

Court No. - 1**Case :- MISC. BENCH No. - 5889 of 2013****Petitioner :- Moti Lal Yadav [P.I.L.]****Respondent :- Chief Election Commissioner, Election Commisn. Of India & Ors.****Counsel for Petitioner :- Moti Lal Yadav (Inperson)****Counsel for Respondent :- C.S.C., A.S.G., Illigible****Hon'ble Uma Nath Singh, J.****Hon'ble Mahendra Dayal, J.****Order (oral)**

This public interest litigation has been filed by a practising Advocate of this Court who has made declaration in terms of the requirements of the High Court Rules. His main grievance is that the political parties impleaded herein have organised caste based rallies for political end in the recent past and some of them have again decided to hold such rallies in near future and have also distributed their programmes. According to him, the free and fair election is the bedrock of our political philosophy and the backbone of our democratic system. The Election Commission of India, which has been empowered and assigned the duty of framing rules in order to ensure fair elections, has failed to carry out the mandate of law, therefore, it may be directed to frame rules for controlling the political parties against all the acts of commission or omission undertaken to influence the voters on the basis of caste and religion. Learned counsel submits that the most significant attempt in this direction has been the act of organizing caste based rallies. The caste minorities in India, because of such anti-democratic activities of political parties designed in order to woo the votes of majority groups, have been reduced to the category of second class citizens in their own country. Despite the clear constitutional provisions and the fundamental rights enshrined therein, they are feeling disillusioned, dismayed and betrayed because of

being placed in disadvantageous position in the number game of vote politics. They have virtually lost confidence in the system and have stopped taking active part in the governance of the country. They are almost resigned to their fate and survive with a ray of hope in the judicial system. This has also led to tremendous increase in all types of litigation and resultantly the responsibilities of higher courts have also increased manifolds. Invariably, in every matter filed before the High Court involving the breach of fundamental rights or statutory rights, making allegations of harassment and discrimination against the majority groups said to be working with the help of the political party in power, is a common feature.

Thus, the petitioner has prayed for issuance of writ of mandamus to the Election Commission of India to ban all caste based rallies and congregations being organized with political motive and to cancel the registration of political parties found to be organizing such rallies. It is also prayed to direct all the respondents to impose ban on contesting election on caste line with usual prayer to grant any further and/or other suitable writ, order or direction which this Court may deem fit and proper in the interest of justice, which according to him may require a writ Court to pass any other order/direction that it deems fit and expedient in the interest of justice.

On the other hand, there is no such contention from the learned State counsel as to counter the aforesaid submissions of the petitioner.

On a careful perusal of the pleadings and having given our anxious consideration to the submissions, as aforesaid, we find merit in the arguments of the petitioner in person. The petitioner has raised the issue before this Court only in order to seek the reinforcement of the majesty of rule of law as also the fundamental rights of the citizens, irrespective of their

caste, creed and religion. It is a historical fact that the caste system has existed across the religions and throughout the world but it has always introduced the element of schism, and the evils of discrimination apart from inciting group violence in the society.

The cases of discrimination between Jews and non-Jews, between Black Africans, Indians and other coloureds and whites etc. are not unknown to the world. The policy of apartheid has always invited severe criticism from the polities all over, may they be the developed or under developed countries, including India.

In India the caste system started with the creation of four fold divisions of people on the basis of assignment of occupations. Traditionally, the caste system appeared to contribute to the harmony of society by performing the integrating function of bringing all the occupational groups and even the peripheral groups like tribes, semi-tribes, different religious sects and the immigrants in the common cultural fold and secular framework. It had continued to exist, so long as there was a functional interdependence, and it was recognized as the only institution which could certify the identity of individual and provide social security. It was never designed to exist in the ugly form as we can see it today even in the age of scientific thinking. The traditional caste system was largely an apolitical institution which survived on the basis of mutual respect for each other amongst all four classes of people. Since the traditional social set up was caste based, the political parties now find it profitable to occupy a ready-made political base by identifying themselves with one caste or other while ignoring their political ideologies and the manifestos which served as the basis of their recognition under the law. In their attempt to seek political

base in the caste system by means of politicization, it appears that the political parties have seriously disturbed the social fabrics and cohesiveness. It has rather resulted in causing social fissions.

Apart from the aforesaid political and social factors, we may also observe that in almost all the judicial pronouncements, be it accommodation in jobs or grant of license and tenders etc., be it acquisition of political power or be it the case of caste atrocities, the caste bias has always earned severe criticism. The Courts have reiterated the supremacy of rule of law and the primacy of fundamental rights of the citizens. It would thus be contrary to the basic philosophy of our Constitution as contained in its preamble, the fundamental rights and also the fundamental duties enshrined in Article 51-A(c) to permit organising caste based political rallies and to allow implementation of promises made to majority groups to the disadvantage and heart burning of the minority groups who find themselves ignored in the number game of vote politics. Moreover, with the globalization of economy, there is drastic change in the caste based thinking and the mindset of modern generation. The globalization has brought them all from different castes, creeds and groups together at one place of work and given birth to a new social and work culture.

In the premises set out hereinabove, unrestricted freedom to hold caste based rallies, which is to the total disliking and beyond the comprehension of the modern generation and also being contrary to the public interest, cannot be justified. It will rather be an act of negating the rule of law and denying the fundamental rights to citizens. Thus, even though there is no direct and specific prayer, in exercise of powers under Article 226 of the Constitution in terms of the last general prayer, till the Election

Commission takes suitable measures after participating in the instant court proceedings, we issue notice to the respondents with direction that there shall be no caste based rallies with political motive throughout the State of U.P. till the next date of hearing.

Order Date: 11.07.2013

A. Katiyar