

HON'BLE SHRI RANGANATH MISHRA

v.

UNION OF INDIA AND ORS.

JULY 31, 2003

[V.N. KHARE, CJ., K.G. BALAKRISHNAN AND S.B. SINHA, JJ.]

*Constitution of India, 1950:*

*Articles 32 and 51-A—Fundamental duties—Additions to and implementation of—A letter requesting the Supreme Court to issue directions to State to educate citizens in fundamental duties—Treated as writ petition—Recommendations of National Commission to review the working of the Constitution accepting recommendations of J.S. Verma Committee on operationalisation of fundamental duties of citizens—Held, since the Government of India would take notice of the recommendations of the Commission/Committee, it would also consider the same in its right earnestness and take appropriate steps for their implementation as expeditiously as possible—Epistolary jurisdiction.*

CIVIL ORIGINAL JURISDICTION : Writ Petition (C) No. 239 of 1998.

Under Article 32 of the Constitution of India.

K. Parasaran, (AC), G. Umopathy, (AC) Prateek Jalan, Ms. Anil Katiyar, P. Parmeswaran, Rajiv Mehta, Ms. Mohan Lal, Ms. Kriti Renu Mishra (NP), Ranjan Mukherjee, Tara Chandra Sharma, Rajeev Sharma, Ms. Neelam Sharma, Ranji Thomas, Ms. Bharati Upadhyaya, V.N. Raghupathy, Sushil Kumar Jain, (NP), KH. Nobin Singh, S.Wasim A. Qadri, S.K. Dwivedi, Deepak Kumar Singh, Ajay K. Agrawal (NP), Ms. Chitra Markandaya (NP), Ashok Mathur (NP), J.S. Attri, Addl. Adv. General for State of Himachal Pradesh, Naresh K. Sharma (NP), K.R. Sasiprabu, G. Prakash (NP), Sanjay R. Hegde, Satya Mitra, Anil K. Mishra, Satish K. Agnihotri, K. Ram Kumar (NP), Ms. Krishna Sarma, Ms. Asha G. Nair, V.K. Sidatharan, Ms. A. Subhashini, V.G. Pragasam, Kumar Rajesh Singh, B.B. Singh, Ms. Hemantika Wahi, Ms. Monika Bapna, Anil Shrivastav, S.V. Deshpande, S.S. Shinde, Mukesh K. Giri, Praveen Kumar Rai, Mahabir Singh (NP), Sanjay K. Shandilya, Ms. V.D. Khanna,

A Ani Suhrawardy, P.N. Ramalingam, V.Balaji, A Mariarputham, Ms. Aruna Mathur, S.S. Gulathi and R.S. Suri for the appearing parties.

The following Order of the Court was delivered:

B A letter written by the petitioner herein to the Chief Justice of India requesting this Court to issue necessary directions to the State to educate its citizen in the matter of fundamental duties so that a right balance may emerge between rights and duties, was treated as a writ petition. This Court appointed Shri K. Parasaran, Sr. Advocate as Amicus Curiae.

C As the petition raised a question as to the correctness of a decision of this Court in *Bijoe Emmanuel v. State of Kerala*, [1986] 3 SCC 615, requiring reconsideration, the matter was directed to be listed before a Constitution Bench by order dated 9th April, 2001. However, a Constitution Bench by order dated 21st November, 2001 recalled the order dated 19th February, 2001 and 9th April, 2001 and directed the matter to be placed before a Bench of three Judges. The matter has been placed before this Bench pursuant thereto.

E When the matter was taken up for hearing, the learned Amicus Curiae brought to our notice the Report of the National Commission to Review the Working of the Constitution wherein a report made by a Committee commonly known as 'Justice J.S. Verma Committee' on operationalization of fundamental duties of citizens has been accepted and a strong suggestion has been made for their early implementation. The Commission, *inter alia*, recommends :

F "3. 40. 2 Education is not confined only to the time spent in schools and colleges. Education begins at birth in the subconscious and continues till death. Anyone who says that he has nothing more to learn is already brain-dead. It follows that the influences that play on a child at home are of great importance. Parents should understand that education begins at home, the examples they set, the environment of enlightenment and tolerance that is necessary to produce good citizens cannot be sub-contracted to formal schooling important though this is. Schemes should, therefore, be framed that include parents in social activities that have as their objective the country's age-old traditions, its Welcome to the persecuted of every faith, its virtues of tolerance of and respect for all religions and a certain pride in belonging to this land and in being considered as Indian. The highest office in our democracy is the office of citizen; this is not only a

platitude, it must translate into reality. The distinction is not illusory. This country has given far too much indulgence to an attitude of mind that acts on the question - what is there in it for me? A

Education and the process of inculcating unselfishness and a sense of obligation to one's fellowmen should inspire the question - where does my duty lie ? The transformation has the potential to make our nation strong, invincible and able to command the respect of the world. B

3. 40. 3 (i) The Commission recommends that the first and foremost step required by the Union and State Governments is to sensitise the people and to create general awareness of the provisions of fundamental duties amongst the citizens on the lines recommended by the Justice Verma Committee on the subject. Consideration should be given to the ways and means by which Fundamental Duties could be popularized and made effective; (ii) right to freedom of religion and right of minorities and fellow citizens respected; (iii) reform of the whole process of education is an immediate but immense need, as is the need to free it from governmental or political control; it is only through education that will power to adhere to our Fundamental Duties as citizens can be inculcated; and (iv) duty to vote at elections, actively participate in the democratic process of governance and to pay taxes should be included in article 51A. . . . " C D E

In its recommendations, Justice Verma Committee in Chapter entitled "Salient Recommendations" under the heading 'Operationalization Overview' observes as under :

"Duties are observed by individuals as a result of dictates of the social system and the environment in which one lives, under the influence of role models, or on account of punitive provision of law. It may be necessary to enact suitable legislation wherever necessary to require obedience of obligations by the citizens. If the existing laws are inadequate to enforce the needed discipline, the legislative vacuum needs to be filled. If legislation and judicial directions are available and still there are violations of Fundamental Duties by the citizens, this would call for other strategies for making them operational. F G

The desired enforceability can be better achieved by providing H

A not merely for legal sanctions but also combining it with social sanctions and to facilitate the performance of the task through exemplar role models. The element of compulsion in legal sanction when combined with the natural urge for obedience of the norms to attract social approbation would make the citizens willing participants in the exercise. The real task, therefore, is to devise methods which are a combination of these aspects to ensure a ready acceptance of the programme by the general citizenry and youth, in particular.

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D The Committee is strongly of the view that the significance of dignity of the individual in all its facets and the objective of overall development of the personality of the individual must be emphasized in the curriculum at all the stages of education. This requires consciousness of citizenship values which are a combination of rights and duties, and together give rise to social responsibilities. Methods must be devised to operationalize this concept as a constitutional value in our educational curriculum and in co-curricular activities, in schools and colleges."

Various recommendations have been made in the said report as regards the mode and manner to be adopted for generating awareness and consciousness of the citizens towards their fundamental duties.

E Keeping in view the fact that the Government of India would take notice of the recommendations of the aforesaid Commission/Committee, we agree with Shri K. Parasaran that the same may be considered in its right earnestness by the Central Government and we accordingly direct it to do so as also to take appropriate steps for their implementation as expeditiously as possible.

F As presently advised, we need not go into the other questions raised in this writ petition. This writ petition is, therefore, disposed of in the aforesaid terms.

G We record our appreciation for the valuable services rendered by the learned Amicus Curiae Shri K. Parasaran, Sr. Adv. and Shri G. Umamathay, Adv. in this matter.