14.07.11

C.P.A.N. 1270 of 2010
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C.P.A.N. 65 of 2011
With
W.P. 32027 (W) of 2008

Mr. Kamal Dey
.....Petitioner (in person)

Mr. Farooq M. Razaack, Addl. Sol. Gen.
Mr. Uttam Kr. Mazumder
Mr. Debasish Kundu
.....For the Union of India

Mr. Ashok Kumar Banerjee, G.P.
Mr. Sakya Sen
.....For the State

Mr. Alok Ghosh
.....For the High Court Authority

The Emblem "*Ashoka Chakra*", our national pride, should not be used without the words "*Satyameva Jayate*" to which our attention has been drawn by Mr. Kamal Dey, who is appearing 'in person' in the matter as the petitioner.

It appears that earlier an order was passed on 18th December, 2009 by the Division Bench of this Court where the Court has specifically directed as follows: -

> *"...the Schedule II under Rule 7 of the State Emblem of India (Regulation of Use) Rules, 2007 made under the State Emblem of India (Prohibition of Improper Use) Act, 2005 enlists in the Part I, the constitutional*

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authorities and other dignitaries which may display the Emblem on their cars and in the Part II, the authorities which may display the 'Ashoka Chakra' which is a part of the Emblem on triangular metal plaques on their cars and as such, it is not the category of the vehicle being used, but the authority using the vehicle is the prime criteria for the consideration of eligibility for display of the National Emblem."

Learned Additional Solicitor General appearing on behalf of the Central Government submitted that he would file a compliance report with regard to the directions given by the Court from time to time.

Learned Government Pleader appearing with Mr. Sakya Sen, Learned Advocate on behalf of the State authorities has also stated that they have already taken steps in the matter and would also file a compliance report to that effect.

Both the Learned Counsel for the Central Government as well as the State Government submitted before us that such Emblem should not be used on rented cars. It has been submitted that owners of such rented cars are using such Emblem unauthorisedly and both the Central Govt. or State Govt. authorities are taking steps to

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ensure that the Emblem is not misused. Learned Counsel appearing for the Central and State Government authorities have also submitted that they would take immediate steps in the matter and should ensure that excepting those persons /authorities who are entitled to use the said Emblem, no one including any authority use such Emblem in any manner whatsoever.

Mr. Dey, the petitioner in person in the matter also pointed out that some of the Offices of the State authorities are also using the said Emblem without the words "*Satyameva Jayate*".

Learned Government Pleader appearing on behalf of the State authorities submitted that if three weeks time is granted in the matter, they will ensure that the unauthorised use of such Emblem without the words "*Satyameva Jayate*" is immediately stopped and they will file a compliance report in respect of the order passed by this Court within a period of three weeks from date.

Learned Additional Solicitor General also made the same submission before us and prays for time to file a compliance report by way of affidavit.

However, we allow such prayer to file compliance report, but at the same time we direct the said authorities

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to ensure that there should not be any lapse and/or default on their part to give effect to the orders already passed by the Division Bench in this regard.

We further direct that the persons who are not entitled under Part II and Part III of the Schedule II under Rule 7 be restrained from using the said Emblem on their cars forthwith and the authories concerned must ensure it.

Learned Government Pleader appearing for the State authorities has specifically stated before us that the order should be complied with in true spirits and they would take steps in the matter accordingly and would ensure that the order is complied with on or before the next date of hearing.

We further make it clear that it is the duty of the State authorities to bring it to the notice of the State Departments as well as the Central Government Departments so that the order can be given effect to.

On the prayer of Mr. Dey, appearing as petitioner in person here, who has pointed out before us certain atrocities committed by the police against him in view of the fact that steps have been taken by him to file this 'Public Interest Litigation' and to ensure that the persons

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who are not entitled to use the said Emblem in violation of the Rules, which include the Office of Director General of Police and it was because of steps taken by him, he had to suffer in the hands of the police authorities. It is submitted by Mr. Dey that he should not be harassed in the hands of the police authorities by any means, rather he submitted that under Article 21 of the Constitution of India it is the foremost duty of the State authorities to render all assistance and to ensure the life, security and livelihood to the citizen of India.

It was because of the petitioner that this Court became aware of such fragrant violence and misuse of National Emblem and there are enough truth in his petition. The manner in which such National Emblem has been misused is a matter of shame.

In view of that, we feel it would be proper for us to direct the State authorities to ensure the securities and safety of the writ petitioner Kamal Dey and it is the duty of the police authorities to see that he should not suffer in any manner whatsoever and all possible measures should be taken for his safety and security.

A plain copy of this order may be handed over to Learned Government Pleader as well as to Learned Additional Solicitor General and since they have already

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submitted before us that they will take all necessary steps in the matter to ensure the security and safety to Mr. Dey, we do not think any order need be passed excepting the said authority must act properly.

Before we part, certain Books and Periodicals which have been placed before us by Mr. Dey from which it appears that the Emblem has also been used by them improperly. The following Books and Periodicals are as follows :-

WISDOM, International Monthly Digest; Wisdom Publications, No. 17 (Old No 9), Desika Road (near Alwarpet), Mulapore, Chennai – 600 004 (India).

The Sunday Indian (The Nation's Greatest News Weekly); Planman Media Pvt. Ltd., 48, Community Centre, Naraina Vihar Industrial Area, Phase – I, New Delhi – 110 028.

Jeeban Bigyan Parichay & **Physical Science** "PRANTIK", 18, Dr. Kartick Bose Street, Kolkata – 700 009 (For **Classes VI, VII** & **VIII**)

Accordingly, we direct that notice should be served upon them and they must apprise the fact that they will

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not use the said Emblem in accordance with Part II of the Rules as we have stated earlier in our order in any manner whatsoever without even the words *"Satyameva Jayate"* or the words *"Ashoka Chakra"*.

We further direct the Central Government and State authorities that they will take all necessary steps in the matter to remove the same. A show-cause notice should be issued to the said Printers and Publishers by the Registrar-General. The notice should be served and they must show cause on the next date of hearing as to why steps should not be taken against them for such violation within a period of three weeks from date which has been fixed after three weeks.

The matter to appear on **4th August, 2011**.

Let photocopy of this order duly countersigned by Assistant Registrar (Court) be given to the parties on the usual undertakings.

Sd/-

(PINAKI CHANDRA GHOSE, J.)

Sd/-

(SOUMEN SEN, J.)