

THE HIGH COURT OF SIKKIM : GANGTOK
(Civil Extra Ordinary Jurisdiction)

Dated: 12th September, 2019

SINGLE BENCH : THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

I.A. No. 14 of 2019
in
W.P.(C) No. 49 of 2017

1. Sri Guru Singh Sabha, a society, registered under the West Bengal Societies Registration Act, 1961, having its office within the Gurudwara premises at Guru Nanak Sarani, Sevoke Road, Siliguri, Post Office and Police Station, Siliguri, District Darjeeling, Pin No. 734001 in the State of West Bengal, herein represented by its Secretary Sardar Dalbinder Singh, Son of Late Pritam Singh residing at 274 Nivedita Road, Pradhan Nagar, District Darjeeling, having its office within the Gurudwara premises on behalf of Shiromani Gurudwara Prabandhak Committee, Sri Amritsar Sahib Punjab.

2. Amritpal Singh Khalsa,
R/o 201 - 2, Pleasure Park,
Opposite Pinto Park,
O.T. Section,
Ulhasnagar - 421003.

..... Petitioners

versus

1. State of Sikkim,
Through the Chief Secretary,
Ecclesiastical Department,
Government of Sikkim,
Old Secretariat Building,
Church Road,
Gangtok,
Pin - 737101.

2. The District Collector,
North,
Mangan,
North Sikkim,
Pin - 737116.

Shri Guru Singh Sabha & Another vs. The State of Sikkim & Others

3. The Sub-Divisional Magistrate,
Chungthang,
North Sikkim,
Pin – 737120.
4. The Lachen Dzumsa,
Lachen,
North Sikkim,
Pin – 737120.
5. The PCCF-cum-Secretary,
Forest, Environment & Wildlife Management Department,
Government of Sikkim.

..... Respondents

**Application for live telecast and video recording of the
Court proceedings of the Writ Petition.**

Appearance:

Mr. Ritesh Khatri, Dr. Navin Barik, Mr. Sandeep Majumdar and
Mr. Bhaskar Moitra, Advocates for the Petitioner.

Mr. Amritpal Singh Khalsa, Applicant in person.

Mr. Brijinder Singh Loumba and Mr. Simranjit Singh, Advocates
for Mr. Ajmer Singh Randhawa, Applicant in I.A. No. 05 of 2017.

Mr. Vivek Kohli, Advocate General and Dr. Doma T. Bhutia,
Additional Advocate General with Mr. Thupden Youngda,
Government Advocate, Mr. S.K. Chettri, Assistant Government
Advocate and Ms. Rita Sharma, Advocate (Forest Department)
for the State-Respondents No. 1,2,3 and 5.

Mr. Jorgay Namka and Ms Tashi Doma Sherpa, Advocates for the
Respondent No.4.

ORDER

Bhaskar Raj Pradhan, J.

- 1.** Amritpal Singh Khalsa, the Applicant herein, has filed
the present application seeking a prayer to direct the
Registry/Computer Cell of this Court to telecast live proceedings of

the Writ Petition on the website of this Court. The Application seeks further direction upon the Registry/Computer Cell of this Court to cause audio-video recording of the writ proceedings and furnish copies of it for his record.

2. The Applicant herein was impleaded by this Court. However, his status as the Petitioner No.2 or as a Respondent is yet to be decided in view of Application No. 15 of 2019, filed by the original Petitioner. As the Registry has amended the cause title and chosen to reflect him as the Petitioner No.2 until the decision in the said Application, the status quo on the cause title is maintained.

3. The Applicant submits that Sikhs all over the world are interested in the hearing of the writ petition and there cannot be an issue of more greater importance of public interest or concern than the present case. It is averred that video recording of the case would mean the entire proceedings being perpetually available for posterity. If the proceedings are allowed to be telecast, millions of followers of Shri Guru Granth Sahibji, Guru Nanak all over the world, will have the opportunity to hear and watch what transpired in the Court.

4. The Applicant seeks to rely upon the judgment of the Hon'ble Supreme Court in ***Re: Swapnil Tripathy vs. Supreme Court of***

India¹. It is the Applicant's case that the law laid down by the Supreme Court is squarely applicable in the present case.

5. The original writ Petitioner submits that the Applicant has not taken its consent. Learned counsel for the original Petitioner submits that, in fact, he opposes the Application.

