

TARUN BHARAT SINGH, ALWAR

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v.

UNION OF INDIA AND ORS.

NOVEMBER 8, 1994

[B.P. JEEVAN REDDY AND N. VENKATACHALA, JJ.]

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CRIMINAL CONTEMPT—Sariska Tiger Reserve Area—Mining activities—Restraining of—Case pending in Supreme Court—Counsel appearing in case was threatened by a doctor and an advocate using abusive language—Unconditional apologies tendered—Accepted with severe warning and to be careful in future.

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This application had been filed by the petitioner to punish the respondents, an advocate and a doctor for criminal contempt of the Supreme Court.

In the writ petition filed by the petitioner, several orders were passed by this Court restraining mining activity in the Sariska Tiger Reserve area. On account of that, the mine owners in the area and their supporters were threatening and harassing the Secretary and other office bearers and members of the petitioner organisation.

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At the instance of the organisation, a Senior Advocate of the Supreme Court went to the Sariska Tiger Reserve area to make a spot inspection. A meeting was also organized in the office premises of the petitioner. While the meeting was in progress, some persons burst into the hall and started shouting slogans and disrupting the meeting. It was stated by the senior advocate that when he wanted to leave the place he was prevented from leaving. The disrupters raised slogans "Khan bandh karane wale, hai hai."

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The respondents denied the allegations. They stated that respondent and his wife were employed by the petitioner - organisation as doctors and they were abruptly and unceremoniously removed from service. He was agitated and he alongwith other similarly placed employees gathered at the office of the organisation to register their protest.

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The senior advocate filed a rejoinder, affirming that respondent told him that he was disrupting the meeting because of the Sariska case

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A and that he used abusive language. It was also stated that he threatened the senior advocate for his involvement. Several affidavits of the persons who were present at the spot on that occasion had also been filed supporting the version given by the senior counsel of petitioner organisation.

B An additional affidavit had been filed by the respondent denying the several averments made in the supporting affidavits and also tendering unconditional apology. Respondent K, an advocate by profession also filled an affidavit tendering unconditional apology, requesting the Court to take a lenient view in the matter.

C Disposing of the matter, this Court

HELD 1.1 It is evident from a reading of the affidavits of the petitioner's counsel and the counter affidavits of the respondent that the latter has not specifically denied the allegation of the petitioner's counsel. The averments of the petitioner's counsel are also supported in full by the affidavits of other persons who were present on the occasion.

(291-D, F)

1.2 It is a matter of extreme regret and serious concern that an educated person, a doctor should have behaved in the above manner towards an advocate of the Supreme Court who was appearing for the petitioner—organisation in Sariska Case. The conduct of the respondent was certainly offensive. This Court would have taken serious note of the same but for the circumstances that he has tendered an *unconditional apology for his behaviour* which he attributes to his agitated state of mind caused by, what according to him, was a totally unjustified, abrupt and unceremonious termination of the services of himself and his wife. In that agitated state of mind, the respondent behaved offensively towards petitioner's counsel as well, which behaviour is without doubt condemnable and for which he regrets now. The respondent has since left that area and is now employed at Jaipur and he is no manner connected with the petitioner organisation.

(291-G-H, 292-A, D)

G In view of the above circumstances, the unconditional apology tendered is accepted but with a severe warning to him not to indulge in similar activities in future. (292-E)

H 1.3 So far as the respondent R is concerned, he has unconditionally tendered an unqualified apology. Having regard to the fact that he too is a member of the legal profession and a social activist in that area,

his unconditional apology is accepted. This Court is sure that he would be careful in future and would give no occasion for any such complaint. (292-F)

CIVIL ORIGINAL JURISDICTION : Interlocutory Application Nos. 13 and 15 of 1993.

IN

Writ Petition (C) No. 509 of 1991.

Under Article 32 of the Constitution of India.

Ms. Kamini Jaiswal, G. Prakash, K.C. Agarwal, Aruneshwar Gupta, S.S. Jauhar, S.K. Jain, K.B. Rohatgi, Ms. Subhashini, Rajesh and S.K. Bhattacharya for the appearing parties.

