

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO.387 OF 2000

COMMON CAUSE (A REGD. SOCIETY) ... PETITIONER(S)

VS.

UNION OF INDIA & ORS. ... RESPONDENT(S)

WITH

W.P.(C)Nos.963/2013 & 1024/2013

O R D E R

WP(C)No.387/2000 :

1. On the cause of action, which arises for consideration in this bunch of cases, the petitioner in the first instance filed Writ Petition (C)No.387/2000. Thereafter some other petitions were also filed. The factual and legal position depicted in the original writ petition and in the other connected writ petitions, we are informed, stand incorporated and upgraded in Writ Petition (C) No.1024 of 2013. In view of the above, Writ Petition (C)No.387/2000 and the other connected writ petitions referred to above are hereby disposed of summarily.

2. We take up Writ petition (C) No.1024/2013 for consideration, on merits.

3. The primary issue, which arises for consideration in the instant case, is with reference to the introduction of a complaint redressal mechanism. Such a mechanism is sought in respect of complaints made against television and radio programmes. Illustratively, our attention has been drawn to the Cable Television Networks (Regulation) Act, 1995, and to the rules framed thereunder, namely, Cable Television Networks Rules, 1994. We may illustratively refer to Rule 6, which is extracted hereunder :

"6. Programme Code. - (1) No programme should be carried in the cable service which:-

- (a) offends against good taste or decency;
- (b) contains criticism of friendly countries;
- (c) contains attack on religions or communities or visuals or words contemptuous of religious groups or which promote communal attitudes;
- (d) contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truths;
- (e) is likely to encourage or incite violence or contains anything against maintenance of law and order or which promote-anti-national attitudes;
- (f) contains anything amounting to contempt of court;
- (g) contains aspersions against the integrity of the President and Judiciary;
- (h) contains anything affecting the integrity of the Nation;
- (i) criticises, maligns or slanders any individual in person or certain groups, segments of social, public and moral life of the country;
- (j) encourages superstition or blind belief;
- (k) denigrates women through the depiction in

any manner of the figure of a women, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to women, or is likely to deprave, corrupt or injure the public morality or morals;

(l) denigrates children;

(m) contains visuals or words which reflect a slandering, ironical and snobbish attitude in the portrayal of certain ethnic, linguistic and regional groups;

(n) contravenes the provisions of the Cinematograph Act, 1952;

(o) is not suitable for unrestricted public exhibition.

Provided that no film or film song or film promo or film trailer or music video or music albums or their promos, whether produced in India or abroad, shall be carried through cable service unless it has been certified by the Central Board of Film Cetification (CBFC)) as suitable for unrestricted public exhibition in India.

Explanation - For the purpose of this clause, the expression "unrestricted public exhibition" shall have the same meaning as assigned to it in the Cinematograph Act, 1952 (37 of 1952);

(2) The cable operator should strive to carry programmes in his cable service which project women in a positive, leadership role of sobriety, moral and character building qualities.

(3) No cable operator shall carry or include in his cable service any programme in respect of which copyright subsists under the Copyright Act, 1957 (14 of 1957) unless he has been granted a licence by owners of copyright under that Act in respect of such programme.

(4) Care should be taken to ensure that programmes meant for children do not contain any bad language or explicit scenes of violence.

(5) Programmes unsuitable for children must not be carried in the cable service at

times when the largest numbers of children are viewing.

(6) No cable operator shall carry or include in his cable service any television broadcast or channel, which has not been registered by the Central Government for being viewed within the territory of India:

Provided that a cable operator may continue to carry or include in his cable service any Television broadcast or channel, whose application for registration to the Central Government was made on or before 11th May, 2006 and is under consideration, for a period upto 15th June, 2009 or till such registration has been granted or refused, whichever is earlier.

Provided further that channels uplinking from India, in accordance permission for uplinking granted before 2nd December, 2005, shall be treated as "registered" television channels and can be carried or included in the cable service."

4. We are informed, that similar statutory provisions are in place, even with respect to radio programmes.

5. The precise contention of the learned counsel for the petitioner is, that there is no defined complaint redressal mechanism, with reference to violation of the code of conduct set out (for television programmes), and with reference to similar norms, prescribed for radio programmes.

