

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
CONTEMPT PETITION (CIVIL) OF 2015
IN
WRIT PETITION (CIVIL) NO. 13 OF 2003

(Arising from the Order dated May 13, 2015 passed in Writ
Petition (Civil) NO. 13 of 2003 titled Common Cause VS Union
of India by this Hon'ble Court)

IN THE MATTER OF:

COMMON CAUSE

5, Institution Area,

Nelson Mandela Road,

Vasant Kunj, New Delhi-70

Petitioner

Versus

1. Shri K Gnanandesikan,

Chief Secretary of Tamil

Nadu, Government of Tamil

Nadu Secretariat,

Chennai-600009

Tele:-044-25671555 Fax:-

044-25672304

Contemnor No. 1

2. Shri Alok Ranjan, Chief
Secretary Governmernt of
Uttar Pradesh, Lal Bahadur
Shastri Bhavan, UP
Secretariat Lucknow-226001

Tele:-0522-2221599 Fax:-

0522-2239283

Contemnor No. 2

3. Kewal Kumar Sharma
Chief Secretary
Government Of NCT Of Delhi
Wing, 5th Floor,
Delhi Secretariat,
New Delhi- 1 10113.

Contemnor No. 3

AN APPLICATION UNDER SECTION 12 OF THE CONTEMPT
OF COURTS ACT, 1971 READ WITH ORDER LV RULE 6 OF
SUPREME COURT RULES, 2013 FOR INITIATING CONTEMPT
PROCEEDINGS AGAINST THE ABOVE-NAMED ALLEGED
CONTEMNORS FOR NON-COMPLIANCE OF THE JUDGMENT

DATED 13.05.2015 OF THIS HON'BLE COURT IN THE
AFORE-MENTIONED CIVIL WRIT

TO

THE HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS
COMPANION JUSTICES OF THE SUPREME COURT OF INDIA

THE PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHEWETH:

1. That the petitioner above-named is filing the instant petition seeking initiation of contempt proceedings against the above-named alleged Contemnors for willfully and deliberately disobeying the explicit direction of this Hon'ble Court issued vide judgment dated May 13, 2015 in the above mentioned civil writ. This Hon'ble Court was pleased to consider the guidelines recommended by the committee constituted vide its order dated 23.04.2014 to look into the aspect of misuse of public fund by government advertisements. This Hon'ble court accepted the recommendations of the court appointed committee, while differing on certain aspects as detailed in Para 28 of the judgment/ order dated 13.05.2015. Thus the

recommendation of the committee forms part of the directions issued by this Hon'ble Court, except for the modifications as delineated by the Hon'ble Court. The relevant recommendations are as follows:

“6.1. While it is the duty of the Government to provide the public with timely, accurate, clear, objective and complete information about its policies, programmes, services and initiatives since the public has a right to such information, the content of government advertisements should be relevant to the governments' constitutional and legal obligations as well as the citizens' rights and entitlements.”

“6.2. (ii) Government shall exercise due caution while deciding the content, layout, size and design of the message including the target area and the creative requirement of the intended communication in order to ensure that the maximum reach and impact are achieved in the most cost effective manner.”

“6.3(i). Display material must be presented in objective language and be free of political argument or partisan standpoint,

ii) Government advertising shall maintain political neutrality and avoid glorification of political personalities

and projecting a positive impression of the party in power or a negative impression of parties critical of the government.

iii). (a) Mention the party in government by name;
(b) directly attack the views or actions of others in opposition.”

“6.4 (e).Advertisement campaigns should only be need based”.

Evidently, these guidelines have been ignored by a number of state governments, not only by publishing photographs of political personalities not covered by the exceptions, but also by inclusion of content of a political nature in their advertisements. A copy of the judgment dated 13.5.2015 passed by this Hon’ble Court in Writ petition (Civil) No. 13 of 2003 is annexed hereto and marked as **ANNEXURE P-1 (PAGES _____TO _____)**.

