

HIGH COURT OF MADHYA PRADESH : AT JABALPUR

Writ Petition No.13224/2015 (PIL)

Democratic Lawyers Forum **Petitioner**
- V/s -
Union of India & Others **Respondents**

Present : **Hon'ble Shri Justice Hemant Gupta, Chief Justice.**
Hon'ble Shri Justice Rajeev Kumar Dubey.

Shri Ravindra Kumar Gupta, Advocate for the petitioner.
Shri J.K. Jain, Assistant Solicitor General, for Union of
India/respondent No.1.
Shri N.S. Ruprah, Advocate for respondent No.2.
Shri J.K. Pillai, Advocate for respondent Nos. 3 and 9.
Shri Siddharth Seth, Advocate for respondent Nos. 5 and 6.
Ms. Namrata Agrawal, Government Advocate, for the State.

Whether Approved for Reporting : Yes

Law Laid down :

(1) Public Interest Litigation in service matters like selection, appointment, promotion, seniority and also disciplinary proceedings is not maintainable. Reliance is placed upon Janata Dal Vs. H.S. Choudhary, (1992) 4 SCC 305; Rajnit Prasad Vs. Union of India, (2000) 9 SCC 313; and, Central Electricity Supply Utility of Odisha Vs. Dhobei Sahoo and others, (2014) 1 SCC 161.

(2) A citizen has a fundamental right to meet a person of his choice. Reliance is placed upon Writ Petition (Civil) No.494/2012 decided on 24.8.2017 [Justice K.S. Puttuswamy (Retd) Vs. Union of India and others]

Significant Paragraph Nos: 11, 15, 18, 20, 21, 22

ORDER
09/10/2017

Per Hemant Gupta, Chief Justice:

The present petition in public interest is by a group of Advocates under the common name called 'Democratic Lawyers Forum', said to be engaged in protection and implementation of civil rights and rule of law in the State.

2. The petitioner claims that respondent Nos. 2, 3 and 4 are responsible to take action against respondent Nos. 7, 8 and 9; whereas respondent Nos. 5 and 6 are responsible to ensure free and fair elections; whereas respondent No.10 is responsible to take action for the violation of Rules and Laws made for the purpose.

3. The petitioner avers that schedule for conduct of elections to Municipal Corporation, Jabalpur was declared in December, 2014. There was contest amongst candidates belonging to Indian National Congress and the Bhartiya Janta Party for the post of Mayor. The allegation is that head of Rashtriya Swayam Sewak Sangh (hereinafter referred to as 'RSS') visited Jabalpur between 16.1.2015 to 19.1.2015, for promoting and campaigning for BJP candidate in the Municipal Elections, which was part of his tour in the State of Madhya Pradesh. The relevant averments in the writ petition read as under:-

“3.4 The Head of Rashtriya Swayam Sewak Sangh (RSS) a associate organization of BJP, a national political party, Mr. Mohan Bhagwat visited the city Jabalpur between 16th Jan to 19th Jan 2015 for promoting and campaigning the BJP candidates (Mayor and ward members) to win in Municipal Election. This visit was part of his tour in State of Madhya Pradesh.

3.5 The daily news papers and evening news papers published the shocking news on 19th and 20th Jan, 2015 stating

that the Heads of Central Government Public Undertakings various administrative staff visited the circuit house/his place of stay and meet him for election purpose. This was the violation of Central Conduct Rules for Central Govt. Employees and as well the direction of Election Commission for fair and free election in the State. (Please refer the news papers dated 19.1.15 and 20.1.15 cumulatively as **Annexure P-1**.)”

