

machinery, fittings, fixtures, including the immovable property, in the Jaipur undertaking is concerned, liberty to the Court Receiver to appoint the 1st defendants as the agents of the Court Receiver on such terms and conditions as the Court Receiver thinks proper. However, if the 1st defendants are not willing and/or are not in a position to accept the terms and conditions for being appointed as agents of the Court Receiver, Court Receiver will then have the liberty to have the said machines and moveables sold and the net sale proceeds so realised be kept with the Court Receiver until further orders.

There will also be an order of injunction in terms of prayer (b) of the Notice of Motion. Costs of the motion to be costs in the cause.

At this stage, Mr. Chinoi applies that the operation of the above order may be stayed for a period of four weeks from today. Mr. Thakkar opposes the application.

P.C. order stayed for a period of three weeks from today.

Mr. Thakkar for the plaintiffs pointed out that an Advocate from Jaipur could be appointed as a receiver. Mr. Chinoi has objected to the same. I am not inclined to accept this request of the learned Advocate for the plaintiffs.

Order accordingly.

AIR 1989 BOMBAY 25

Mrs. SUJATA MANOHAR, J.

Indira Jaising, Petitioner v. Union of India and others, Respondents.

Writ Petn. No. 1980 of 1986, D/- 21-6-1988.

Constitution of India, Art. 19(1)(a) — Freedom of speech and expression — Mass media — Television — Editing and censorship — Distinction — Interview seeking opinion of citizen on topics of socio-political importance — Omission to telecast one view inter alia on ground of being controversial — Amounts to censorship and not editing.

When various interviews taken for a programme to be telecast are edited, it is necessary to ensure that in the process of

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editing, the views expressed are correctly conveyed on the programme which is telecast. A portion of the interview may, at times, have to be deleted while editing the programme. But in the process of such deletion there should not be any gross distortion or misrepresentation of what had been said. Nor should important points raised be completely omitted.

(Para 10)

Under Art. 19(1)(a) of the Constitution all citizens have a right to freedom of speech and expression. This right protects freedom of speech on television as much as anywhere else. The right to freedom of speech and expression has been considered by our Courts as including freedom of the press. The right equally covers a freedom of other media. A citizen cannot enjoy freedom of speech and expression if he is not permitted to express his views freely through mass media even when he is invited to use these media. Freedom to propagate one's view is an important ingredient of the right of free speech. A citizen who is interviewed over television by invitation of the television authorities is entitled to express his or her views freely. Censorship or deliberate distortion of these views would violate Art. 19. Any restriction of this right must be within the ambit of Art. 19(2) and by law.

(Para 13)

In the instant case the petitioner, an Advocate and Solicitor and also an Editor of a law magazine was invited to give an interview on television on the topic of "Laws relating to women". Apart from dealing with some aspects of laws pertaining to women the petitioner also commented on Muslim Women (Protection of Rights on Divorce) Bill, 1985 which was then pending before Parliament, and expressed her firmly held belief that Bill was unconstitutional and violative of Arts. 14 and 15. Though her views on other aspects were telecast her opinion on Muslim Woman's (Protection of Rights on Divorce) Bill were completely deleted by Doordarshan authorities.

Held, the deletion was, in effect, by way of censorship. By preventing circulation of petitioner's view of the Bill the authorities

had abridged her fundamental freedom of speech and expression. Paucity of time could not justify wholesale omission of the subject. Censorship or distortion of these views would violate Art. 19. The Doordarshan authorities restricted the petitioner's right under Art. 19(1)(a) arbitrarily by an executive fiat. Even guidelines were not framed for censorship of views expressed over television. Executive action restraining exercise of a right under Art. 19(1)(a) could not be taken without any legislative authority.

(Paras 11, 12, 13, 15)

It was directed that Doordarshan authorities would invite the petitioner to express her views on the Bill (now an Act) if they decide in future to telecast a programme on such a subject.

(Para 18)

Cases Referred: Chronological Paras

AIR 1973 SC 106	15
(1969) 395 US 367 : 23 Law ed 2d 371, Red Lion Broadcasting Co. v. Federal Communications Commission	16
AIR 1963 SC 1295 : 1963 (2) Cri LJ 329	15
AIR 1962 SC 305	14
AIR 1955 SC 25	15
AIR 1950 SC 124 : 51 Cri LJ 1514	14

Anand Grover with Aditya Chitale, for Petitioner; G. K. Nilkanth, for Respondents.

