

## ( ब ) मद्रास हाईकोर्ट का निर्णय

1992-1-L W

Law Weekly Report

1992-1.L.W. VOLUME NO. 109

18th January, 1992, Part -1

Madras High Court

10th October, 1991 / Writ Petition No. 10102 of 1983

D. Raju, J.

*Dravidar Kazhakam, represented by the General Secretary, K Veeramani,*

*V/s*

*The Chairman, United India Insurance Company Ltd. 24, Whites Road, Madras 14.*

**Constitution of India, Arts. 12, 14 and 25** - Writ Petition seeking direction to Chairman of the General Insurance Corporation not to use Greeting Cards containing the words of "Gayatri Mantram" - Plea that it constitutes propagation of a particular religion at the cost of the funds of the State, not accepted - "Gayatri Mantram", being the key to Vedic wisdom is supposed to purify, rescue or protect the chanter with a prayer for final liberation - Universal prayer - Vedas do not preach any religion, nor are concerned with propagating religion - Writ Petition dismissed.

"State" in Art. 12 will include the General Insurance Corporation of India - Fact that G.I.C. is a statutory Corporation would not render its funds, the funds of the State - Autonomous body capable of holding, acquiring and disposing of property.

Objection to the use of the funds of G.I.C. cannot be made on the ground that it constitute use of the funds of the State - "Secular", meaning of.

**Constitution of India, Arts. 14 and 25** - See Art. 12.

**General Insurance Corporation Act (5 of 1972)** - Funds of G.I.C. cannot be said to constitute funds of "State" within Art. 12 of the Constitution ... See Constitution of India, Arts. 12, 14 and 25.

**General Insurance Business (Nationalisation) Act (67 of 1972), 519 (3)** - See Constitution of India, Arts. 12, 14 and 25.

**Words And Phrases** - "Secular" meaning of - See Constitution of India, Arts. 12, 14 and 25.

The writ petitioner sought the issue of a direction to the respondent Chairman of the General Insurance Corporation to forbear from printing and dispatching Greetings Cards containing his religious faith by utilising the funds of the respondent - Corporation. Exception was taken for the respondent is using the funds of the State for the purpose of doing non-secular activities by sending a multi-colour Greetings cards on the occasion of Deepavali under the signature of the Chairman by using the funds as well as the labour force of the Corporation and inscribing on the Greeting cards, the Gayatri Mantram, with its meaning and significance. The petitioner contended that the Gayatri mantra was chanted only by Brahmans; who constitute very insignificant portion of the Hindu religious order and there cannot be any open propagation of the religious preachings of a particular religion at the cost of funds of the State.

Paras 1,3,5

**Held:** The Gayatri Mantra is said to be 'Shabda Brahman' and is said to appear in the Rig Veda, as the tenth mantra in the sixth sutra of the third mandala. It is considered to be all pervasive, synonymous with divinity and valued as an universal prayer which does not ask for any mercy or pardon, but seeks for a clear intellect so that truth may be reflected there in without distortion. It, therefore, is supposed to purify, rescue or protect the chanter who contemplates the glory of light that illuminates the three Worlds or the religious experience as they are called, with a prayer for final liberation through the awakening of the innate intelligence that pervades the Universe as Light. As one having its origin in Vedas and Vedic times, it will be anachronistic for any one to contend that it signifies or relates to any particular religion. The Vedas have been in existence long before any of the present day organised religion came into being. They do not preach any religion nor are concerned with propagating religion.

Para 10

The assumption or apprehension on behalf of the petitioner that the Gayatri mantra is a religious tenet, teaching or practice of a particular religion of modern concept or the privilege of a community is basically fallacious. Equally baseless is the claim that only Brahmans chant or can chant the Gayatri mantra.

Para 10

According to the famous Scientist J.B.S. Haldane the Gayatri Mantra should be carved on the doors of every laboratory in the World. Thus, Vedas constitute Indian mysticism, the perennial philosophy of spirituality and a practical guide for human conduct and have their aim to make man divine. It is, therefore, they were called 'science of sciences' and extolled all over the World that they do not belong to India or to any one or other country or even to any one religion but belong to all mankind as the voice of God Truth or Sathya.

Para 16

Neither any provisions of the Constitution of India nor any other provisions of law stood violated by the action of the respondent in sending the Greeting Cards in question on the occasion of the Deepavali Festival.

Para 11

Secularism does not mean irreligion or anything anti-religious. To say so is negative and neither positive nor constructive meaning of the same. Secularism merely implies 'sarva dharma sambhava' that is a believer in secularism while remaining an ardent follower of his own religion looks upon all other religions as different pathways to the same goal - God. Thus in substance, it is only a modern term for the old phrase 'religious tolerance' or 'sarvamatha sammathee'. So far as the 'State' is concerned, it implies that our State does not identify itself with any particular Religion.

Para 9

330 U.S. 1;

374 U.S. 203; and 403 U.S. 902, Referred to.

The fact that the respondent (General Insurance Corporation) may satisfy the definition of 'State' within the meaning of Art. 12 of the Constitution or it indisputably is a statutory Corporation and its shares are owned by the State itself or is one controlled by the State would not render its funds to be the funds of the State. The funds in question of the respondent Corporation would be its own funds-the said corporation having its own individuality apart from the Government as such and also having been constituted as an autonomous body capable of acquiring, holding and disposing of property.

Para 12 Writ petition dismissed.

Mr. K. Chandru for Petitioners

Mr. Vijay Narayan for Respondent.

**ORDER**

The above writ petition has been filed via a Writ of Mandamus, directing the respondent to forbear from printing and dispatching the Greeting cards containing his religious faith to coincide with him by utilising the funds of the respondent Corporation.

