

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No.836/2020

ASHWINI KUMAR UPADHYAY

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

([FOR DIRECTIONS])

IA No. 68555/2022 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 68563/2022 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 68559/2022 - INTERVENTION/IMPLEADMENT

IA No. 68551/2022 - INTERVENTION/IMPLEADMENT)

WITH

T.C.(C) No. 21/2022 (XVI-A)
(FOR ADMISSION)

T.C.(C) No. 23/2022 (XVI-A)

T.C.(C) No. 24/2022 (XVI-A)
(FOR ADMISSION)

Date : 10-05-2022 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE M.M. SUNDRESHFor Petitioner(s) Mr. C.S. Vaidyanathan, Sr. Adv.
Mr. Ashwini Kumar Upadhyay, Petitioner-in-person
Mr. Kapish Seth, Adv.
Mr. Aniruddh Singh, Adv.
Ms. Deepika Kalia, Adv.
Mr. Ashwani Kumar Dubey, AORFor Respondent(s) Mr. Tushar Mehta, SG
Ms. Kanu Agrawal, Adv.
Mr. Chinmayee Chandra, Adv.
Mr. Sourav Roy, Adv.
Mr. Amrish Kumar, AOR

Mr. Raj Bahadur Yadav, AOR

Ms. Neha T. Phookan, Adv.
Mr. R. B. Phookan, Adv.
Mr. Gautam Talukdar, AORMr. Nishanth Patil, AOR
Mr. Prakhar Srivastava, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The petitioner points out by reference to counter affidavit filed on 28.3.2022 more specifically paragraph 11 that while referring to religious and linguistic minorities spread all over the Country it has been stated that a religious group that is majority in one State may be in minority in another State. The question which was posed was whether the Parliament or the State Legislature has the exclusive power to legislate on matters pertaining to minority communities and to protect their interest in accordance with the constitutional guarantees. In this behalf it is stated that the Parliament and the State Legislature have concurrent powers to enact law to provide for the protection of minorities and their interests.

On the other hand the petitioner contends that the State would have no such power and also relies upon the judgment of Allahabad High Court in Civil Misc. Writ Petition No.34892 of 2004 titled *"Committee of Management, Anjuman Madarsa Noorul Islam Dehra Kalan Ghazipur through its Manager Vs. State of U.P. through Secretary Minority Welfare and Waqf Department U.P. Lucknow"* dated 05.4.2007.

Another counter affidavit has been filed now by respondent No.3 which seems to back out of what was stated earlier, something we do not appreciate. It is now sought to be stated that the question involved in this writ petition has far reaching ramifications throughout the Country and therefore any stand taken without detailed deliberations with stakeholders may result in unintended complications throughout the Country. We would only say

that stand has already been taken in the first affidavit but as in paragraph 7 of this fresh affidavit it is now stated that the power is vested with the Central Government to notify minorities, something which the petitioner has contended, issues raised will be finalized after having a wide consultation with the State Governments and other stakeholders.

The aforesaid being the position, the necessary exercise be undertaken by the Central Government as proposed.

List for further directions on 30th August, 2022.

Status report to be filed at least 3 days before the next date.

I.A. No.68559/2022 & IA No. 68551/2022- INTERVENTION/IMPLEADMENT

These applications are filed by socio, religious and cultural organization "Sein Raij", and "Seng Khasi" a Society registered under the Societies Registration Act. It appears that these organisations have something to say about the position of minorities in Meghalaya. That being the position, they may make necessary representations to the concerned authorities for consideration and we would not like to expand the scope of the present petition by inviting one and all into these proceedings.

Applications stand dismissed with the aforesaid liberty.

(RASHMI DHYANI)
COURT MASTER

(POONAM VAID)
COURT MASTER