

Baijnath Kedia Vs. Emperor

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Court : Allahabad

Decided On : Nov-18-1924

Reported in : AIR1925All195

Appellant : Baijnath Kedia

Respondent : Emperor

Judgement :

Mears, C.J.

1. Some time in the year 1922 the applicant in this case published the second edition of a Hindi Reader for use in schools. The Reader is composed of six separate text books, numbered 1-6 and those volumes are designed for the instruction of boys of 8 to 13 or 14 years of age. On July 15 this 1924, the Local Government issued a notification by which, under Section 99-A of the Code of Criminal Procedure, 1898, all copies of Parts 3, 4, 5 and 6 were declared to be forfeited, inasmuch as they contained, in the opinion of the Local Government, seditious matter of the character described in Section 124-A of the Indian Penal Code.

2. Baijnath Kedia, the publisher, was aggrieved by this order, and applied first of all that the Local Government should point out the passages to which they took objection. This application failed, and the matter before us to-day is one launched by Baijnath Kedia asking this Court to set aside the order of the Local

Government, on the ground that the four Readers Nos. 3-6 inclusive, do not in fact contain any seditious matter.

3. Mr. Peary Lal Banerji, who appears for the applicant, criticised at the outset the form of the Government notification, and contended that it did not comply with Section 99A-(b) of the Code of Criminal Procedure inasmuch as the grounds were not set out in the notification. We, however, are precluded by Section 99 D from considering any other point than the question, whether in fact the matters contained in the document were seditious or not, and' come within the mischief aimed at by Section 124-A.

4. Counsel for the applicant raised the further point that the onus lay upon the Local Government. This is a question of construction, not free from difficulty. We are inclined to think that having regard to the frame work of the section, the onus is cast upon the Local Government. In our opinion that is not a matter of great practical moment, and indeed it gives to the Local Government the advantage of the opening and of the reply. We, therefore, called upon the Government Advocate and he has laid before us a translation prepared by the Government of 126 extracts taken from the impugned publications. Having regard to their character, we are somewhat surprised that any application should have been made. We do not propose to go into them in any great detail; but it is necessary that we should consider each of the Readers separately; and that if we find in any one of the series extracts which though extravagant, do not fairly come within Section 124-A, it is our duty to exempt that particular Reader. The Government Advocate has suggested that when one regards the series as a whole, it will be found that they become increasingly seditious. There appears to be certain degree of truth in that.

5. Turning now to the Readers themselves and dealing with Part 3, first of all, at page 2 there is a passage invoking the deity to remove all our 'insults'; and at pages 25 and 103 there are very strong incitements to race hatred, though as it happens not directed against the Government, but only quoted here to show the prevailing character of the work. At page 25 runs the passage: 'Even then the bloodthirsty Muslims oppressed the Hindus in some ways or the other.' The passage at page 103 runs : 'Of all the nations the Hindus are the best and every

thing else is bad.' In Book 4, page 31, there is a poem clearly designed to create hatred in the minds of the children against the British, and very obviously directed against the British, notwithstanding the suggestion which was made in argument that it really referred to events which had happened in Belgium in the month of August 1914. At page 68 and onwards there is a long foolish and malicious discussion on the respective treatment and exploitation of the 'black natives', in India by Englishmen and of the Philippones by-Americans. The trend of that story is manifestly one which would promote disloyalty. At page 109 the question is asked ' Why is not money spent on education'? The reply is given because 'you have no power in your hands.' In part 5, page 152, the Rowlatt Act was according to the writer, drawn up 'to suppress, once and for all, all political agitation in 'the country. It treated the whole of India as in a state of rebellion, and under it the police got full power to harass all innocent citizens.' The translation which we have given differs to some extent from that which will be found at page 10 of the print supplied to us by the Local Government, but is an agreed and accepted translation.

6. We take the view that this statement that the Rowlatt Act was intended 'to suppress once and for all, all political agitation in the country was a statement known by the writer to be false, and made by him with the deliberate intention of promoting disloyalty and hatred and a similar observation applies to the statement that the Act, a Government measure, gave to the police full power to harass all innocent people. At page 75, Book 6, we are told that the 'Western civilization was godless: the Indian civilization is godly,' and that 'the Indian civilization tends to stabilize morality. The tendency of the Western civilization is towards establishing immorality. We may pause here for a moment to say that a passage such as that, even if objectionable, would not, standing alone justify a Government to take measures of forfeiture. But a passage like that, and many others that can be found in these volumes must be considered as having a cumulative effect, and no one can doubt that the cumulative effect of each of these books was one designed to bring into hatred and contempt His Majesty's Government established by law in British India. At page 78 the children are taught that the establishment of dispensaries and hospitals encourages the people to run the risk of contracting disgraceful diseases, and 'promotes greater stability to offences, suffering and

downfall and real slavery.' Dispensaries are the root of evil. Owing to their existence people become indifferent to their health and promote immorality. Hospitals are the means by which the devil exercises his control over his dominion and carries on his work.' We are also told that, but for the existence of hospitals the diseases indicated above and consumption itself would decrease. The extracts given from page 84 and onwards were no doubt written at a time when non-co-operation was still making its appeal to some sections of the nation. The reader contains a story in which the conscience of a subordinate official is disturbed by a supposed order of the Government directing him to watch the activities of the enthusiasts of movement. His ruminations cover some eight pages of print and their manifest object is to promote hatred and disloyalty' in the unformed minds to which they are addressed. A later extract tells the children that they are 'dwelling under the rule of unrighteousness.'

7. We have not by any means exhausted the extracts open to objections, but we have indicated some of the more serious ones. It is said that they are extracts from books which have already been published and which have not been proscribed. That may be partly true, but not altogether so. But even if it is entirely true, the compiler of those books has most manifestly collected together all the seditious utterances that he could find, and has given us a book which, page after page, contains sentiments hostile and insulting to the British Government. Books such as these, stand on very different footing to publications in which here and there one may find passages to which a more moderate writer would not have given utterance. In our opinion these readers were compiled with the determination to corrupt the minds of the children, and we believe that they come explicitly within the terms of Section 124-A of the Indian Penal Code. Under these circumstances we dismiss the application with costs. We fix the cost at Rs. 300.