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Delhi High Court

Dina Nath Batra And Others vs University Of Delhi And Others on 19 May, 2008

IN THE HIGH COURT OF DELHI AT NEW DELHI WP(C) No.2902/2008

19.07.2008

Date of Decision: 19th May, 2008

Dina Nath Batra and Others ?..Petitioners Through: Ms.Monika Arora, Advocate

Versus

University of Delhi and others ?Respondents Through: Mr.Arvind Nigam with

Mr.Amit Bansal and

Ms.Manisha Singh, Advocates

CORAM:

HON?BLE THE CHIEF JUSTICE

HON?BLE DR. JUSTICE S.MURALIDHAR

1. Whether reporters of the local news papers be allowed to see the judgment? Yes
2. To be referred to the Reporter or not ? No
3. Whether the judgment should be reported No in the Digest ?

ORDER

19.05.2008

1.This petition, purporting to raise an issue in public interest, assails an article by the renowned poet, translator, linguist and an internationally acclaimed scholar A.K. Ramanujan titled ?Three Hundred Ramayanas: Five Examples and Three Thoughts on Translation?. Ramanujan, after a brilliant academic career in India, got his PhD in linguistics in 1963 from Indiana University in the U.S. He taught in several universities in that country till his death in July, 1993. A shortened version of the article first appeared in 1991 in a book titled Many Ramayanas: The Diversity of a Narrative Tradition in South Asia edited by Paula Richman and published by the University of

California Berkeley Press. The full version was also published in India in 1999 by the Oxford University Press in a book titled *The Collected Essays of A.K. Ramanujan* edited by Vinay Dharwadker. The article, therefore, has been in the public domain for over 17 years.

2. The immediate provocation for this petition brought forth by eight petitioners, some of whom are academics themselves, is that this article was included in the list of readings for the concurrent course on 'Ancient Indian Culture' in the BA (Honours) programme offered in several colleges affiliated to the University of Delhi from July, 2006 onwards. It appears that this and certain other articles which were also listed in the readings in the published curriculum were separately photocopied and compiled in a spiral bound volume, which was purchased by petitioner No.1 from Arun Thesis Typing Centre, respondent No.4, a photocopying shop operating in the vicinity of the University of Delhi, respondent No.1. The name of Dr. Upender Singh, a Professor in the Department of History, arrayed as respondent No.3 was found typed on the cover page of this spiral bound volume. Although this volume was neither a 'book', nor was it authored by Dr. Upender Singh, it appears to have led to a series of protests spearheaded by the Shiksha Bachao Andolan of which petitioner No.1 claims to be the convener. The bone of contention was that the article denigrated the Ramayana and hurt the religious sentiments of the Hindus. The protests were joined in by certain other political social and religious groups. It appears from the copies of the press clippings enclosed with the petition that the print media also proceeded on the mistaken notion that this was a book published by respondent No.1 authored by respondent No.3. A criminal complaint also stated to have been filed by the petitioners.

3. On January 23, 2008 in response to a letter received from Dr. K.C. Gupta, convener of the Gyan Parishad in Meerut, seeking deletion of the said article from the list of readings for the course mentioned hereinabove, the University of Delhi informed him as under:

“Petitioner No.1 sent a legal notice to respondent No.1 university on January 28, 2008 asking it to immediately withdraw the book from the course curriculum of BA (Hons) of IInd year of University of Delhi and to tender an unconditional written apology to the millions of Hindus all over the world for having outraged their religious feelings by insulting their religion. In reply to this notice, respondent No.1 through its counsel set the facts straight that neither had respondent No.1 published any book nor was it authored or compiled by respondent No.3. Pointing out that there were other pieces including Robert T. Goldman's *The Ramayana of Valmiki: an epic of ancient India* (an authoritative recent English translation of the epic) which formed part of the recommended readings for the course, it was reiterated that the aim of the course in question is to teach university students to be able to analyse a variety of source material academically, analytically and without embarrassment or denigration.”

Dissatisfied with the response the petitioners have approached this Court.

4. The petition extensively quotes portions of the aforementioned article by Ramanujan which according to the petitioners are objectionable and therefore ought not to be included in the list of recommended readings. It is claimed that the author has a tendency of picking negative aspects of different versions of Ramayana with malicious intention of defaming and denigrating central characters in the epic. It is further claimed that the article is violative of various provisions of the Constitution of India and constitutes an offence under the Indian Penal Code. The prayer in the

petition is that this Court should direct respondent No.1 university ?to remove the controversial article? from the B.A. Hons. II year History course with immediate effect.

5. There are several difficulties in entertaining this petition. Primarily they revolve around the legitimacy of the Court's intervention in matters of this nature as well as the competence of the Court to adjudicate issues that do not admit of judicially manageable standards. This petition cannot be viewed as a suit for defamation or a criminal complaint for a similar offence. A petition under Article 226 of the Constitution is a public law remedy where the jurisdiction and the scope of the powers of High Court are fairly well defined. The very nature of these proceedings disables the Court from forming an opinion that a view expressed by an academic or a scholar in an article, like the one with which the petition is concerned is tenable or not. In the considered view of this Court it should not lend itself to this exercise at the instance of a section of the population which might have strong views on such issues. The assurance of open scholarly and creative enterprise lies at the heart of the research and teaching mission of modern higher education in a democratic society. Academic freedom is fundamental to the life of the university. What should be included in the list of readings for a course curriculum in a university should be left to academics and experts. Problems that might arise out of the inclusion of any list of readings should also be best left to the decisions of such experts.

6. The other issue, of course, is one of competence of this Court to decide whether or not the article in question is objectionable. A civil or a criminal Court before whom such challenge may be laid would have the assistance of expert evidence in order to determine the issue. Such an exercise is plainly not possible in a petition under Article 226. Absent such evidence of experts, it would be hazardous for the Court to take upon itself the task of determining whether the views expressed by an author in an article are objectionable.

7. Therefore, on both counts of legitimacy and competence this Court is disinclined to entertain this petition.

8. The petition is accordingly dismissed. CHIEF JUSTICE

S.MURALIDHAR, J

May 19, 2008