4. On the basis of such averments, the petitioner sought the following reliefs:-

- “(1) To direct the respondents to enquire the matter and file the return with regarding this news;
- (2) To direct the Respondent no 1 to 6 to inquire the matter and take action against the Respondent No 7 to 9.
- (3) To direct the guidelines with regard to Gazette or non-gazette government officials may participate during election with post holders of RSS or any political party;
- (4) To interpret whether the RSS organization which is associate organization to BJP can take part with Central Government employees during election to benefit certain political party or group or taken donations from them.
- (5) To pass appropriate order for this illegal act by Respondent no 7 to 9 as required under the law and to take action in this regard.
- (6) To issue a writ, order or direction in an appropriate nature to the respondents.
- (7) To pass such other or further order(s) as this Hon’ble Court may deem fit and proper in the interest of justice.”

5. In support of the petition, the petitioner has attached copies of newspaper reports, a complaint by the Congress candidate through her agent – Shri Ravindra Kumar Gupta, who is the counsel for the petitioner, to Chief Election Commissioner; a notice Annexure P/3 given

by Shri O.P. Yadav, Advocate, through whom the present petition has been filed and is supported by his affidavit. In the notice – Annexure P/3, issued on behalf of the petitioner, it is averred that many officials have met the Head of RSS in the office of RSS at Keshav Kutir and thus they have violated the Central Civil Services (Conduct) Rules, 1964 (hereinafter referred to as ‘Rules of 1964’). The relevant extract of Rule 5 read as under:-

“5. Taking part in politics and elections:

- (1) No Government servant shall be a member of, or be otherwise associated with, any political party or any organization which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity.

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6. The petitioner relies upon the instructions issued by the Central Government on 18.5.1966 laying down that a government servant should not canvass or otherwise interfere with or use his influence in connection with or take part in an election to any Legislature or Local authority. The petitioner also relies upon another instructions dated 30.11.1966 to submit that participation in the activities of RSS would attract the provisions of Rule 5 of the Rules of 1964. The instructions issued by Government of India, Ministry of Home Affairs vide Memo No.25/59/52-Estt, dated the 30th June, 1955 read as under:-

“(5) Government servant proposing/seconding the nomination of a candidate at an election or acting as polling agent, not permissible – Attention is invited to Rule 5 of the Central Civil Services (Conduct) Rules

which lays down that a Government servant should not canvass or otherwise interfere or use his influence in connection with, or take part in, any election to a legislative body. There is, however, no bar against a Government servant who is qualified to vote at such election, exercising his right to vote, provided that, if he does so, he does not give any indication of the manner in which he proposes to vote or has voted.

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7. Another instruction was issued in respect of activities of RSS and Jamaat-e-Islami by Government of India, Ministry of Home Affairs vide Office Memorandum OM No.3/10/(S)/66-Ests (B), dated the 30th November, 1966. The same read as under:-

“(15) **Participation by the Government servants in the activities of RSS and Jamaat-e-Islami** – The attention of the Ministry of Finance, etc, is invited to the provisions of sub-rule (1) of Rule 5 of the Central Civil Services (Conduct) Rules, 1964, under which no Government servant shall be a member of, or be otherwise associated with, any political party or any organization which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity.

As certain doubts have been raised about Government’s policy with respect to the membership of and participation in the activities of the Rashtriya Swayam Sewak Sangh and the Jamaat-e-Islami by Government servants, it is clarified that Government have always held the activities of these two organizations to be of such a nature that participation in them by Government servants would attract the provisions of sub-rule (1) of Rule 5 of the Central Civil Services (Conduct) Rules, 1964. Any Government servant, who is a member of or is otherwise

associated with, the aforesaid organizations, or with their activities, is liable to disciplinary action.

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8. Many affidavits and returns have been filed from time to time by different set of respondents, but in return filed on 2.8.2016 on behalf of respondent No.10 an objection has been raised that the petition in public interest is not maintainable. Reliance is placed upon judgments reported as **State of Uttaranchal Vs. Balwant Singh Chaufal and others, (2010) 3 SCC 402**; and **M/S. Holicow Pictures Private Limited Vs. Prem Chandra Mishra and others, (2007) 14 SCC 281**.