The following Order of the Court was delivered

I.A. NO. 13 OF 1993

This application is filed by the petitioner—Tarun Bharat Sangh to punish the respondent, Shri Ratan Katyani and Dr. Upendra Dubish for criminal contempt of this court and for other incidental directions. In support of this application, affidavit of Dr. Rajeev Dhawan, counsel appearing for the petitioner, is filed. Dr. Rajeev Dhawan, now a senior advocate of this Court, has been appearing for the petitioner in this case over the last three or more years. In this affidavit, Shri Dhawan has stated the following facts:

In the writ petition filed by the petitioner, several orders have been passed by this court from time to time restraining mining activity in the Sariska Tiger Reserve Area. On account of this, the mine owners in the area and their supporters have been threatening and harassing the secretary and other office bearers and members of the petitioner—organisation, Tarun Bharat Sangh, in several ways. On a previous occasion, one of the mine owners assaulted the secretary of the petitioner—organisation, Shri Rajinder Singh, in the very presence of Shri Justice M.C. Jain, a Commissioner appointed by this Court, for which act he was convicted by the court for criminal contempt of this court and sentenced to imprisonment for one week.

At the instance of the petitioner — organisation, he (Dr. Rajeev Dhawan) went to the Sariska Tiger Reserve area to make a spot inspection

A on 3rd April, 1993. In that connection, a meeting was organised by the petitioner organisation at 10:30 A.M. on 4th April, 1993 in the office premises of the petitioner. When he went to the site of the meeting on that morning, he found some persons picketing at the entrance. Shri Ratan Katyani, Advocate was at the micro-phone. He was, however, allowed to pass and enter the meeting hall. While the meeting was in progress, some
B persons burst into the hall and started shouting slogans and disrupting the meeting. He went out and told the disrupters that they should not do so, where upon they advanced towards him and surrounded him. He was pushed by one or two persons. At about 1.00 P.M., another incident took place which is set out in para 6 of the affidavit. It reads:

C "6. Around 1 P.M. or so, the same group but this time led by a person called Dr. Upendra Dublish advanced towards me and Rajinder Singh and surrounded us. He told me that he would not let my meeting continue; and, if necessary
D destroy the ashram. I told him that I was simply having a meeting with my client and such persons whom my client had invited. Dr. Dublish, I am given to understand used to work for my client and had recently resigned because he had accepted a job offer elsewhere. I told him that I was only briefed in the case before the Supreme Court and that he could sort his other matters with my client later. He said
E that it was in connection with the case and matters concerning the environment that he wished to disrupt the meeting. In the main what he had to say was abusive and added that he did not care about the Supreme Court which can do nothing to him. I again requested that persons at the meeting be allowed to have their lunch and continue their
F discussions with me. He refused. Instead he created turmoil at the meeting. He, then, with the persons he came with, tried to break the video room, entered my clients office to use the phone. He also threatened to burn up the place and the x-ray room. Along with others, he overturned some food dishes and continued this disruption for an hour. My
G client tried to reason with him; and, I continued to talk to some of the villagers who were clearly threatened by this and fed up that important issues connected with the case remained undiscussed."

H Dr. Dhawan further stated that when he wanted to leave the place he was prevented from leaving whereupon he was obliged to leave by another

exit with the assistance of the Police. He alongwith Rajinder Singh then went to the Police Station, Thanagazi and lodged a complaint about the incident. While they were there, they received the information that the miscreants had attacked the ashram and sought to cause damage to the ashram property and that had the nearby villagers not intervened, they would have demolished the entire premises. While he was there at the meeting place, the disrupters raised slogan "Khan bandh krane wale, hai, hai" (Down with those who have got the mines closed).

On this application being filed, this court issued notices to the respondent. I.A.No. 15 of 1993 filed by the petitioner was also taken up along this application. On May 10, 1993, the following order was made by a Bench comprising P.B. Sawant, J. and one of us (B.P. Jeevan Reddy, J.):

".....Shri Rajendra Singh has further filed an additional application for directions today supported by an affidavit in which various events have been narrated which show that he has been subjected to different kinds of pressure and threats against his life. If the averments made in this application are true there is no doubt that they call for a serious action at the hands of this Court. We, therefore, direct the issue of bailable warrants against Shri Ratan Katyani and Dr. Upendra Dubish who are operating the Thanagazi and direct the District Magistrate, Alwar to personally see that the said warrants are served on the aforesaid two individuals. The warrants are made returnable on 14.5.93. The said two individuals should be directed to remain present in this Court on that day. The warrants should be issued forthwith by today itself. The warrants may be issued telegraphically at the cost of petitioner....."

