

ITEM NO.52

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.855/2016

SHYAM NARAYAN CHOUKSEY

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln.(s) for exemption from filing O.T., for recalling the Courts order, intervention, for impleading party and appropriate orders/directions)

NAME OF MR. SIDHARTH LUTHRA SR. ADVOCATE MAY BE SHOWN AS AMICUS CURAIE and IA No.56395/2017-XTRA and IA No.77508/2017-impleading party and IA No.77509/2017-APPROPRIATE ORDERS/DIRECTIONS)

WITH W.P. (C) No.98/2017 (PIL-W)

(With appln.(s) for impleading party)

Date : 23-10-2017 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

Mr. Sidharth Luthra, Sr. Adv. (A.C.)
Ms. Tara Narula, Adv.
Ms. Gargi Khanna, Adv.

For Petitioner(s) Mr. Rakesh Dwivedi, Sr. Adv.
Mr. Abhinav Shrivastava, AOR
Mr. Harmeet Singh Ruprah, Adv.
Ms. Priyanka Garg, Adv.

WP 98/17 Mr. Vikas Singh, Sr. Adv.
Ms. Asha Upadhya, Adv.
Mr. Girdhar G. Upadhyay, Adv.
Ms. Deepika Kalia, Adv.
Mr. Kapil Seth, Adv.
Mr. R. D. Upadhyay, AOR
Mr. A.K. Upadhyay, Adv.

Ms. Asha Upadhyay, Adv.

Mr. V. K. Biju, AOR

For Respondent(s)

Mr. K.K. Venugopal, AG
Mr. Tushar Mehta, ASG
Ms. Binu Tamta, Adv.
Mr. Arijit Prasad, Adv.
Mr. Rajat Nair, Adv.
Mr. Pranay Ranjan, Adv.
Mr. Prateek Jalan, Adv.
Mr. B. Krishna Prasad, AOR
Mr. M.K. Maroria, Adv.

Mr. A. Subba Rao, AOR
Mr. K.L.D.S. Vinober, Adv.

Mr. C.U. Singh, Sr. Adv.
Mr. P. V. Dinesh, AOR
Ms. Sindhu T.P., Adv.
Mr. Namit Saxena, Adv.
Mr. Rajendra Beniwal, Adv.
Mr. Bineesh K., Adv.
Ms. Arushi Singh, Adv.
Mr. Gautam Bhatia, Adv.

Mr. Tushar Mehta, ASG
Mr. Shiv Mangal Sharma, AAG
Mr. S.S. Shamsbery, Adv.
Mr. Amit Sharma, Adv.
Mr. Sandeep Singh, Adv.
Mr. Ankit Raj, Adv.
Ms. Indira Bhakar, Adv.
Mr. Shrey Kapoor, Adv.
Ms. Ruchi Kohli, AOR

Mr. Nishant Ramakantrao Katneshwarkar, AOR

Mr. Biju P Raman, AOR

Ms. Nanita Sharma, AOR

Ms. Aarohi Bhalla, Adv.
Ms. Sujata Kurdukar, AOR

Mr. Sajan Poovaya, Sr. Adv.
Ms. Priyadarshi Banerjee, Adv.
Mr. Pratibhanu Singh Kharola, Adv.

Mr. Subash Chandran, Adv.
Mr. Dileep Poolakkat, Adv.

UPON hearing the counsel the Court made the following
O R D E R

I.A. No.11/2017 in W.P.(C) No.855/2016

This is an application for recall of this Court's order dated 30th November, 2016.

Heard Mr. C.U. Singh, learned senior counsel for the applicant. The said application is strenuously opposed by Mr. K.K. Venugopal, learned Attorney General for India, Mr. Rakesh Dwivedi, learned senior counsel for the petitioner, Mr. V.K. Biju, learned counsel appearing for the intervenor and Mr. Vikas Singh, learned senior counsel who has filed an independent petition. Mr. Vikas Singh submits that he will restrict his prayer to National Anthem and also echoes the same voice that has been raised by Mr. Dwivedi and Mr. Biju.

In the course of hearing, we have also been apprised that in the State of Maharashtra as well as in the State of Chhattisgarh there have been notifications with regard to playing of National Anthem before the starting of a feature film in the cinema halls prior to the order of this Court.

The submission of the learned Attorney General is that because of the vast diversity in the country based on religion, race, caste and even region, it becomes necessary to have uniformity which should be cultivated by playing the National Anthem so that when people come out from the cinema halls, instilling the belief that they are all Indians. Be that as it may. In this context, he has referred to Article 51A(a) of the Constitution of India.

Having heard learned counsel for the parties for some time, we think it appropriate that the Central

Government should take a call in this regard and, if necessary, as advised, may bring out the requisite notification or circular or rules. When we say 'take a call', needless to say, the discretion rests with the Central Government. The discretion has to be exercised without being influenced by our interim order. We may further emphasize that the discretion may be utilized to regulate in an inclusive manner or as the Central Government feels fit.

Let the matter be listed on 9th January, 2018.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Assistant Registrar