6. The above submission advanced at the hands of the learned counsel for the petitioner, is seriously disputed by Respondent No.2-the Indian Broadcasting Foundation (IBF), Respondent No.3-the News Broadcasters Association

(NBA) and Respondent No.5-the Advertising Standards Council of India (ASCI). It is the submission of the learned counsel representing Respondent Nos.2, 3 and 5, that a self-regulatory mechanism is in place, and complaints addressed against television and radio programmes are taken care of, and appropriate action is taken, which includes imposition of fines.

7. Mr. Yashank Adhyaru, learned senior counsel, representing the Union of India, has invited our attention to the fact, that besides the aforesaid self-regulatory mechanism, there is an existing governmental mechanism, which looks into complaints with reference to television and radio programmes. In this behalf, learned counsel pointed out the following observations, recorded in the counter affidavit filed on behalf of Respondent No.1 :

"It is this resolve of the government which gave birth to the self-regulation. As stated in the preliminary submissions, this Ministry has self-regulatory body like BCCC, NBSAM ASCI to look into the violations of Programme/ Advertising Codes of Cable Television Networks Rules, 1994. Besides, EMMC monitors about 300 private TV channels for any violation of the above rules. In specific cases of violation, the EMMC refers the matter to this respondent. This respondent, in turn, issues show cause notice to the alleged erring channel(s) to allow them an opportunity of fair justice before the matter is placed before IMC for deliberation and appropriate recommendation. Their recommendations are finally considered by Competent Authority in Ministry of Information & Broadcasting (this Respondent) and action as found suitable is taken on the recommendation of

the IMC. Following the above mechanism, in the last 5 years 63 warnings, 18 off-air penalties have been issued by this Respondent."

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Further Ministry of Information and Broadcasting also issued orders on 25.04.2005 (also available on website of the Ministry www.mib.nic.in) constituting an Inter-Ministerial Committee (IMC) under the chairmanship of the Addl. Secretary (I&B) and comprising officers drawn from various Ministries of Central Govt. viz., Home Affairs, Defence, External Affairs, Law & Justice, Women and Child Development, Healthy & Family Welfare, Consumer Affairs (at Joint Secretary level) and Advertising Standards Council of India (ASCI) as an industry representative, to look into specific complaints regarding violation of the Programme Code and Advertising Code, as defined in Rules 6 and 7 of the Cable Television Networks Rules, 1994. The said Inter-Ministerial Committee (IMC) accords focused and careful attention to the cases of violation of Programme and Advertising Codes and makes appropriate recommendations, after application of mind to the facts of each case and review of the programmes, in question."

8. Insofar as, the capacity of Electronic Media Monitoring Centre (EMMC) is concerned, our attention was drawn to the factual position depicted in paragraph 10(i) of the counter affidavit (filed by the Union of India), wherein it has been expressed, that EMMC had the capacity to conduct 24X7 monitoring of 150 channels in the year 2010-11. The said capacity, it was averred, would be enhanced to 1500 channels, by the end of the year 2017. Based on the afore-stated factual position, it was submitted, that the regulatory mechanism sought by the petitioner, is in place, and that, no further directions

are called for.

9. Besides the submissions advanced on behalf of the Union of India, as have been narrated above, it is also the contention of the learned counsel representing Respondent Nos.2, 3 and 5, that the issue under consideration is delicate, and that, media rights contemplated under Article 19 of the Constitution, need be kept in mind. It is, therefore, the assertion of the learned counsel representing Respondent Nos.2, 3 and 5, that the norms stipulated under Rule 6 (extracted hereinabove) need to be interpreted in a manner as would be sustainable, within the framework of Article 19 of the Constitution.

10. Having given our thoughtful consideration, to the submissions advanced at the hands of the learned counsel for the rival parties, we are satisfied in concluding, that there is indeed an existing mechanism, as has been referred to by the learned counsel representing the Union of India. However, the above mechanism, is not known to the general public. We are therefore of the view, that the same needs adequate publication. We, therefore, hereby direct the Union of India, to publish the mechanism, which has been brought to our notice, and is partly extracted hereinabove. This would enable complainants, to air their grievances, before the appropriate forum and to obtain a determination thereof, at the hands of the concerned Competent Authority,

in the Ministry of Information and Broadcasting.