9. After arguments were addressed by the Learned Counsel for the parties, learned counsel for the petitioner sought adjournment to file rejoinder. Such request is declined for the reason that the returns were filed in the month of February, March or August 2016, but for more than a year, no rejoinder was filed. We see no reason to grant any time to file rejoinder, as on the basis of pleadings in the writ petition itself, we find that the same is not maintainable, for the reasons recorded hereinafter.

10. The petitioner has sought action against respondent Nos. 7 to 9, all of them are employees of Government or its agencies or instrumentalities. We find that when petitioner seeks action against the employees of the Central or State Government or Corporations, public interest litigation is not maintainable. The initiation of disciplinary proceedings against an employee is prerogative of the employer. The matter relating to appointment, promotion, seniority and disciplinary action are all different facets of service matter.

11. In a Judgment reported as **Janata Dal Vs. H.S. Choudhary, (1992) 4 SCC 305**, the scope and purpose of public interest litigation was dealt with. It was held that the courts have to be careful to see that the member of the public, who approaches the court in public interest is acting bona fide and not for personal gain or private profit or political motivation or other oblique consideration. The court must not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain a political objective. The relevant extract read as follows:-

“93. However, the learned Judge has sounded a note of caution {quoting from judgment reported as (1981) Supp SCC 87} to the courts to be observed while entertaining a public interest litigation as follows: (p. 219, para 24)

“But we must be careful to see that the member of the public, who approaches the court in cases of this kind, is acting bona fide and not for personal gain or private profit or political motivation or other oblique consideration. The court must not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain a political objective.”

95. However, Venkataramiah, J. (as the learned Chief Justice then was) in his separate judgment with regard to the question of locus standi of lawyers in filing petitions in respect of matters concerning judges, courts and administration of justice has registered his opinion thus: (SCC p.773, paras 989 and 990)

“It has, however, to be made clear that it cannot be said that lawyers only because they have a right to practise in a court have 'locus standi' to file petitions in respect of every matter concerning judges, courts and administration of justice. There are many such matters in which have no 'locus standi' to ask for relief. By way of illustration, lawyers cannot question the establishment of a new court on the ground that their professional prospects would be affected thereby. ”

97. In short, the decision in S.P. Gupta Vs. Union of India, AIR 1982 SC 149, is a golden master key which has provided access to the Courts for the poor and down-trodden.

Vexatious and frivolous litigations

98. While this Court has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly developed doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that courts should not allow its process to be abused by a mere busybody or a meddlesome interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration.

109. It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the court for vindicating any personal grievance, deserves rejection at the threshold.

110. It is depressing to note that on account of such trumpery proceedings initiated before the Courts, innumerable days are wasted which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we are second to none in fostering and developing the newly invented concept of PIL and extending our long arm sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from the undue delay in service matters,

Government or private persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorised collection of tax amounts are locked up, detenus expecting their release from the detention orders etc. etc. - are all standing in a long serpentine queue for years with the fond hope of getting into the courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either for themselves or as proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffling their faces by wearing the mask of public interest litigation, and get into the Courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of Courts and as result of which the queue standing outside the doors of the Court never moves which piquant situation creates a frustration in the minds of the genuine litigants and resultantly they loose faith in the administration of our judicial system.”

12. In another judgment reported as **Rajnit Prasad Vs. Union of India, (2000) 9 SCC 313**, the Supreme Court was considering a petition filed by an Advocate who was not a party either before the Central Administrative Tribunal or before the High Court, challenging the quashing of charge-sheet issued to Dr. U.N. Biswas by the High Court. It was held the disciplinary proceeding is essentially a matter between the employer and the employee, and a stranger, much less a practicing advocate, cannot be said to have any interest in those proceedings. Public interest of general importance is not involved in disciplinary proceedings. In fact, if such petitions are entertained at the instance of persons who are not connected with those proceedings, it would amount to an abuse of the process of court. The Court held as under :-

“7. Why Mr S.P. Gupta, an advocate of the Allahabad High Court, was permitted to file a petition in public interest has been set out in that judgment. It was observed:

Practicing lawyers have undoubtedly a vital interest in the independence of the judiciary; they would certainly be interested in challenging the validity or constitutionality of an action taken by the State or any public authority which has the effect of impairing the independence of the judiciary.

