Court—Held, NBA and its leaders have knowingly made comments on pending proceedings and have prima facie disobeyed interim injunctions passed by this Court—Prima facie the threats held out by NBA and its leaders also appear to be an attempt to prejudice or interfere with due course of judicial proceedings—Comments on matters connected with the case made in the book by its author are prima facie a misrepresentation of the proceedings in this Court—Freedom of speech and expression does not include freedom to distort orders of the Court and present incomplete and a one sided picture deliberately, which has the tendency to scandalise the Court and bring it into disrepute and ridicule—The relevant passages in the book have the tendency to create prejudice against this Court—However, keeping in view the importance of the issue of resettlement and rehabilitation of PAFs, which this Court has been monitoring, the Court is not inclined to initiate contempt proceedings against NBA, its leaders and the author concerned—It is hoped that these persons would desist from acting in a manner which has the tendency to interfere with the due course of administration of justice or which violates the injunctions issued by this Court from time to time—Constitution of India, Article 129.*

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CIVIL ORIGINAL JURISDICTION : Writ Petition (C) No. 319 of 1994; I.A. No. 14 of 1999.

(Under Article 32 of the Constitution of India)

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A K.K. Venugopal, (A.C.), Shanti Bhushan, Ashok H. Desai, T.R. Andhyarujina, (Sushil Kumar Jain) Additional Advocate General of Rajasthan, Guru Krishna Kumar, Prashant Bhushan, Ms. Kamini Jaiswal, Pallav Sisodia, Tufail A. Khan, P. Parmeshwaran, B.V. Balram Das, Ms. H. Wahi, D.M. Nargolkar, S.K. Agnihotri, A. Mishra and Ms. Anjali Doshi for the appearing parties.

B The following Orders of the Court were delivered:

C DR. A.S. ANAND, C.J. This petition has been filed by the State of Gujarat bringing to the notice of the Court how the petitioner—Narmada Bachao Andolan—had been reacting to the interim order of this Court permitting the increase of the height of the dam to RL 85 meters and about the threats of protests, public meetings and of undertaking Satyagrahas etc., on account of that order. Reference is made particularly to the interview of Ms. Medha Patkar which appeared in the Hindustan Times of 27.6.1999 and some other newspaper reports and press releases issued by the petitioner. Our attention has also been drawn to an article which appeared in the Weekly D News Magazine ‘Outlook’ and to some portions of a Book titled “The Greater Common Good” by Ms. Arundhati Roy.

On 22nd July, 1999, we made the following order :

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F At the outset, our attention has been drawn to certain statements, press releases, interviews, etc., given by the petitioners themselves or by some others under the aegis of the petitioner—Narmada Bachao Andolan. Copies of some of those statements, etc., have been filed along with I.A. No. 14 by the State of Gujarat.

G Our attention has also been drawn to an article in the weekly news magazine “Outlook” dated May 24, 1999 under the title “The Greater Common Good” by Ms. Arundhati Roy. A book under the same title, i.e., “The Greater Common Good” by Arundhati Roy, which appears to have been dedicated to “The Narmada, and all the life she sustains and Shripad, Nandini, Sylvie, Alok, Medha, Baba Amte and their colleagues in the NBA”, has also been brought to our notice.

H We have gone through the statements, the press releases, the article and certain portions of the book referred to above. *Prima facie*

it appears to us that there is a deliberate attempt to undermine the dignity of the Court and to influence the course of justice. These writings, which present a rather one sided and distorted picture have appeared in spite of our earlier directions restraining the parties from going to the press, etc., during the pendency of the proceedings in this Court. A

However, before we decide to proceed any further, we consider it proper to appoint an amicus to advise the Court about the action, if any, which is required to be taken in this respect as also in respect of the writ petition itself. B

We request Mr. K.K. Venugopal, Senior Advocate, President of the Supreme Court Bar Association, to act as amicus and advise the court. C

... ..”

After hearing learned amicus as well as other learned counsel appearing in the case, who all rose above the case of their clients to assist the Court, we are of the opinion that the petitioner—NBA and its leader Ms. Medha Patkar have knowingly made comments on pending proceedings and have *prima facie* disobeyed the interim injunctions issued by this Court on 11.4.1997 and 5.11.1998. *Prima facie* the threats held out by the petitioners and its leaders also appear to be an attempt to prejudice or interfere with the due course of judicial proceedings. Litigants must realise that Courts cannot be forced by pressure tactics to decide pending cases in the manner in which the concerned party desires. It will be a negation of the Rule of Law if the Courts were to act under such pressure. D

Some of the objectionable passages in the Book, “The Greater Common Good” by Ms. Arundhati Roy are as follows: E

