

WP-13829-2016

(V.K. NASWA Vs UNION OF INDIA)

10-04-2017

Shri V.K. Naswa - petitioner appears in person.

Shri J.K. Jain, learned Assistant Solicitor General for the respondent Nos.1 and 2.

Shri Swapnil Ganguly, learned Govt. Advocate for the respondent Nos.3 to 5.

The petitioner has filed the present petition in public interest that the National Flag should be hoisted on all important public buildings such as High Courts, Secretariats, Commissioners' Offices, Collectorates, Jails and offices of the District Boards, Municipalities and Zila Parishads and Departmental/Public Sector Undertakings. The reliance is placed upon Clause 3.3 of Section II and Clause 3.39 of Section VIII of the Flag Code of India, 2002.

We have heard the petitioner and find that there is no mandate in the Flag Code that the National Flag should be hoisted on all days and on the public buildings such are specified in Clause 3.39 of Section VIII of the Flag Code of India, 2002.

Clause 3.3 of Section II contemplates that it shall be mandatory for all Governments and their organizations/agencies to follow the provisions contained in this Part. The mandate is to in respect of the conditions in which the National Flag can be hoisted.

Clause 3.39 starts with the word "Normally". The use of expression "Normally" means that it is not used in a mandatory form, but, it is directory. Since there is no mandate that the public buildings should hoist National Flag, therefore, there cannot be any direction to the respondents to hoist the National Flag on the public buildings as mentioned in Clause 3.39 of Section VIII of the Flag Code of India, 2002.

It may be mentioned that Flag Code is the guidelines issued by the

Central Government. Such Flag Code has the force of law as has been held in the case of **Union of India vs. Naveen Jindal and another** reported in **2004(2) SCC 510**. But, such force of law is for the purposes of violation of the guidelines and not to mandate that the National Flag should be hoisted on the public buildings in the mandatory manner.

We do not find that any direction can be issued for hoisting of flag on public buildings mandatorily.

Petition stands **disposed of**.

(HEMANT GUPTA)
CHIEF JUSTICE

(SUJOY PAUL)
JUDGE

psm