It was further observed:

Lawyer’s profession was an essential and integral part of the judicial system; they could figuratively be described as priests in the temple of justice. They have, therefore, a special interest in preserving the integrity and independence of the judicial system; they are equal partners with the Judges in the administration of justice. The lawyers, either in their individual capacity or as representing some lawyers’ associations have the locus standi to challenge the circular letter addressed by the Union Law Minister to the Governors and Chief Ministers directing that one-third of the Judges of the High Court should, as far as possible, be from outside the State.

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9. But a mere busybody who has no interest cannot invoke the jurisdiction of the court. In respect of departmental proceedings which are initiated or sought to be initiated by the Government against its employees, a person who is not even remotely connected with those proceedings cannot challenge any aspect of the departmental proceedings or action by filing a writ petition in the High Court or in this Court. Disciplinary action against an employee is taken by the Government for various reasons principally for “misconduct” on the part of the employee. This action is taken after a “domestic” inquiry in which the employee is provided an opportunity of hearing as required by the constitutional mandate. It is essentially a matter between the employer and the employee, and a stranger, much less a practising

advocate, cannot be said to have any interest in those proceedings. Public interest of general importance is not involved in disciplinary proceedings. In fact, if such petitions are entertained at the instance of persons who are not connected with those proceedings, it would amount to an abuse of the process of court”

13. In a judgment reported as **Hari Bansh Lal Vs. Sahodar Prasad Mahto, (2010) 9 SCC 655**, the Supreme Court held that in service matters PIL is not maintainable. The relevant extract is reproduced herein as under:-

“14. In *Ashok Kumar Pandey v. State of W.B.*, (2004) 3 SCC 349, this Court held thus: (SCC pp. 358-59, para 16)

‘16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations where even a minuscule percentage can legitimately be called public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilised for disposal of genuine cases. Though in *Duryodhan Sahu v. Jitendra Kumar Mishra*, (1998) 7 SCC 273, this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet

was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the courts should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforesaid so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts.’

The same principles have been reiterated in the subsequent decisions, namely, *B. Singh v. Union of India*, (2004) 3 SCC 363; *Dattaraj Nathuji Thaware v. State of Maharashtra*, (2005) 1 SCC 590; and *Gurpal Singh v. State of Punjab*, (2005) 5 SCC 136.

15. The above principles make it clear that except for a writ of quo warranto, public interest litigation is not maintainable in service matters.”

14. In another judgment reported as **Madan Lal Vs. High Court of Jammu and Kashmir and others, 2014 (15) SCC 308**, the Supreme Court observed that, it has been held time and again that in service matters PIL is not maintainable. It was held as under:

“10. As we have found that the challenge made to the selection was not justified on merits and also on the ground that the appellants had no grievance against any of the selected candidates, these appeals fail. That apart, as the appellants had no grievance as against the selected candidates and the challenge in the writ petition as well as in these appeals are as *pro bono publico*, these appeals cannot be entertained since as per the guidelines of this Court as well as based on the earlier decisions of this Court wherein it was held that public interest litigation in service matters cannot be entertained. Therefore, on all the above grounds the appeals fail and the same are dismissed. No costs.”

