



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 28838 OF 2023

Faaiz Anwar Qureshi ... Petitioner
V/s.
Union of India and Ors. ... Respondents

Mr. Vibhav Krishna with Mr. Anmol B. with Mr. Tahir P. i/by Juris
Consillis, for the petitioner.

Advocate Rui Rodrigues, for respondent nos. 1 to 3.

Ms. PH. Kantharia, G.P with Mr. Manish Upadhye, AGP for respondent-
State.

CORAM : SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ

DATE : 17th OCTOBER 2023.

PC:

1. Heard learned counsel for the petitioner, Mr. Rodrigues,
learned counsel for respondent nos. 1 to 3 and Ms. Kantharia, learned
GP for the State.

2. By this petition, the petitioner is seeking writ of mandamus
to the respondents directing them to forthwith issue appropriate
statutory notifications imposing complete ban on Indian citizens,
companies, firms and associations from employing or soliciting any

work or performance, taking of any services, or entering into any association and so on with any Pakistani artists including its cine workers, singers, musicians, lyricists and technicians. The petitioner also seeks other related directions like prohibiting granting of Visa to Pakistani artists etc. requiring respondent no 3 to take strict penal and preventive action in the event of any non-compliance with such ban and directing the State police authorities to extend full co-operation in taking strict penal and preventive action in the event of any non-compliance with such ban.

3. The petitioner claims to be cine worker, artist, lyricist and film producer and states that he runs a music studio. Petitioner seems to be impressed by ban by All Indian Cine Workers Association (AICWA) on all Pakistani actors and artists in the Indian Film Industry which warns of taking strong action against anybody or against any organisation violating any such resolution of ban passed by AICWA. The resolution of such ban, according to the petitioner, was published in various news papers and it reads as under:

“All Indian Cine Workers Association strongly condemns brutal terrorist attack on our soldiers at Pulwama district in Jammu and Kashmir. Our heartfelt condolences to the families of the victims. AICWA stands with nation in confronting such

terror and inhumanity.

We are officially announcing a total ban on Pakistani Actors and Artists working in Film Industry. Still if any organisation insist on working with Pakistani Artists will be banned by AICWA and a strong action will be taken against them.

Nation comes first, we stand with our nation.”

4. According to the petitioner, representations were also made to respondent nos. 1 and 2 and also to the office of Prime Minister to issue appropriate statutory ban on all Pakistani artists, cine workers etc. The petitioner also submits that similar appeal was made by “Indian Motion Pictures Producers Association (IMPPA)” in September, 2016 itself. He further submits that a strict warning in this regard was also issued by “Federation of Western Indian Cine Employees (FWICE)” on social media thereby warning Indian singers, musicians, artists and technicians against their working in any manner with Pakistani singers, musicians, artists and technicians. The petitioner submits that as reported in Indiatimes.com, even MNS Cinema Wing had issued warning to all filmmakers across the country to not hire any Pakistani artists or otherwise to face action.

5. Learned counsel for the petitioner submits that the petitioner is a true patriot and therefore, is seeking the aforesaid reliefs under a judicial order on the premise that if such reliefs are not granted, it would lead to discrimination of Indian artists, cine workers etc. as similar favourable atmosphere to work in Indian Cine Industry made available to Pakistani artists is not made available to the Indian artists in Pakistan. He further submits that if artists and cine workers from India are permitted to work in association with Pakistani artists, such Pakistani artists, cine workers, musician, lyricists etc. would try to exploit the commercial opportunities here in India, which may prejudice the petitioner or other similar citizens by reducing or depriving them of such opportunities. He further submits that there is an apprehension on the part of petitioner arising from permitting Pakistani Cricket Team to play in the World Cricket Team Cup being held in India that various persons, might misuse the sports event by inviting the Pakistani artists, singers etc. under the guise of sports which would threaten job opportunities of Indian artists.

6. According to petitioner, by allowing association of various persons from India with Pakistani artists, singers, musicians etc not only his sentiments are hurt but a prejudice to his fundamental rights

guaranteed under under Constitution of India has occurred. He submits that inspite of various representations sent to the respondents, there is no action taken by them and therefore, the petitioner has approached this Court with aforesated prayers.

7. According to learned counsel for respondent nos. 1 to 3 and learned GP, the petition is imaginary and by its very nature is not maintainable. They submit that effectively the petitioner is seeking a direction to the Central as well as State Government to re-frame a policy in a manner as to fulfill his desire, which is not permissible in law.

8. Learned counsel for the petitioner submits that apprehension of the petitioner regarding possible discrimination being made against Indian artists, musicians, lyricists, cine workers etc across the border is not ruled out. He further submits that on the other hand Pakistani artists, musicians, lyricists, cine workers etc are receiving welcome treatment in India but that is prejudicially affecting the livelihood of workers and professionals like the petitioner.

9. On going through the averments made in the petition, we find that there is a considerable force in the argument of learned GP and learned counsel for respondent nos. 1 to 3 and respondent no. 4

respectively and no merit in the submission of learned counsel for petitioner.

10. In our opinion, the petitioner's perception of patriotism and understanding of the concept of fundamental rights so as to support the resolutions or notices issued by the private and non statutory associations such as AICWA, IMPPA, FWICE or MNS Cinema Wing is completely misplaced. One must understand that in order to be a patriot, one need not be inimical to those from abroad especially, from the neighboring country. A true patriot is a person who is selfless, who is devoted to cause of his country, which he cannot be, unless he is a person who is good at heart. A person who is good at heart would welcome in his country any activity which promotes peace, harmony, and tranquility within the country and across the border, Arts, music, sports, culture, dance and so on are the activities which rise above nationalities, cultures and nations and truly bring about peace, tranquility, unity and harmony in nation and between nations. This petition, with the reliefs it seeks is a retrograde step in promoting cultural harmony, unity and peace, and has no merit in it.

11. We may state it here that the resolutions or notices passed by the said non-statutory associations and which have been referred to

earlier may have been found to be appealing by the petitioner but they are after all subject matter of personal choice of the petitioner and therefore those resolutions and warnings issued in the notices cannot be sought to be translated in the statutory notifications to be issued by the Central and State Authorities, and that too at the behest of this Court. Besides, the resolutions and warnings issued by the aforesaid private and non statutory associations or bodies do not and cannot have any statutory force and therefore whatever ban and whatever consequences they may have imposed and threatened against those persons working in association with Pakistani artists, musicians, lyricists, singers, technicians and cine workers and so on would not be and cannot be enforced by taking recourse to a judicial order. We may further state here these bans and such threats, if true, would agitate against the fundamental right guaranteed under Articles 19 (1) (a) , 19 (1) (g) and 21 of the Constitution of India and therefore, they would be manifestly illegal.

12. It may be added here that in the World Cricket Cup being held in India, Cricket team from Pakistan is taking part and this has happened only because of appreciable positive steps taken by the Government of India in the interest of overall peace and harmony in

consonance with Article 51 of the Constitution of India which is about promotion of international peace and security. If such a petition is to be entertained by this Court, it would set as at naught the positive initiatives taken by the Government of India in the interest of international peace and harmony.

13. Apart from what is stated above, what is clear here is that the reliefs sought by the petitioner are regarding framing of a policy by issuing necessary directions and it is well settled law that this Court cannot direct the Government to frame its policy in a particular manner. Similarly, this Court cannot direct the legislature to legislate, much less legislate in a particular manner. This Court also cannot direct performance of executive action contrary to statutory and constitutional frame work.

14. We thus find that there is no merit in the petition. The petition stands dismissed.

(FIRDOSH P. POONIWALLA, J)

(SUNIL B. SHUKRE, J)