ORDER :— The petitioner is an Advocate and Solicitor practising in this High Court and the Supreme Court of India. She edits a monthly magazine called "The Lawyers' Collective". She is also the Secretary of an organisation known as "The Lawyers' Collective" which conducts legal literacy campaigns and provides legal aid. The petitioner has been invited to address meetings. She has presented papers and articles at seminars and fought cases challenging discrimination against women.

2. In the last week of Feb., 1986 the petitioner was invited to give an interview on Television in a programme called "Sach Ki Parchaian" to be telecast over the national net-work. The topic which was to be discussed in this programme was "Laws relating to Women". The petitioner accepted the invitation. Her interview was recorded in the

studios of the Bombay Doordarshan on 1st Mar. 1986. The petitioner was informed at the studio that she could speak on any aspect of laws relating to women. In the interview, the petitioner, apart from dealing with some aspects of laws pertaining to women, also commented on the Muslim Women's (Protection of Rights on Divorce) Bill 1986 which was then pending before Parliament. The bill had given rise to a major controversy in the country. The petitioner commented on the Bill and said that it was unconstitutional and violative of women's right to equality before the law and equal protection of laws. She also said that the Bill would deprive women of their rights as interpreted by the Supreme Court in the Shah Bano case. She said that the Bill dealt a severe blow to women's right to claim maintenance. Since the petitioner held strong views on the Bill she considered it not only her right but also her duty to express her firmly-held belief that the Bill was unconstitutional and violative of Arts. 14 and 15.

3. The petitioner was interviewed for six minutes. Apart from the petitioner several other persons were also interviewed for this programme. These included the then Chief Justice of India as also Ved Marwah, Sheela Barse, Pandita Haskar and others. Women victims of harassment were also interviewed. All these interviews were collated and edited for the purpose of the programme.

4. On 3rd Mar. 1986 this programme was telecast. The petitioner was surprised to find that though her views on other aspects of laws relating to women were telecast, her opinion on the Muslim Women's (Protection of Rights on Divorce) Bill was completely deleted. It is the petitioner's case that her views on the Bill were censored by Television authorities because her views were against the views of the Ruling party.

5. The petitioner came to know about the deletion of her views on the Bill from the programme only when she saw the telecast on 3rd Mar. 1986. She sent a letter of protest dt. 6th Mar. 1986 to Delhi Doordarshan. In the letter she pointed out that not allowing her to express her views on Muslim Women's (Protection of Rights on Divorce) Bill 1986 was a clear imposition of censorship on her

views, and she felt that she had been manipulated to suit the interests of the producers of the programme as also of Doordarshan.

6. The Deputy Director of Doordarshan Kendra, New Delhi in his reply of 9/10th April 1986 accepted that initially they had planned to include in the programme the views of various persons on personal laws. He, however, said that as the duration of the programme was exceeding its stipulated time and also because of the discussions going on in Parliament the portion pertaining to Muslim Personal Law was not included in that programme.

7. In his subsequent letter of 28th April 1986 the Deputy Director, Doordarshan has told the petitioner that it will not be possible for them to telecast the views already expressed by the petitioner on the proposed Bill but they will get in touch with her if they plan any programme on the subject in future.

8. In the present petition the petitioner has prayed for a determination of the basis on which programmes on Doordarshan should be scheduled, edited and/or censored. She has also sought a declaration that by censoring and/or deleting her views on Muslim Women's (Protection of Rights of Divorce) Bill, the respondents have violated her fundamental right to freedom of speech and expression guaranteed under Art. 19(1)(a) without authority of law; a declaration that the respondents have acted arbitrarily in censoring her views thereby violating Article 14 of the Constitution and for other similar reliefs.

9. It is not the case of the petitioner that she had a right of any sort to be interviewed for a television programme. She was however, invited to express on the T. V. national network her views on laws relating to women by the authorities of Doordarshan. Her grievance relates to omission of her views on the Muslim Women's (Right to Protection on Divorce) Bill 1986 from the programme which was telecast. Was this done by the Doordarshan authorities in exercise of their right to edit the programme or was it censorship? The respondents had interviewed a number of persons for this particular programme. These

interviews had to be collated and properly presented. For this purpose editing was required. The respondents, therefore, claim that it is in exercise of their legitimate right of editing the programme that they deleted a portion of the interview given by the petitioner omitting her views on the Bill. The petitioner, on the other hand, contends that this deletion was not in exercise of any legitimate right of editing the programme but was censorship of her views since these views were not acceptable to Doordarshan authorities.