The respondents have appeared and filed their responses. Dr. Dubish has filed a counter affidavit denying the allegations made against him. He has stated that he and his wife were employed by the petitioner—organisation as doctors and that on April 4, 1993 they were abruptly and unceremoniously removed from service, without even serving a written order. This was done with a view to prevent exposure of several malpractices in the running of the petitioner's hospital. Because he was forcibly removed from his posts, he was agitated and he alongwith similarly removed employees gathered at the office of the petitioner organisation at about 4 P.M. on that day (April 4, 1993) to register their protest. So far as the allegations of Dr. Dhawan against him are concerned, he replied to them in the following words :

A "I emphatically state that I have nothing to do with Dr. Dhawan nor did I do anything to Dr. Dhawan for which he can even remotely involve me in any manner whatsoever. I would respectfully submit that he be put to strict proof about my involvement in any manner. I submit that I have
B nothing to do with mine owners nor with the cause of the environment which is totally different from my unceremonious dismissal from service. I respectfully submit that I recent an advocate casting aspersions on my integrity or character in such standerous manner.

C It is pertinent to mention that I came to know that at the assistance of my friends that a case under section 107 Cr.P.C. has been instructed to be levelled against me at the
D instance of Dr. Rajeev Dhawan by three petitioner organisation. In view of the protest voiced by me alongwith the staff of the scheme for our wrongful termination of service. I emphatically deny that I had in any way intended or threatened to cause hurt to any one or destroy any goods for I am a doctor and my duty is to treat the patients with
E care and sympathy and have never tried to hurt any one even remotely. It is true that I had protested for my illegal and unceremonious eviction in peaceful manner by raising voices against the consequent and have not caused any damage to any property. In fact in his complaint Shri
F Rajender Singh has not alleged any breakage of any property and all that is said that I had threatened to do so which is oblige the question."

F Dr. Dhawan has filed a rejoinder reiterating the facts stated in his original affidavit. He affirmed that Dr. Dublish told him that he was disrupting the meeting because of the Sariska case and that he used abusive language and was shouting and that was not enable to any reasoning, all the
G time protesting against his resignation. Dr. Dhawan stated "he (Dr. Dublish) again threatened me for my involvement and said that he would disrupt the ashram and I would not be able to leave." Several affidavits of the persons who were present at that spot on that occasion have also been filed by the petitioner. All the said deponents have supported the version given by Dr. Dhawan.

H Dr. Dublish has filed an additional affidavit on 22nd September, 1994 where he denied the several averments made in the supporting affidavits

and stated that he has nothing to do with the mine-owners or the environment problem, with respect to which Writ Petition No. 509 of 1991 is filed in this court. He stated that he is a doctor by profession and he was only protesting against the unceremonious and abrupt dismissal from the petitioner's service. He stated that he did not cause any hurt to any of the employees of the petitioner—organisation and that he did not and could never have conceived of flouting the orders of this court. He stated further (in paragraph 8) that, "I state and submit that my education, background, training and experience militates against casting aspersions on the integrity of any individual. Therefore, I most humbly beseech this Hon'ble Court that if there has been any transgression of the Rule of law by me it has been due to inadventance and I tender unqualified apology for the same."

So far as Shri Katyani is concerned, he is an advocate by profession and he has filed an affidavit tendering unconditional apology, requesting this court to take a lenient view in the matter.

It is evident from a reading of the affidavits of Dr. Dhawan and the counter affidavits of Dr. Dublish that the latter has not specifically denied the allegation of Dr. Dhawan that Dr. Dublish advanced towards him while he was therewith Rajinder Singh, surrounded them and told Dr. Dhawan, in particular, that he would not allow the meeting to continue. There is also no specific denial of the allegation of Dr. Dhawan to the effect that Dr. Dublish asserted that he wished to disrupt the meeting precisely because of the environment case pending in this Court. There is equally no specific denial of the allegation of Dr. Dhawan that the language used by him (Dr. Dublish) was abusive and his declaration that he did not care about the Supreme Court which can do nothing to him. In the circumstances, we accept the version of Dr. Dhawan as set out in his affidavit. It follows that Dr. Dublish did threaten and overawe Dr. Dhawan (and the office bearers of the petitioner—organisation) and used abusive language against him because of Dr. Dhawan's appearance in this matter. The averments of Dr. Dhawan are also supported in full by the affidavits of other persons who were present on the occasion.