15. In the case reported as **Central Electricity Supply Utility of Odisha Vs. Dhobei Sahoo and others, (2014) 1 SCC 161**, the Supreme Court held as under:-

“31. Thus, from the aforesaid authorities it is quite vivid that the public interest litigation was initially evolved as a tool to take care of the fundamental rights under Article 21 of the Constitution of the marginalised sections of the society who because of their poverty and illiteracy could not approach the court. In quintessence it was initially evolved to benefit the have-nots and the handicapped for protection of their basic human rights and to see that the authorities carry out their constitutional obligations towards the marginalised sections of people who cannot stand up on their own and come to court to put forth their grievances. Thereafter, there have been various phases as has been stated in *State of Uttaranchal v. Balwant Singh Chaufal, (2010) 3 SCC 402*. It is also perceptible that the Court has taken note of the fact how the public interest litigations have been misutilised to vindicate vested interests for the propagated public interest. In fact, as has been seen, even the people who are in service for their seniority and promotion have preferred public interest litigations. It has also come to the notice of this Court that some persons, who describe themselves as *pro bono publico*, have approached the Court challenging grant of promotion, fixation of seniority, etc. in respect of third parties.”

16. The Learned Counsel for the petitioner relied upon a judgment reported as **Anirudh Kumar Vs. Municipal Corporation of Delhi and others, (2015) 7 SCC 779**, to contend that public interest litigation is maintainable even when a petitioner has private interest. The Court was examining problem of nuisance created by a Pathology Laboratory. The said judgment does not relate to issue of PIL in service matter but is related to regulation and development of an urban area.

17. Learned counsel for the petitioner relies upon another judgment reported as **Satya Pal Anand Vs. State of MP and another, (2014) 7 SCC 244**, wherein constitution of MP State Cooperative Tribunal was questioned when the same was sought to be manned by Administrative Officers. The Court upheld the provisions of the Act and held as under:-

“13. We emphasize, at the cost of repetition, that most of the functions are in the sphere of administration and governance with few additional duties having quasi judicial character. In such a situation and more particularly when a Tribunal is constituted with all the trappings of a court, we do not find any fault with the provision of Section 3 of the Act empowering the Government to appoint persons as Registrars, Joint Registrars, Deputy Registrars and Assistant Registrars etc. necessarily with legal/judicial background. Challenge to the vires of Section 3 of the Act is, therefore, rejected, upholding the judgment of the High Court on this issue for our own reasons given hereinabove.”

After rejecting the challenge, the Court hoped that experienced suitable persons should be appointed, who are able to perform their functions efficiently and effectively. We find that the directions issued in the said case cannot be said to be relevant or arising for consideration in the present case.

18. We find the present public interest litigation filed by an Advocate, is a politically motivated petition in as much as the counsel for the petitioner was an agent of the Congress candidate. The dispute is in respect of election of Mayor, which is obviously a political issue. The political issues are settled through ballot not through writ petition in

Courts. The arena in respect of political issues is the Court of people and not of Court of law. Though most of the judgments referred to above are arising out of cases of appointment and selection, but the judgment in **Rajnit Prasad's** case was a case where disciplinary action initiated against an employee was quashed by the High Court but in a public interest litigation, the said order was not interfered with on the ground that such petition cannot be entertained at the instance of persons who are not connected with those proceedings as it may amount to abuse of the process of Court. In another judgment of **Dhobei Sahoo** (supra), again the Supreme Court stated that public interest litigation was initially evolved as a tool to take care of the fundamental rights under Article 21 of the Constitution of the marginalized sections of the society, but the public interest litigation is being invoked to challenge the grant of promotion, fixation of seniority etc. The consistent line of judgments of the Hon'ble Supreme is that in service matters public interest litigation would not maintainable except in case of writ of quo warranto. Therefore, public interest litigation in service matters will include selection, appointment, promotion, seniority and also disciplinary proceedings. Therefore, all facets of service matters except writ of quo warranto are not permissible under the guise of public interest litigation. Thus, we find that the present public interest litigation is in a service matter, and thus not maintainable.

