

**2023 LiveLaw (SC) 405**

**IN THE SUPREME COURT OF INDIA**

**K.M. JOSEPH; J., B.V. NAGARATHNA; J.**

**Writ Petition (Civil) No. 943/2021; 28-04-2023**

**ASHWINI KUMAR UPADHYAY *versus* UNION OF INDIA & ORS.**

**Hate Speech - Supreme Court directs all States/UTs to register *suo motu* FIRs in offences such as Section 153A, 153B, 295A and 506 of IPC etc, without any complaint being filed - Action be taken irrespective of the religion of the maker of the speech, so that the secular character of Bharat as envisaged by the Preamble is preserved.**

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**ORDER**

All the intervention / impleadment applications allowed.

Learned counsel for the petitioner in W.P. (C)No. 940/2022 requests that the State and the Union Territories which were not made parties may also be impleaded and similar order which has been passed on 21.10.2022 may be passed. Petitioner has also placed before us an Interlocutory Application which it would appear has not yet been numbered.

We direct that in writ petition, persons shown as Additional Respondent Nos. 9 to 36 in I.A. (unnumbered) be added as additional respondents in the writ petition.

Respondent Nos. 9 to 36 shall ensure that immediately as and when any speech or any action takes place which attracts offences such as Sections 153A, 153B and 295A and 505 of the IPC etc., suo motu action will be taken to register cases even if no complaint is forthcoming and proceed against the offenders in accordance with law.

Respondent Nos.9 to 36 will therefore issue direction(s) to their subordinates so that appropriate action in law will be taken at the earliest. We make it clear that any hesitation to act in accordance with this direction will be viewed as contempt of this Court and appropriate action will be taken against the erring officers.

We further make it clear that such action will be taken irrespective of the religion that the maker of the speech or the person who commits such act may profess, so that the secular character of India, that is, Bharat as is envisaged by the Preamble, is preserved and protected.

Issue notice to all the proposed respondent Nos. 9-36.

Petitioner will take out notice to all the additional respondents.

Mr. S. V. Raju, learned Additional Solicitor General would submit that in CONMT.PET.(C) No. 776/2023 in W.P.(C) No. 940/2022, counter affidavit has been filed in the matter but the learned counsel for the petitioner would point out that the copy of the same has not been served on the petitioner.

In fact the copy of the counter affidavit is not placed before the Court.

Copy of the counter affidavit be served on the counsel for the petitioner and the Registry to put up the same by the next date of hearing.

Place these matters for further consideration on 12<sup>th</sup> May, 2023.

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