11. Even though we have concluded in the manner recorded hereinabove, we are of the view, that the Central Government, having framed Rules in the nature of Cable Television Networks Rules, 1994, would be well advised, to frame similar Rules, in exercise of the power vested with it under Section 22 of the Cable Television Networks (Regulation) Act, 1995, to formalize the complaint redressal mechanism, including the period of limitation within which a complaint can be filed, and the concerned statutory authority which shall adjudicate upon the same, including the appellate and other redressal mechanisms, leading to a final conclusive determination. We, therefore, hereby recommend, that the Central Government, within the framework of Section 22 of the Cable Television Networks (Regulation) Act, 1995, deliberate on the issue, and take a conscious decision thereon, and to finalise a similar statutory framework for radio programmes, as well. Till the above issue is considered and finalized, the existing mechanism of complaint redressal, shall remain in place.

12. The writ petition is disposed of in the above terms.

WP(C)No.963/2013 :

13. Learned counsel for the petitioner states, that the controversy in the instant petition is identical to the one adjudicated upon in WP(C)No.1024/2013 (Mediawatch-

India (A registered Society) represented by its Vice President Vs. Union of India & Ors.), decided on 12.1.2017.

14. The instant petition is disposed of, in terms of the order passed in WP(C)No.1024/2013.

.....CJI.
[JAGDISH SINGH KHEHAR]

.....J.
[D.Y. CHANDRACHUD]

New Delhi;
12th January, 2017.

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 (C) No(s).387/2000

COMMON CAUSE (A REGD.SOCIEITY)

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.
(With office report)

Respondent(s)

WITH W.P.(C)Nos.880, 963 & 1024 of 2013-(With Office Report)

Date : 12/01/2017 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Ms. Kamini Jaiswal,Adv.
 Mr. Jatinderpal Singh,Adv.

Mr. Prashant Bhushan,Adv.
Mr. Rohit Kumar Singh,Adv.
Mr. Govind Jee,Adv.
Mr. T. Sudhakar,Adv.
Mr. O. Kuttan,Adv.

Mr. Rajeev K. Panday,Adv.
Mr. Rajeev Maheshwaranand Roy,Adv.

For Respondent(s)
M/O Home Mr. Yashank Adhyaru,Sr.Adv.
 Ms. Sunita Sharma,Adv.
 Ms. Kiran Bhardwaj,Adv.
 Mr. D.L. Chidananda,Adv.
 For Mr. B.K. Prasad,Adv.

M/O Comm. Mr. A.K. Panda,Sr.Adv.
 Ms. Sunita Sharma,Adv.
 Ms. Kiran Bhardwaj,Adv.
 Mr. G.S. Makker,Adv.

NBA Mr. Anup J. Bhambhani,Sr.Adv.
 Ms. Sumita Hazarika,Adv.
 Ms. Ipsita Behura,Adv.

ECI Mr. Mohit D. Ram,Adv.
 Ms. Monisha Handa,Adv.
 Mr. K.V. Vishwanathan,Sr.Adv.

Mr. Nikhil Nayyar, Adv.
Mr. N. Sai, Adv.
Ms. Smriti Shah, Adv.
Mr. Divyanshu Rai, Adv.
Mr. Nitin Sharma, Adv.

No.5 Ms. Avni Singh, Adv.

State of Kerala Mr. G. Prakash, Adv.
Mr. Jishnu M.L., Adv.
Ms. Priyanka Prakash, Adv.
Ms. Beena Prakash, Adv.
Mr. manu Srinath, Adv.

For Intervenor(s) Mr. Abhishek Malhotra, Adv.
/applicant(s) Ms. Aahna Mehrotra, Adv.
Ms. Liz Mathew, Adv.
Mr. Rijul Taneja, Adv.

Mr. P. Parmeswaran, Adv. (Not present)

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

WP(C)Nos.387/2000 & 1024 and 963 of 2013 :

The writ petitions are disposed of in terms of the signed order. Pending application, if any, shall stand disposed of.

WP(C)No.880/2013 :

Mr. Yashank Adhyaru, learned senior counsel, is appearing for the Union of India. He accepts notice on behalf of Mr. B.K. Prasad, Advocate-on-Record and seeks four weeks' time to file counter affidavit.

Counter affidavit may be filed within four weeks from today.

Post for hearing on 7th February, 2017.

(Sarita Purohit)
Court Master

(Renuka Sadana)
Assistant Registrar

(Signed order in WP(C)Nos.387/2000, 963 &
1024 of 2013 is placed on the file)