2. Despite there being a clear direction issued by this Hon’ble Court, several states have acted in willful disobedience and derogation of the law laid down by this Hon’ble Court. The prime objective of the judgment is to

prevent misuse of public fund for political advantage/ mileage by glorifying political leaders in power. Any advertisement issued by government utilizing public funds should adhere to the directions of this Hon'ble Court in terms of political neutrality as against undue political mileage and take into consideration the public interest involved. The "Badh Chala Bihar" campaign launched by the Bihar government at public expense had to be brought to the notice of the Hon'ble Patna High Court by public spirited organizations. News reports regarding the same published in Indian Express news paper dated 29.07.2015, and Hindustan Times dated 29.07.2015 is annexed hereto and marked as **ANNEXURE P-2 (PAGES _____TO _____)**.

3. That the spirit of the judgment clearly establishes that government advertisement arising out of public fund has to meet the test of public interest and rationality. Government advertisement at public expenses should be undertaken only for dissemination of information regarding changes in policy, new initiatives, benefit schemes etc. Any government advertisement that fails to sub-serve the test of public interest and rationality falls foul of Article 14 and 21 of the Constitution of India as well as the directions issued by this

Hon'ble Court. Recently, some of the state government/s have allocated huge funds for government advertisement and are advertising in such a manner, through television, radio and print media. The case filed against Aam Aadmi Party where the Hon'ble Delhi High Court had to intervene, again shows the insolent attitude of the executive towards the law of the land. Copy of the order dated July 29, 2015 in WP (C) 6702/2015 is annexed hereto and marked as **ANNEXURE P-3 (PAGES _____ TO _____)** and news reports published in Indian Express of July 30, 2015 is annexed hereto and marked as **ANNEXURE P-4 (PAGES _____ TO _____)**.

4. As far as the government advertisement and publication of photograph of political leader is concerned, the committee recommended as follows:

“6.3. (iv). Government advertisement materials should avoid photographs of political leaders and if it is felt essential for effective Government messaging, only the photographs of the President/Prime Minister or Governor/Chief Minister should be used.

This Hon'ble Court differed with the recommendations of the court appointed committee so far as publication of photographs are concerned and observed as under:

“23. ... We are, therefore, of the view that in departure to the views of the Committee which recommended permissibility of publication of the photographs of the President and Prime Minister of the country and Governor or Chief Minister of the State along with the advertisements, there should be an exception only in the case of the President, Prime Minister and Chief Justice of the country who may themselves decide the question. Advertisements issued to commemorate the anniversaries of acknowledged personalities like the father of the nation would of course carry the photograph of the departed leader.”

5. That the petitioner has been constrained to prefer the instant petition to bring to the notice of this Hon'ble court that the contemnors have been engaged in and are engaging in repeated acts of wilful and contumacious disobedience of this Hon'ble Court's order passed on May 13, 2015 specifically in context of publication of photographs of political functionaries in governmental ads. While passing the

order, this Hon'ble Court observed that publication of the photograph of an individual left a lasting impression on the minds of the reader. The readers then tend to associate that particular individual with the achievements mentioned or benefits highlighted in that advertisement which may propagate a culture of personality-cult, inimical to the interest of democracy.

6. That the contemnors have subsequent to the said order, published the photo of their respective chief ministers in the newspapers.

7. The contemnors are statutorily required to implement the orders of the Hon'ble Court. Being aware of this order which had been covered by all leading newspapers, they have acted in wilful disregard of the court orders and are liable to be punished in accordance with law.

8. However, in violation of the prescription and spirit of the order passed by this Hon'ble Court, various governments have been releasing advertisements in print and audio-visual media to glorify certain political leaders. Publicly funded advertisements glorifying their political leaders, ostensibly in celebration of anniversaries of various state governments,

have been published in the national media targeting readers and viewers beyond state borders. These advertisements have attempted to circumvent the guidelines of the Apex Court by refraining from carrying the pictures of political leaders, emphasizing, instead, on the name of the political functionaries. A compilation of some of such advertisements is annexed collectively with the instant petition as **ANNEXURE P-5 (PAGES _____TO _____)**.