“I stood on a hill and laughed out loud. F

I had crossed the Narmada by boat from Jalsindhi and climbed the headland on the opposite bank from where I could see, ranged across the crowns of law, bald hills, the tribal hamlets of Sikka, Surung, Neemgavan and Domkhedi. I could see their airy, fragile homes. I could see their fields and the forests behind them. I could see little children with littler goats scuttling across the landscape like motorised G

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comments made by her are *prima facie* a misrepresentation of the proceedings in this Court. Judicial process and institution cannot be permitted to be scandalised or subjected to contumacious violation in such a blatant manner in which it has been done by her. A

While hypersensitivity and peevishness have no place in judicial proceedings—vicious stultification and vulgar debunking cannot be permitted to pollute the stream of justice. Indeed under our Constitution there are positive values like right to life, freedom of speech and expression, but freedom of speech and expression does not include freedom to distort orders of the Court and present incomplete and a one side picture deliberately, which has the tendency to scandalise the Court. Whatever may be the motive of Ms. Arundhati Roy, it is quite obvious that she decided to use her literally fame by misinforming the public and projecting in a totally incorrect manner, how the proceedings relating to Resettlement and Rehabilitation had shaped in this Court and distorting various directions given by the Court during the last about 5 years. The writings referred to above have the tendency to create prejudice against this Court. She seems to be wholly ignorant of the task of the Court. The manner in which she has given twist to the proceedings and orders of the Court is in bad taste and not expected from any citizen, to say the least. B C D

We wish to emphasise that under the cover of freedom of speech and expression no party can be given a licence to misrepresent the proceedings and orders of the Court and deliberately paint an absolutely wrong and incomplete picture which has the tendency to scandalise the Court and bring it into disrepute or ridicule. The right of criticising, in good faith in private or public, a judgment of the Court cannot be exercised, with malice or by attempting to impair the administration of justice. Indeed, freedom of speech and expression is “life blood of democracy” but his freedom is subject to certain qualifications. An offence of scandalising the Court *per se* is one such qualification, since that offence exists to protect the administration of justice and is reasonably justified and necessary in a democratic society. It is not only an offence under the contempt of Courts act but is *sui generis*. Courts are not unduly sensitive to fair comment or even outspoken comments being made regarding their judgments and orders made objectively, fairly and without any malice, but no one can be permitted to distort orders of the Court and deliberately give a slant to its proceedings, which have the tendency to scandalise the Court or bring it to ridicule, in the larger interest of protecting administration of justice. E F G H

A The action of the petitioner and its leaders Ms. Medha Patkar as well as writings of Ms. Arundhati Roy have caused us much anguish and when we express our displeasure of the action of Ms. Arundhati Roy in making distorted writings or the manner in which the leaders of the petitioner Ms. Medha Patkar and Mr. Dharmadhikari have, after giving assurances to this Court, acted in breach of the injunctions, we do so out of anguish and not out of anger. May be the parties were over-zealous in projecting their point of view on a matter involving a large segment of tribal population, but they should not have given to themselves the liberty of acting in the objectionable manner as already noticed. We are unhappy at the way the leaders of NBA and Ms. Arundhati Roy have attempted to undermine the dignity of the Court. We expected better behaviour from them.

After giving this matter our thoughtful consideration and keeping in view the importance of the issue of Resettlement and Rehabilitation of the PAFs, which we have been monitoring for the last five years, we are not inclined to initiate contempt proceedings against the petitioner, its leaders or Ms. Arundhati Roy. We are of the opinion, in the larger interest of the issues pending before us, that we need not pursue the matter any further. We, however, hope that what we have said above would serve the purpose and the petitioner and its leaders would hereafter desist from acting in a manner which has the tendency to interfere with the due administration of justice or which violates the injunctions issued by this Court from time to time.

After 22nd of July, 1999 when learned amicus was appointed, nothing has come to our notice which may show that Ms. Arundhati Roy has continued with her objectionable writings insofar as the judiciary is concerned. She may have by now realised her mistake. We, therefore, consider it appropriate to now let the matter rest here and not to pursue it any further. The application (I.A. 14) is accordingly disposed of.

Before parting with this order we wish to place on record our deep appreciation for the assistance rendered to us by the amicus, Shri K.K. Venugopal, Senior Advocate and all other learned counsel appearing in the case.

Let the main Writ Petition be now placed for directions on 4th Nov. 1999 at 2 P.M.

While I record my disapproval of the statements that are complained of, I am not inclined to take action in contempt against Medha Patkar, Shripad

Dharmadhikari and Arundhati Roy because the Court's shoulders are broad enough to shrug off their comments and because the focus should not shift from the resettlement and rehabilitation of the oustees. A

I acknowledge with gratitude the assistance rendered to the Court by the learned amicus curiae and by learned counsel for the parties.

The I.A. (no. 14) is, accordingly, disposed of. B

RP.

I.A. disposed of.