19. In a recent judgment on the Right to Privacy, in **Writ Petition (Civil) No.494/2012 [Justice K.S. Puttaswamy (Retd) Vs.**

Union of India and others], decided on **24.8.2017**, the Supreme Court

held as under:-

“168 What, then, does privacy postulate? Privacy postulates the reservation of a private space for the individual, described as the right to be let alone. The concept is founded on the autonomy of the individual. The ability of an individual to make choices lies at the core of the human personality. The notion of privacy enables the individual to assert and control the human element which is inseparable from the personality of the individual. The inviolable nature of the human personality is manifested in the ability to make decisions on matters intimate to human life. The autonomy of the individual is associated over matters which can be kept private. These are concerns over which there is a legitimate expectation of privacy. The body and the mind are inseparable elements of the human personality. The integrity of the body and the sanctity of the mind can exist on the foundation that each individual possesses an inalienable ability and right to preserve a private space in which the human personality can develop. Without the ability to make choices, the inviolability of the personality would be in doubt. Recognizing a zone of privacy is but an acknowledgment that each individual must be entitled to chart and pursue the course of development of personality. Hence privacy is a postulate of human dignity itself. Thoughts and behavioural patterns which are intimate to an individual are entitled to a zone of privacy where one is free of social expectations. In that zone of privacy, an individual is not judged by others. Privacy enables each individual to take crucial decisions which find expression in the human personality. It enables individuals to preserve their beliefs, thoughts, expressions, ideas, ideologies, preferences and choices against societal demands of homogeneity. Privacy is an intrinsic recognition of heterogeneity, of the right of the individual to be different and to stand against the tide of conformity in creating a zone of solitude. Privacy protects the individual from the searching glare of publicity in matters which are personal to his or her life. Privacy attaches to the person and not to the place where it is associated. Privacy constitutes the foundation of all

liberty because it is in privacy that the individual can decide how liberty is best exercised. Individual dignity and privacy are inextricably linked in a pattern woven out of a thread of diversity into the fabric of a plural culture.

169. Privacy of the individual is an essential aspect of dignity. Dignity has both an intrinsic and instrumental value. As an intrinsic value, human dignity is an entitlement or a constitutionally protected interest in itself. In its instrumental facet, dignity and freedom are inseparably inter-twined, each being a facilitative tool to achieve the other. The ability of the individual to protect a zone of privacy enables the realization of the full value of life and liberty. The freedoms under Article 19 can be fulfilled where the individual is entitled to decide upon his or her preferences. Read in conjunction with Article 21, liberty enables the individual to have a choice of preferences on various facets of life including what and how one will eat, the way one will dress, the faith one will espouse and a myriad other matters on which autonomy and self-determination require a choice to be made within the privacy of the mind. The constitutional right to the freedom of religion under Article 25 has implicit within it the ability to choose a faith and the freedom to express or not express those choices to the world. These are some illustrations of the manner in which privacy facilitates freedom and is intrinsic to the exercise of liberty. The Constitution does not contain a separate article telling us that privacy has been declared to be a fundamental right. Nor have we tagged the provisions of Part III with an alpha suffixed right of privacy: this is not an act of judicial redrafting. Dignity cannot exist without privacy. Both reside within the inalienable values of life, liberty and freedom which the Constitution has recognised. Privacy is the ultimate expression of the sanctity of the individual. It is a constitutional value which straddles across the spectrum of fundamental rights and protects for the individual a zone of choice and self-determination.

- Privacy represents the core of the human personality and recognizes the ability of each individual to make choices and to