9. That the judgment of this Hon'ble Court is larger in latitude in terms of relief granted against the prayer of the petitioners. The petitioner had requested for a stoppage to wasteful expenditure of public money by the political party in power through print media. In the 15 years since the filing of the petition, the advancement of technology has opened several other avenues for advertisements. This Hon'ble Court has taken this into account and included advertisements through the electronic media, television, radio, internet as well as print within the ambit of restriction on wastage of public money. Thus the scope and spirit of the judgment has much wider ramifications in terms of judicious utilisation of public money by the governments.

10. That this Hon'ble Court has in its judgment under para 6.2. (ii), laid great emphasis on the adoption of cost effective method by the government in dissemination of information.

The tax-payer of a given state is hardly benefited by bearing the exorbitant cost of advertisements across the entire country to highlight the achievements of a political leader of that state. It is submitted that such advertisements glorifying the achievements of the governments and more often than not, of certain political functionaries, as is reflected in Annexure P5 (colly), depart from the central purpose of information dissemination to sub-serve the ends of political image building and personal glorification.

11. That in consequence, the relevant information occupies only a small portion of the advertised space while the larger and more prominent part is dedicated to laudatory and self-congratulatory references to political functionaries at the tax-payers' expense.

12. For the sake of brevity, para 6.3 of the judgment is reproduced below:

“6.3(i). Display material must be presented in objective language and be free of political argument or partisan standpoint,

ii) Government advertising shall maintain political neutrality and avoid glorification of political personalities and projecting a positive impression of the party in power or a negative impression of parties critical of the government.” The advertisement published by Government of Delhi does precisely what the judgment has tried to prevent. The public money spent on this kind of advertisement is solely intended to belittle rival political parties and the work done by them. The party in power does not need to educate the masses on the actions/inactions of the previous government and let them use their own discretion. A copy of the advertisement by the Delhi Government in Indian Express Newspaper dated August 9, 2015 and Navbharat Times dated August 7, 2015 are annexed as **ANNEXURE P-6 (PAGES _____ TO _____)**.

13. That in addition to the above, certain government bodies have also run advertisements bearing pictures of political personalities other than those exempted by the Hon’ble Court, under the garb of informative advertisements marking special occasions. Such advertisements may be construed as a surrogate image-building exercise by

projecting the political personality as being solely responsible for the achievements quoted. It is humbly submitted that carrying such pictures is in defiance of the order passed in May 2015 and therefore, in contempt of this Hon'ble Court.

14. That despite categorical guidelines by the Court, taxpayers' money continues to be deployed for image-building of political functionaries through self-congratulatory and laudatory advertisements in newspapers, television as well as radio. Such advertisements defy the spirit of the judgment, despite appearing to be in compliance and should be checked in public interest. This judgment was intended to ensure safeguards for expending public money towards vested interests of political parties and leaders.

PRAYER

In the circumstances stated above, this Hon'ble Court may be pleased to:

- a) Issue notice to Show Cause why contempt proceedings be not initiated against the respondents for willful disobedience of this Hon'ble Court's order dated May 13, 2015 passed in the instant writ petition;

- b) And initiate contempt proceedings against the respondents for willful disobedience of this Hon'ble Court's order dated May 13, 2015;
 - c) Exercise its discretion to initiate appropriate action in order to curb self-congratulatory and laudatory advertisements, misusing the taxpayers' money and seek implementation of this Hon'ble Court's order in its true spirit;
 - d) Direct that every government advertisement should display clearly the name of the department sponsoring the advertisement;
- And
- e) Pass such further order or orders as deemed fit by this Hon'ble Court in public interest.

DRAWN & FILED BY:

Place : New Delhi

Date : __/8/2015

(Rishikesh)

Counsel for the Petitioner