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In Re: Sundar Lal

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Court : Allahabad

Decided On : Dec-10-1919

Reported in : AIR1919All91; (1920)ILR42All233; 55Ind.Cas.110

Judge : Grimwood Mears, C.J., ;Pramada Charan Banerji and ;Piggott, JJ.

Appellant : In Re: Sundar Lal

Judgement :

Grimwood Mears, C.J., Pramada Charan Banerji and Piggott, JJ.

1. In this case Mr. Sundar Lal has applied to the Court to set aside an order of forfeiture passed by the Local Government on the 27th of May, 1919.

2. The applicant was the keeper of a printing press in Allah-abaci at which the newspaper ' Bhavishya ' was printed. In accordance with the provisions of Section 3 of the Indian Press Act (I of 1910) he deposited on the 13th of February, 1919 the sum of Rs. 1,500, as security. On the 1lth and 25th of April two articles appeared which attracted the attention of the Local Government), and they, in exercise of the power conferred on them by Section 4, Clause (1), of the said Act, declared the security to be forfeited to His Majesty. Thereupon Mr. Sundar Lal filed a petition in this Court under Section 17 asking that the order of forfeiture might be set aside.

3. The argument for the applicant fell under throe heads. At the outset he contended that the phrase " Government established by Law in British India 'did

not include any of the persons whose conduct was censured and whose motives were impugned in the said articles. Upon the words, we are of opinion that the applicant was Wrong in his contention.

4. On the question of ultra vires we consider that we are bound by the decision of His Majesty's Privy Council in the case of Besant v. Advocate General of Madras (1919) I.L.R. 43 Mad. 146, and we decide this point against the applicant.

5. The next question is whether the words of either or both of the articles offend against Section 4, Clause 1 (c).

6. The material portion of the section is as follows:

Whenever it appears to the Local Government that any printing press in respect of which any security has been deposited as required by Section 3 is used for the purpose of printing or publishing any newspaper...containing any words which are likely or may have tendency ... to bring into hatred or contempt the Government established by law in British India...or to excite disaffection towards the said Government , the Local Government may...declare the security deposited...to be forfeited to His Majesty,

7. Next, he argued that Section 4 was ultra vires, and finally he addressed himself to the question as to whether either, or both of the articles offended against Section 4, clause Key.

8. We propose to discuss the various points raised, in the order selected by the counsel for the applicant.

9. First, as to the phrase 'Government established by law in British India'. It was suggested that the phrase meant something different from Government in the usual conventional sense. No very positive meaning was attributed to it, but it was alleged to mean the supremacy of the British Crown and connection with India as opposed to independence, and Sections 1,2 and 3, of 21 and 22 Victoria, C. 106, the Queen's proclamation of 1858 and the Delhi Laws Act of 1912 were referred to in support of, this argument.

10. We are of opinion that the phrase ' Government) established by law in British India ' means the established authority which governs the country and administers its public affairs and includes the representatives to whom the task of Government is entrusted.

11. It is to be noted that in Section 4, Clause l(c), and in Explanation 2, the word ' Government ' is used as an equivalent for the phrase ' Government established by law in British India '. The same point was taken in Besant v. Emperor (1916) I.L.R. 39 Mad. 1085, and th(c) Court declined to accept the construction then sought to be placed.

12. The first article, headed 'The Occurrence at Delhi, ' begins as follows:

The news of the fearful bloodshed at Delhi is arousing to day unique and peculiar feelings in the great heart of India. The blood boils, on one side at the sight of the incompetence, cowardice and heartlessness of the Delhi authorities, and on the other, the bravery of the people of Delhi.'

Even the panic-stricken authorities at Delhi must be feeling repentant at the thought that if they had acted with ordinary tact, foresight and sympathy, if they had the least regard for the life of the ever down-trodden people of this country and had not killed more than 20 and wounded more than 50 innocent persona for trifling reasons....'

Truly 'when the time for destruction comes the understanding becomes perverse', But it would be quite wrong to suppose that our worthy Rulers would have committed such a blunder without an object. If we consider the crooked ways of politics and realize that it is natural for rulers all over the world to try heart and soul to maintain their privilege and prestige, we can get a clear glimpse of the object of our present Rulers'.

We have now to see what was their object. Did the author rities want to prove somehow or other, (the force of) the remark of Sir WILLIAM VINCENT that ' there was at all times a possibility of the Satyagraha movement turning into an armed and active revolt'? Was it their object to root out, under this very pretext, the

sacred Satyagraha movement before it should begin to bear fruit? Did they want by taking the life of 10 or 50 innocent people by the brutal force of machine-guns and white soldiers to create so much fear in the hearts of the Indian masses that they might never again venture to take part in any practical effort for the achievement of liberty?