2. The petitioner by name Dravidar Kazhagam, represented by its General Secretary claims that it has been in existence since 1925, that it was in front of fighting against superstitions and social justice and strives to make the Indian Republic a true secular Republic as enshrined in the Preamble to the Constitution of India. It also claims to have fought always zealously any move by the State or any of its agencies from deviating from the path of secularism said to be the bedrock and backbone of the Constitution of India. The country said to be consist of people having faith in many religions practices as well as rationalistic concept of human life and scientific pursuit of knowledge of nature. While referring to Arts. 14 and 25 of the Constitution of India, it is stated that the members of Constituent Assembly thought fit to not only secure to the citizen equality before the law but also equal protection of the law and freedom of conscience and the right freely to profess, practice and propagate religion. The state cannot, it is said, takes sides and spend money or use its machinery in the propagation a particular religion.

3. The petitioner also contends that the respondent is one of the subsidiary Corporations owned by the General Insurance Corporation created under Central Act 57 of 1972, that the business is fully nationalised one, that the corporation is designed to serve the needs of the economy in the larger interests of the community and that though it is presided over by the chairman, he has to act only within limits and can not arbitrarily or whimsically act, being "State" within the meaning of Article 12 of the Constitution of India. The Chairman of the respondent one Shri K.C.Ponnappa is stated to have from and out of the funds of the respondent- Corporation, been sending various Greeting cards on various religious occasions' and as one professing Hindu religion he is stated to have not lost the opportunity of sending Greetings cards to various people on important Hindu Religious festivals. Though according to the petitioner there could be no objection to an individual sending Greetings card on such occasions, exception is taken for using the funds of the State' for the purpose of doing non-secular activities. Reference is made to a multi colour Greeting card sent on the occasion of Deepavali under the signature of the Chairman, by using the funds as well as the labour force of the Corporation and according to the petitioner about 5000 cards involving an expenditure of Rs. 25000/- would appear to have been sent.

4. Coming to the contents of the said Greeting card as found in the card filed into this Court by the petitioner, it is useful to refer to the same in action before even referring to the contentions of petitioner, in respect thereof. The Greeting cards contains four pages. The first page of it is multicolour with a design symbolic of "The Sun" carved in the middle portion the syllable representing "Aum", with letters "A Prayer for Deepavali" at the top of page and at the bottom contain the letters "Deepavali Greetings". The last and fourth page carries the emblem of the respondent Corporation, the name and its address. On page two, Gayatri Mantra is printed as hereunder:-

**Gayatri Mantra (Sanskrit)**

"Om

"Bhurbhuvassuvah

Tatsavitur varenyam

Bhargo Devasya Dheemahi

Dhiyoyonah Prachodayat"

*"This mantra should be chanted at least 5 times thrice a day- at dawn, at noon, and at dusk facing the Sun. We remember the five lines of the Matra as above, and when chanting we chant each line separately, with a pause before the next line."*

depth or maturity of understanding. One of the great philosophers and ascetics of modern times Sri Aurobindo, while explaining some of those mysteries in language would refer to some of them and state that 'rice' meant the surrender of the physical, 'ghee' meant the clarified consciousness and 'soma' meant Anándha. Vedas do not propagate any God outside but carry the fundamental message, 'that thou art' - Tat twam asi. God being within man as himself. The three Worlds have had divine disclosure to mean three levels of space Akasa in man of which two are drsya, the drk being the third. The first comprises the earth, the solar system, the billions of other heavenly phenomena reaching out to stars whose light, though emanated, has not yet reached this globe. This space is named bhootha akasa. The second level subsumes the first and retains it in a miniature form. It comprises the area cognised and imagined by the mind and is, therefore, named Chittha akasa. Even this area is a dot when compared to the space Akasa enfolded by the Atma, named Chidakasa. The two other spaces are but tiny fragments to the see-er, the Atma, the Brahman. The human being has this journey, towards the Ananda that Chidakasa can offer, as the precious prerogative. The journey does not lead outward: it has to be inward, towards on own reality. Consequently, a close scrutiny of the contents of the Greeting card issued in the case on hand, in their proper perspective would, in my view, inevitably go to show that the same neither involves religious tenet nor constitute any teaching or propagation and preaching of any religion in the sense of undermining 'Secularism', one of the avowed goals of our Constitution of India. The ratio of the American decisions which are peculiar to their Constitutional history and the scope and object of the First Amendment to their Constitution cannot be of any relevance in the interpretation of the Constitution of India, and that too in respect of the issue under consideration. Even otherwise, by judging the issue in the light of purpose primary and principal effect test propounded by the American cases the Greetings Cards sent with the avowed object of publicity and business propaganda in the larger business interests of the respondent-Corporation, cannot be said to be either an unconstitutional or unlawful move on the part of the respondent. That being the correct and real position, in my view, neither any provisions of the Constitution of India nor any other provision of law stood violate by the action of the respondent in sending the Greetings Cards in question on the occasion of the Deepavali Festival.

12. That apart, in my view, the plea on behalf of the petitioner that the so called objectionable propagation has been made at the cost of the funds of the State, does not merit acceptance. The fact that the respondent Corporation may satisfy the definition of 'State' within the meaning of Article 12 of the Constitution or it indisputably is statutory Corporation and its shares are owned by the State itself or is one controlled by the State would not render its funds the funds of the State. The funds in question of the respondent- corporation would be its own funds- the State corporation having its own individuality apart from the Government as such, and also having been constituted as an autonomous body capable of acquiring, holding and disposing of property. The claim to the contrary is in my view bereft of either person or substance, and consequently, shall stand rejected. For all the reasons stated supra, the writ petition fails and shall stand dismissed, but in the circumstances there shall be no order as to costs. RR/ VCS.