take decisions governing matters intimate and personal. Yet, it is necessary to acknowledge that individuals live in communities and work in communities. Their personalities affect and, in turn are shaped by their social environment. The individual is not a hermit. The lives of individuals are as much a social phenomenon. In their interactions with others, individuals are constantly engaged in behavioural patterns and in relationships impacting on the rest of society. Equally, the life of the individual is being consistently shaped by cultural and social values imbibed from living in the community. This state of flux which represents a constant evolution of individual personhood in the relationship with the rest of society provides the rationale for reserving to the individual a zone of repose. The lives which individuals lead as members of society engender a reasonable expectation of privacy. The notion of a reasonable expectation of privacy has elements both of a subjective and objective nature. Privacy at a subjective level is a reflection of those areas where an individual desire to be left alone. On an objective plane, privacy is defined by those constitutional values which shape the content of the protected zone where the individual ought to be left alone. The notion that there must exist a reasonable expectation of privacy ensures that while on the one hand, the individual has a protected zone of privacy, yet on the other, the exercise of individual choices is subject to the rights of others to lead orderly lives. For instance, an individual who possesses a plot of land may decide to build upon it subject to zoning regulations. If the building bye laws define the area upon which construction can be raised or the height of the boundary wall around the property, the right to privacy of the individual is conditioned by regulations designed to protect the interests of the community in planned spaces. Hence while the individual is entitled to a zone of privacy, its extent is based not only on the subjective expectation of the individual but on an objective principle which defines a reasonable expectation.

T: Our Conclusions

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(F) Privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation. Privacy also connotes a right to be left alone. Privacy safeguards individual autonomy and recognises the ability of the individual to control vital aspects of his or her life. Personal choices governing a way of life are intrinsic to privacy. Privacy protects heterogeneity and recognises the plurality and diversity of our culture. While the legitimate expectation of privacy may vary from the intimate zone to the private zone and from the private to the public arenas, it is important to underscore that privacy is not lost or surrendered merely because the individual is in a public place. Privacy attaches to the person since it is an essential facet of the dignity of the human being;..... ”

20. In the aforesaid judgment, it has been held that the privacy postulates reservation of a private space for an individual, described as right to be let alone. In such right, the autonomy of the individual is associated over matters which can be kept private. These are concerns over which there is a legitimate expectation of privacy. The individuals have right to preserve their beliefs, thoughts, expressions, ideals, ideologies, preferences and choices against societal demands of homogeneity. The liberty ensured under Article 21 enables an individual to have a choice of preferences on various facets of life, including what and how one will eat, the way one will dress, the faith one will espouse. Such liberty will include right to meet a person of his choice.

21. The petitioner alleges that certain Government officials had met the Head of RSS. Though in the writ petition, the petitioner is not

categoric about the place of meeting, but in the notice – Annexure P/3, the officers are said to have met the Head of RSS in its office at Keshav Kutir. Though the officers had denied that they had met the Head of RSS, but we find that the larger issue as to whether a citizen, including a Government Officer, do have a right to meet any person. Has he has right of privacy to meet a person of his choice?

22. We find that a citizen of this Country including a Government employee has right to meet any person of his choice. A Government servant does not violate Rule 5 of the Conduct Rules, which prohibits that the Government servant should not canvass or otherwise interfere or use his influence in connection with, or take part in, any election to a legislative body. The meeting is said to have taken place in the office of RSS at Keshav Kutir. Meeting a Head of a Group does not show that such Government servant was canvassing or otherwise interfering or using his influence in connection with any election. There is no allegation that the Government servant has influenced any of his subordinates to vote in a particular manner. Therefore, it cannot be said that any Government servant has used his influence in connection with the election. Every citizen, including Government servant, is a voter for elections to parliament, assembly, urban and rural local bodies. While exercising the right of vote, he obviously votes for one or the other political party. The Government servant is not prohibited to vote in the elections. Therefore, interaction by a Government servant with Head of a group cannot be said to be in violation of any Conduct Rules. By meeting a Head of the Group, the Government servant is not

participating in the activities of RSS. Therefore, any individual, may be a Government servant, has a right to visit any person of his choice. What is prohibited is that he cannot participate in political activities. This is an additional reason not to entertain the present petition.

23. In view of the aforesaid, we do not find any merit in the present petition.

24. Accordingly, **the writ petition is dismissed.**

(HEMANT GUPTA)
CHIEF JUSTICE

(RAJEEV KUMAR DUBEY)
JUDGE

Aks/-