It is a matter of extreme regret and serious concern that an educated person, like Dr. Dublish should have behaved in the above manner towards an advocate of this court who was appearing for the petitioner — organisation in Writ Petition No. 509 of 1991. The conduct of Dr. Dublish was certainly offensive. He would have taken serious note of the same but for the circumstance that he has tendered an *unconditional apology for his behaviour* which he attributes to his agitated state of mind caused by, what

A according to him, was a totally unjustified, abrupt and unceremonious termination of the services of himself and his wife besides some other employees by the petitioner— organisation on that day. He says that he and other similarly placed employees were protesting against the same at the office premises of petitioner— organisation. It so happened that Dr. Dhawan's visit coincided with the said event. It also appears that some
B persons at that spot were the men of mine owners who were demonstrating against the petitioner — organisation fitting the cause of environment and both these groups got mixed up. The petitioner — organisation, no doubt, says that they did not terminate the services of Dr. Dublish but that he himself voluntarily resigned the job. While we do not wish to enter into the question whether it was a case of termination or resignation, what appears
C revelvant is that Dr. Dublish thought that he has been unjustly treated and on which account, he was highly agitated on that day and resorted to said agitational methods soon upon knowing about the loss of his job. In that agitated state of mind, Dr. Dublish behaved offensively towards Dr. Dhawan as well, which behaviour is without a doubt condemnable and for which he regrets now. There is yet another circumstance, viz., Dr. Dublish
D has since left that area and is now employed at Jaipur. He has stated that he is no manner connected with the petitioner — organisation, much less with the mine owners or with the dispute concerning mining in Sariska Tiger Reserve area.

E In view of the above circumstances, we accept the unconditional apology tendered by Dr. Dublish but with a severe warning to him not to indulge in similar activities in future.

F So far as Shri Ratan Katyani is concerned, he has unconditionally tendered an unqualified apology. Having regards to the fact that he too is a member of the legal profession and a social activities in that area, we accept his unconditional apology. We are sure that Shri Katyani would be careful in future and would give no occasion for any such complaint. Interlocutory Application No. 13 of 1993 is ordered accordingly. No costs.

I.A. NO. 15 OF 1993

G The prayers in this Interlocutory Application are the following :

H “(a). That a direction be given to the respondent- State of Rajasthan to provide immediate and effective protection to the petitioner organisation including all those associated with its work and its property.

In particular, Special protection should be provided to its Secretary, Shri Rajendra Singh; A

(b) That Dr. Dublish and Mr. Ratan Katyani be restrained from entering the premises of the petitioner organisation or taking any action to threaten, intimidate or annoy those associated with the work of the petitioner organisation. B

(c) That this Hon'ble Court may consider whether any action should be taken against Dr. Dublish for threatening, intimidating and annoying those working with the petitioner organisation.

(d) That in the event, the Rajendra Singh is arrested during the pendency of the petition, this Hon'ble Court should be informed immediately of the reasons and circumstances for doing so; C

(e) That any action taken by or before any state authority in respect of the petitioner organisation or its Secretary, Rajendra Singh, should be immediately reported and brought to the attention of this Hon'ble Court." D

Under the orders passed earlier in this matter including the one dated May 10, 1993 referred to above, we have directed due protection to be extended to the office bearers of the petitioner organisation and in particular to its Secretary, Shri Rajendra Singh. We have also recorded the undertaking of Shri Ratan Katyani that he would not enter the premises of the petitioner organisation or take any other offensive action against them. He similarly wanted an assurance from the petitioner organisation that they too shall not enter the premises of Shri Katyani's organisation, viz., Bandhua Mukti Morcha and shall not take any offensive action against that organisation. So far as Dr. Dublish is concerned, we have recorded in our order in I.A.No. 13 of 1993 pronounced today separately that he has nothing to do with the petitioner- organisation since 4th April, 1993 and that he is now settled at Jaipur. The orders aforesaid are affirmed herewith and on that basis I.A. No. 15 of 1993 is disposed of. E F G

A.G.

Petition disposed of.