Or did they want, to show that in this twentieth century when there is everywhere in the world a loud call of freedom, self-government and self-determination, when, under the powerful influence of these principles, many Western Empires have fallen and many despotic emperors are being mercilessly deposed and exiled, the ruling class in India wanted to tell Indians proudly and without fear that it had made up its mind to trample under foot their hopes and aspirations &c.;, and to keep them for ever under their irresponsible rule? Whichever of these may have been the object of our rulers, we are exceedingly glad to see that this time they have been quite unsuccessful in their attempt.

13. The second article is entitled' A Difficult Problem 'and again it is only necessary to give sufficient extracts fairly to indicate the complexion of the whole article.

At the present moment there is a very difficult problem before both the rulers and ruled in this country. Even before the great war was over our far-sighted rulers had realized that cry of the European nations for freedom and self-determination and the terrible lessons of the great war must inevitably produce their effects upon the minds of the Indian people. They also knew that after mutilating the Turkish Empire and taking away the freedom of Turkey, it would be impossible for them to mislead the Indian Musalmans any longer to keep aloof from their brethren and remain indifferent to the interests of their mother-country and devoted to an irresponsible (or uncontrolled) alien Government. More than anything else they realized the truth that it was (now) quite impossible for the arbitrariness of their, or any other power to stand even for a moment before 'the united power of the Hindu and Musalmans in this country. It was because they realized all this that during the great war our rulers abused the Defence of India Act to their hearts' content in order to silence (paralyze?) the opening eyes and the expanding heart of this

ancient, but unfortunate country. As soon as the war was over the terrible illusion called ' the League of Nations was created with the object of rendering impossible for ever the fulfilment of the aspirations of the backward nations like India; and ultimately Rowlatt Bills were devised with a view to crush all kinds of political efforts and national agitation in the future. There is no doubt that if the people of India had not already awakened to a remarkable degree, the League of Nations and the Rowlatt Bills combined would have brought a dishonourable end to the earthly life of this nation within a short time.

While our rulers were engaged in improper efforts of this kind on one side the curses of almost all the Eastern lands from Japan and China to India and Egypt and several great and small Western countries had begun to fall on this unholy league of nations on the other side; and all the children of Bharat, becoming one heart and soul, made a firm resolve under the banner of Mahatma Gandhi to destroy the Rowlatt Bills by means of Satya-graha. The Rowlatt Act which has been passed was to come into force six months after the conclusion of peace, but relying oil the labour and self-sacrifice of our countrymen, we believe that before that time comes this inhuman law will have reached its death-bed.

Our rulers also fully understand the present situation of the country and the unconquerable nature of the Satyagraha movement. That is why they are straining every nerve to discredit (or blacken) it and give it a bad name and annihilate it. At places they have tried to blacken this sacred movement of Satyagraha with Duragraha (persistence in error) by exciting (or inflaming) peaceful crowds, showering volleys of bullets upon unarmed and innocent people and deporting popular Hindu and Muhammadan leaders suddenly and without any reason and by various other means.

14. Now these extracts in our opinion would convey to an ordinary person that the rulers of this country, in addition to incompetence, cowardice, and heartlessness, were guilty of the slaughter of innocent people in order to terrorize them into subjection, and to crush out all kinds of political movements and national aspirations, and further that they were perfidious enough to pervert and misapply ' the Defence of India Act,' with the like object, and to invent the Rowlatt Act for a

similar purpose.

15. The general tone of both articles shows a set purpose to cause'' the ruling class in' India ' to be hated and despised. The writer professes himself to be ' astonished at the shamelessness of our ruling authorities'. We can only say that we are astonished at the hardihood of the applicant in preferring this appeal and in venturing to suggest, as he does in paragraph 4 of the petition, that the ' Local Government has taken an incorrect view of the aforesaid articles and that these articles do not contain any words of the nature described in ' Section 4, Clause (1), of the Indian Press Act'. It need scarcely be said that they cannot by any argument be brought within Explanation II of Section 4. It being the first duty of a Government to govern, we should have considered the Local Government strangely lacking in its duty if it had failed to step in and put a penalty on the dissemination of envenomed articles such as these.

16. We, therefore, reject the petition and order the applicant) to pay the costs.

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