10. When various interviews taken for a programme are edited, it is necessary to ensure that in the process of editing, the views expressed are correctly conveyed on the programme which is telecast. A portion of the interview may, at times, have to be deleted while editing the programme. But in the process of such deletion there should not be any gross distortion or misrepresentation of what had been said. Nor should important points raised be completely omitted.

11. In the present case a portion of the interview which expressed views unpalatable to Doordarshan was deleted. The deleted portion was directly relevant to the subject of the programme. The respondents in their correspondence, have admitted that initially it was their intention to include in this programme views of various persons on personal laws. Hence the opinion expressed was relevant. Why was it deleted?

12. The respondents in their correspondence have given two reasons: (1) Paucity of time and (2) the subject was being debated in Parliament. The second reason clearly indicates the reluctance of Doordarshan authorities to telecast opinions on a controversial Bill then being debated in Parliament. The deletion, therefore, was in effect, by way of censorship. Paucity of time cannot justify a wholesale omission of the subject.

13. Under Art. 19(1)(a) of the Constitution all citizens have a right to freedom of speech and expression. This right protects freedom of speech on television as much as anywhere else. It was contended by Mr. Nilkanth, learned advocate for the respondents that there is no right of free speech on T. V. He

said that Art. 19 does not apply to television programmes. Mr. Nilkanth has not cited any authority of law in support of this somewhat alarming proposition. The right to freedom of speech and expression has been considered by our courts as including freedom of the press. The right equally covers freedom of other media. A citizen cannot enjoy freedom of speech and expression if he is not permitted to express his views freely through mass media even when he is invited to use these media. Freedom to propagate one's views is an important ingredient of the right of free speech. A citizen who is interviewed over television by invitation of the television authorities is entitled to express his or her views freely. Censorship or deliberate distortion of these views would violate Art. 19. Any restriction of this right must be within the ambit of Art. 19(2) and by law.

14. In the case of Romesh Thappar v. State of Madras, reported in AIR 1950 SC 124 the Supreme Court considered an order banning the entry and circulation of a journal in the State of Madras as violative of Art. 19(1)(a). The Supreme Court said, "There can be no doubt that freedom of speech and expression includes freedom of propagation of ideas and that freedom is ensured by the freedom of circulation." In the case of Sakal Papers (P) Ltd. v. Union of India, reported in AIR 1962 SC 305 the Supreme Court reiterated that the right to freedom of speech and expression carries with it the right to publish and circulate one's ideas, opinions and views with complete freedom and by resorting to any available means of publication subject to such restrictions as could be legitimately imposed under Cl. (2) of Art. 19. Our constitution does not expressly provide for the freedom of the press but this freedom is included in freedom of speech and expression guaranteed by Cl. (1)(a) of Art. 19.

15. By preventing circulation of the petitioner's views on Muslim Women's (Right to Protection on Divorce) Bill the respondents have abridged her fundamental freedom of speech and expression. Undoubtedly, under Art. 19(2), reasonable restrictions can be imposed on the exercise of this right in the interest of the sovereignty and integrity of

India, the security of the State, etc. These restrictions however, have to be within the ambit of Art. 19(2) and be imposed by law. The petitioner's right was not abridged on any of the grounds mentioned in Art. 19(2). That is not the respondent's case. Nor is it their case that they have framed any law under Art. 19(2) restricting the right of free speech on television. The respondents have restricted the petitioner's right under Art. 19(1)(a) arbitrarily by an executive fiat. Even guidelines are not framed for censorship of views expressed over television. Executive action restraining exercise of a right under Art. 19(1)(a) cannot be taken without any legislative authority. (See in this connection Bennett Coleman and Co. Ltd. v. Union of India reported in AIR 1973 SC 106; Kharak Singh v. State of U. P. reported in AIR 1963 SC 1295 and Edward Mills Co. Ltd. v. State of Ajmer reported in AIR 1955 SC 25).

