

225 CWP No.25291 of 2019 (O&M)

Colors TV and others Vs. State of Punjab and ors.

Present:- Mr.Vikas Bahl, Senior Advocate with
Mr. Abhinav Sood, Advocate,
Mr. Jay K. Bhardwaj, Advocate,
Ms. Madhu Godadia, Advocate,
Ms. Priya D. Arora, Advocate
Ms. Swati Singh, Advocate and
Mr. Shekhar Kaumar, Advocate for the petitioners.

Ms. Rameeza Hakeem, Addl. AG, Punjab,

This is a fixed today matter. Hearing has been afforded at 4.50
P.M.

The instant writ petition is directed against the orders dated 6.09.2019 placed on record at Annexure P-1 and Annexure P-2 (colly) issued by the District Magistrates Kapurthala, SBS Nagar and Amritsar suspending the exhibition of the TV serial 'Ram Siya Ke Luv Kush' which has been directed, conceptualized, produced and being telecast by the petitioners herein.

Perusal of the impugned orders would reveal that the directions to suspend the exhibition of the TV serial afore-noticed is in purported exercise of the powers conferred by Section 19 of the Cable Television Network (Regulations) Act 1995 (hereinafter to be referred to 1995 Act).

Learned Senior counsel would submit that the impugned directive has been issued purportedly on the basis that there is a large population of SC/Valmiki community in the Districts and resentment is prevalent amongst them over the screening of the serial as leaders of the community are alleging that the serial is portraying wrong facts about Bhagwan Valmiki Ji and is hurting their religious sentiments. In the impugned order it has also been recorded that a memorandum has been

submitted by the members of the SC/Valmiki community demanding action against the persons responsible for distorting the history of Valmiki Ramayana.

While assailing the impugned orders the following contentions *inter alia* have been raised:-

- i. It is vehemently contended that prior to issuance of the impugned orders no opportunity of hearing had been granted to the petitioners. It is urged that if an opportunity of hearing had been granted, the petitioners would have satisfied the District Magistrate concerned that every care had been taken as regards not distorting the image of any of the characters portrayed in the serial and rather same is based on the actual text of the original version of the epic i.e.Sri Madavalmikiya Ramayana. Non-adherence to the principles of natural justice as such has been asserted.
- ii. It has been argued that for exercise of powers under Section 19 of the 1995 Act it was imperative for the competent authority to have considered the entire issue and after independent application of mind and only upon having gone into the veracity of the allegations raised by the members of the SC/Valmiki community that any view could have been formulated that it was necessary and expedient to ban the telecast of the serial in public interest. It is argued that from a plain reading of the impugned orders it is clear that only the memorandum and complaints filed by the SC/Valmiki community has weighed with the authority and there has been a mere reproduction of the language of Section 19 of the 1995 Act to the detriment of the petitioners.

iii. Learned Senior counsel has further brought to the notice of this Court that based upon the allegations made by certain members of the SC/valmiki community as regards the role of Bhagwan Valmiki Ji being incorrectly depicted and telecast in the serial, FIR No.092 dated 23.08.2019 under Section 295-A IPC was registered at Police Station Division No.4, Jalandhar City. It is submitted that three of the petitioners herein preferred a quashing petition under Section 482 Cr.P.C. i.e.CRM-M-35547 of 2019 which came up for preliminary hearing before this Court on 29.08.2019 and while issuing notice of motion returnable for 28.01.2020 and staying further proceedings against the petitioner therein the following order was passed:-

“Rahul Kumar Tewary and others versus State of Punjab and anr.

*Present: Mr. R.S.Rai, Sr. Advocate with
Mr. Abhinav Sood, Advocate,
Mr. Jay K.Bhardwaj, Advocate,
Ms. Priya D.Arora, Advocate and
Ms. Swati Singh, Advocate
for the petitioner(s).*

It is contended by learned counsel for the petitioners that even though there is disclaimer at the start of the every episode of serial being produced by the petitioners, however, the petitioners are taking every care that any fact depicted in the serial does not distort the image of anyone of the characters mentioned in the original epic. The alleged offending portion does find mention in Sri Madavalmikiya Ramayana. Therefore, the alleged offending portion is based upon actual text of the original version of the epic, without any addition or subtraction

CWP No.25291 of 2019 (O&M) -4-

on the part of the producer of the serial. Therefore, there is no scope for there being any intention on the part of the petitioners; to deliberately offend any sentiments of any segment of the society. Rather the petitioners are making an effort to propagate the epic as is mentioned in the scripture itself. Hence, the FIR has been concocted on non-existent facts.

Notice of motion for 28.01.2020.

It is further ordered that till next date of hearing only, further proceedings against the petitioners shall remain stayed.

29th August, 2019
Shivani Kaushik

[RAJBIR SEHRAWAT]
JUDGE

iv. yet another argument pressed by Senior counsel against the impugned orders is that the directive to ban the telecast has been extended even to the DTH Operators (Direct to Home) and the same cannot sustain by virtue of exercise of powers under Section 19 of the 1995 Act.

Notice of motion returnable for 12.09.2019.

Ms. Rameeza Hakeem, Addl. AG, Punjab, accepts notice on behalf of respondent No.1 and 3 to 24 and waives service. Five complete sets of writ paper-book be furnished to learned State counsel today itself.

While pressing for interim directions learned Senior counsel submits that the petitioners would be open to enter into a dialogue with respondent No.1 so as to examine the issue threadbare and if need be to omit certain scenes which portray the role of Bhagwan Valmiki Ji.

CWP No.25291 of 2019 (O&M) -5-

Learned State counsel is requested to complete instructions in the matter and particularly with regard to the offer that has been recorded on behalf of the petitioners.

Process dasti for effecting service upon respondent no.2.

Prayer made by Senior counsel to stay operation of the impugned orders is declined at this stage.

To be taken up immediately in the post lunch session at 2.00 P.M.

**(TEJINDER SINGH DHINDSA)
JUDGE**

September 09, 2019
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