6. The Respondent No.1 has filed a reply to the said Application. The Respondent No.1 objects that the Application is not maintainable on various grounds including the fact that although directions have been sought against the Registry of this Court, it being a necessary party, has not been impleaded. In the said reply, it is also contended that the Supreme Court in **Swapnil Tripathy** (supra), has categorically stated that live streaming of Court proceedings is recommended only as a pilot project for Court Room No.1 and only on Constitutional Bench references. The Respondent No.1 also avers that the Supreme Court has emphasized on laying down guidelines to safeguard and limit the broadcasting of recording of all Court proceedings. It is submitted that in sensitive cases which has the tendency to provoke sentiments and arouse passion and enmity among communities, it is not advisable. The present case is a sensitive one from the point of national security as there is every likelihood of provoking enmity between local tribal people living in the border areas of North Sikkim and the Applicant's community.

¹ (2018) 10 SCC 639

7. While the Applicant reiterated his averments in the Application during the hearing, the learned Advocate General vehemently objected to the grant of the prayer as sought for by the Applicant and in fact, cautioned the Court of the mischief the Application sought to achieve.

8. The learned counsel for the Respondent No.5 also submitted that there was no requirement for live streaming or video recording of the present proceedings as the Court is an open Court and there has been no restrictions imposed.

9. The Applicant has also filed a rejoinder to the reply filed by the State. He objects to the fact that the Additional Director of the Ecclesiastical Affairs Department, Government of Sikkim, has objected to his Application, although, it ought to have been the Home Department to do so, as it is the department which is concerned with the security of the state.

10. Heard the respective counsel. This Court has perused the application, the reply and the rejoinder.

11. Although the Applicant has sought all the prayers against the Registry/Computer Cell of this Court, the Registry or the Computer Cell of this Court has not been made a party to the present proceedings. The Applicant has made a submission that Sikhs all over the world are interested in hearing the writ petition.

The Application states that the Applicant is a first generation lawyer only. Besides the averment, the Applicant has not divulged any further about his knowledge that Sikhs all over the world are interested in hearing about the writ petition.

12. In *re: Swapnil Tripathy* (supra) was a case in which the petitioners and interventionists had sought a declaration that the Supreme Court case proceedings of "*constitutional importance having an impact on the public at large or a larger number of people*" should be live streamed in a manner that is easily accessible for public viewing. Further direction was sought to frame guidelines to enable the determination of exceptional cases that qualify for live streaming and to place those guidelines before the Full Court of the Supreme Court.

13. The Supreme Court held that publication of Court proceedings of the Supreme Court is a facet of the status of the Supreme Court as a Court of record by virtue of Article 129 of the Constitution and live streaming of Court proceedings in the prescribed digital format would be an affirmation of the constitutional rights bestowed upon the public and the litigants in particular. While doing so, regard must be had to the fact that just as the dignity and majesty of the Court is inviolable, the issues regarding privacy rights of the litigants or witnesses as also other exceptional category of cases of which live streaming of proceedings may not be desirable as it may affect the cause of administration of

justice itself, are matters which needs to be identified and a proper regulatory framework must be provided by formulating rules.

14. The Supreme Court agreed with the comprehensive guidelines for live streaming of Court proceedings in the Supreme Court suggested by the learned Attorney General for India. Detailed directions were thereafter passed on the project of live streaming of the Supreme Court in phased manner. To begin with, only a specified category of cases of constitutional and national importance being argued for final hearing before the Constitutional Bench was to be live streamed as a pilot project. Prior consent of all the parties to the proceedings was required to be insisted upon. The discretion by the Court was to be final, non-justiciable and non-appealable. Guidelines of how that discretion should be exercised were also laid down.

15. So far as proceedings in the High Court are concerned, the Supreme Court held that the Chief Justices of the High Courts should be commended to consider the adoption of live streaming both in the High Courts and in the district judiciaries in phases, commensurate with available resources and technical support. It was held that the High Courts would have to determine the modalities for doing so by framing appropriate rules.

16. As the Applicant has failed to implead the Registry of this Court which was a necessary party, this Court is of the opinion

that his Application does not merit any further consideration as no compelling public interest of this particular case to be live streamed immediately has been projected by the Applicant which would persuade this Court to give priority to the present case to be live streamed as sought for even before the Hon'ble Chief Justice considers the adoption of live streaming and this Court lays down proper rules and guidelines as commended by the Supreme Court.

17. The Application is rejected.

18. I.A. No. 14 of 2019 stands disposed of accordingly.

(Bhaskar Raj Pradhan)
Judge
12.09.2019

Approved for reporting : **Yes**
Internet : **Yes**

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