



2024:DHC:5522-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 10262/2024 & C.M.No.42071/2024

SAMIR MALIK

.....Petitioner

Through: Mr.Ankit Borker, Advocate.

versus

UNION OF INDIA AND ANR.

.....Respondents

Through: Mr. Ripu Daman Bhardwaj, CGSC  
with Mr. Abhinav Bhardwaj,  
Advocate.

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Date of Decision: 26<sup>th</sup> July, 2024

**CORAM:**

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

### **JUDGMENT**

**MANMOHAN, ACJ : (ORAL)**

1. Present public interest litigation has been filed by the petitioner challenging the Notification No.189 dated 12<sup>th</sup> July, 2024 issued by the respondent no.2 whereby 25<sup>th</sup> June of every year has been declared as “*Samvidhaan Hatya Diwas*”. The impugned Notification reads as under:-

*“F.No.17015/53/2024-IS-I. –Whereas, a proclamation of Emergency was made on 25<sup>th</sup> June, 1975, following which there was gross abuse of power by the Government of the day and people of India were subjected to excesses and atrocities:*

*And whereas, people of India have abiding faith in the Constitution of India and the power of India’s resilient democracy:*

*Therefore, Government of India declares 25<sup>th</sup> June as “Samvidhaan Hatya*



*Diwas (संविधान हत्या दिवस) to pay tribute to all those who suffered and fought against the gross abuse of power during the period of Emergency and to recommit the people of India to not support in any manner such gross abuse of power, in future.”*

2. Learned counsel for the petitioner states that the impugned Notification is in violation of the Prevention of Insults to National Honour Act, 1971 (hereinafter referred to as the ‘Act 1971’). He states that as per the Act 1971, the Constitution of India is our national honour and the use of the word “*hatya*” with “*samvidhaan*” is an insult to the Constitution of India. He states that the language in the impugned Notification is insulting and offending to the Constitution of India, which is a living document, and it has further been laid down in Section 2 of Act 1971 that showing disrespect to the Constitution either by a spoken or written word is an offence.

3. He further states that the Emergency declared on 25<sup>th</sup> June, 1975 was proclaimed as per Article 352 of the Constitution of India and the proclamation of Emergency was revoked under Article 352 (2) of the Constitution of India. Thus, the proclamation of Emergency was under the provisions of the Constitution and therefore, the action of the respondents to declare 25<sup>th</sup> June of every year as “*Samvidhaan Hatya Diwas*” is violative of the Constitution of India.

4. Having heard the learned counsel for the petitioner, this Court finds that the impugned Notification does not pertain to the issue of proclamation of Emergency in 1975 under Article 352 of the Constitution of India but the abuse of power and the misuse of constitutional provisions and excesses that followed it. It is in this context that the expression “*Samvidhaan Hatya*” has been used. In fact, the impugned notification explicitly states that the people of India have abiding faith in the Constitution of India. Therefore, the



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impugned Notification in no way undermines or insults or disrespects the Constitution.

5. Consequently, the impugned Notification is neither violative of the Constitution of India nor the Act 1971. Accordingly, the present writ petition along with the application is dismissed.

**ACTING CHIEF JUSTICE**

**TUSHAR RAO GEDELA, J**

**JULY 26, 2024**  
**KA**