16. In the case of Red Lion Broadcasting Co. v. Federal Communications Commission, (1969) 395 US 367 the Supreme Court of the United States has emphasised the right of the listeners of radio and T. V. programmes to hear differing views on various topics of public interest. It has said, "It is the purpose of the first amendment to preserve an uninhibited market place of ideas in which truth will ultimately prevail rather than to countenance monopolization of that market; whether it be by the Government itself or a private licensee". It is even more essential to preserve such uninhibited market place of ideas when a medium like Television is a State monopoly. Hence there is all the more reason why, in the light of Art. 19(1)(a), persons who are invited to express their views on T. V. are allowed to express them openly and freely, subject of course, to such reasonable restrictions as may be made by law under Art. 19(2). No such restrictions on telecasts have been laid down by law. The views of the petitioner, therefore, on Muslim Women's (Protection of Rights on Divorce) Bill have been wrongfully deleted from the programme in question. Her views on the said Bill should have formed a part of her interview as telecast though possibly, in an edited and abridged form.

17. It is therefore declared that by deleting

the petitioner's views on the Muslim Women's (Protection of Rights on Divorce) Bill in their entirety the respondents have violated her fundamental right to freedom of speech and expression guaranteed under Art. 19(1)(a) without any authority of law.

18. The respondents do not now have a tape of her full interview. In their letter of 28th April 1986, however, the respondents while regretting their inability to telecast the views already expressed by the petitioner on the said Bill, have said that if they telecast a programme on the subject in future, they will invite her to express her views. Learned advocate for the petitioner has stated that he will be satisfied if directions in terms of this offer are given. It is therefore directed that respondents 2 to 5 will invite the petitioner to express her views on the Bill (now an Act) if they decide in future to telecast a programme on such a subject. Looking to the fact that the interview of the petitioner was one of several interviews and was of a short duration respondents 2 to 5 may grant to the petitioner such comparable time to express her views as may be proper and reasonable in these circumstances. This direction is given because of the very fair offer made by the respondents themselves in the interest of justice.

19. The rule is made absolute accordingly.

20. In the circumstances there will be no order as to costs.

Rule made absolute.

AIR 1989 BOMBAY 29

(AT NAGPUR)

DHABE AND PATEL, JJ.

The Communist Party of India, Nagpur and others etc., Petitioners v. State of Maharashtra and another, Respondents.

Writ Petns. Nos. 2162 and 2210 of 1985, D/- 25-1-1988.

(A) Maharashtra Zilla Parishads and Panchayat Samitis Act (5 of 1962), S. 2(20-A) (as substituted by Act 12 of 1985) —

EF/IF/B82/88/SNV

Expression "Population" — Amended definition of — Not arbitrary and violative of Art. 14 for freezing population up to 1st census after 2000 A.D. and thus restricting right of being properly represented. (Constitution of India, Art. 14). (Election — Right to vote — Freezing of population) (Vote — Right to — Freezing of population).

The new definition of the expression "population" cannot be said to be arbitrary, discriminatory and violative of Art. 14 of the Constitution on the ground that it artificially freezes the population figures up to the first census after 2000 A.D., to the population figures as ascertained in the 1971 census and the freezing would adversely affect the electoral rights of the people voting in the elections to the Zilla Parishads and the Panchayat Samitis and in particular the right of being represented properly because although the population would increase the electoral constituencies would stand restricted or frozen to the population in such electoral constituencies as ascertained in 1971 census.

(Para 22)

The alleged right of being properly represented is neither a common law right nor a constitutional right but is a creation of the statute itself and is regulated by it. The said right is not an untrammelled right as the representation by the elected members solely on the test of population figures cannot indefinitely increase but is restricted to a particular number of seats to be determined by the State Government between the minima and the maxima provided under S. 9(1) for direct election to the Zilla Parishad and to two seats for direct election to the Panchayat Samiti. The expression "as far as reasonably practicable" used in S. 9(1) and in S. 58(1)(a) indicates the limitation of the alleged right of representation by elected representatives on the basis of the population figures. The nature, extent and the manner of representation is a matter solely within the discretion of the Legislature enacting the statute relating to elections. The definition of the expression "population", therefore, cannot be challenged as arbitrary or discriminatory, much less it can be said that it is violative of Art. 14 of the Constitution.

(Para 21)