

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

TUESDAY, THE 14TH DAY OF JULY 2020 / 23RD ASHADHA, 1942

WP(C).No.24775 OF 2018(S)

PETITIONER:

DASAN, AGED 55 YEARS
S/O. AYYAPPAN, KOCHIKAPARAMBIL HOUSE, KOOLIMUTTOM,
THRISSUR - 680691, KERALA.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

- 1 UNION OF INDIA
REP. BY THE SECRETARY TO THE GOVERNMENT,
MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI - 110 001.
- 2 THE JOINT SECRETARY, ADMINISTRATION,
MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI-110 001
- 3 THE JOINT SECRETARY (CNV) & CHIEF VIGILANCE OFFICER
MINSITRY OF EXTERNAL AFFAIRS, NEW DELHI - 110 001
- 4 MR. SANJIV ARORA, AMBASSADOR OF INDIA TO LEBANON AND
FORMER AMBASSADOR OF INDIA TO QATAR, NOTICE TO BE
SERVED THROUGH THE MINISTRY OF EXTERNAL AFFAIRS,
NEW DELHI - 110 001.

SRI.S.BIJU, CGC, FOR R1 TO R3
R1-3 BY ASSISTANT SOLICITOR GENERAL
R4 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR
R4 BY ADV. SRI.K.JOHN MATHAI
R4 BY ADV. SRI.JOSON MANAVALAN
R4 BY ADV. SRI.KURYAN THOMAS
R4 BY ADV. SRI.PAULOSE C. ABRAHAM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
14.07.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 14th day of July, 2020

S.Manikumar, C.J.

Instant Public Interest Litigation is filed seeking the following reliefs:

- “i) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents 1 to 3 to take action against the fourth respondent for the insult which he had perpetrated of the Indian National Flag as enumerated by the petitioner, within the shortest span of time, in the interest of justice.
- ii) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 1st respondent to see that any official manning any post or in any position should follow the Flag Code 2002, in the matter of respecting the National Flag, and in violation of the same nothing should be done and action should be perpetrated if any violations are detected, in the interest of justice.”

2. Short facts leading to the writ petition are as hereunder:

The fourth respondent herein is presently the Ambassador of India to Lebanon at Beirut. While he was officiating as the Ambassador of India to Qatar, he repeatedly insulted the Indian National Flag in his official capacity as Ambassador of India, during three separate

official ceremonies hosted by him on behalf of the Government of India, by cutting the cake which was decorated with Indian National Flag, with a sword in the presence of high ranking officials of the host country, the foreign dignitaries and the Indian Government officials including top Indian Defence officials and prominent Indian nationals residing at Qatar. He also gave wide publicity to this heinous act thereafter by publishing the photographs and having news briefs of the events in several local newspapers and also in whatever manner possible by highlighting the incident in other media including the official website and face book page of Embassy of India, Doha (Qatar) by putting these photographs in which he was cutting the cake decorated with Indian National Flag into pieces by a sword along with host country's representative. He had also used this photograph in the form of a new year greeting from his side in the year 2015 and sent it to foreign Ambassadors accredited to Qatar and also to other Senior Government officials of Ministry of External Affairs, New Delhi and his other acquaintances in India and abroad in his official capacity as Ambassador of India to Qatar. This is clear case of violation of the Flag Code of 2002, as also the statutory provisions, namely the Prevention of Insult to

the National Honour Act, 1971. The petitioner in public interest, after noticing this insult, had lodged several complaints and for the past more than three years he has been running from pillar to post for getting justice by taking stringent disciplinary action against the fourth respondent for the heinous crime committed by him, which has brought disgrace to the whole of India in a foreign land, that too by the highest officiating representative of the country. So far nothing has happened. Instead of initiating action against the fourth respondent, he was posted as India's Ambassador to Lebanon at the end of his tenure in Qatar presumably ignoring this gruesome crime committed by him by the concerned quarters of Ministry of External Affairs, New Delhi. Left with no other options, the petitioner approaches this court to uphold the dignity and honour of the National Flag, by filing the instant writ petition.

3. The 4th respondent has filed a counter affidavit dated 25.7.2019, the relevant paragraphs of which are extracted hereunder:

“11. As regards the alleged incident on board the Indian Coast Guard Ship 'Vijit' in Qatar, the 4th respondent wishes to submit the following facts:

a. The reception held on board the Indian Coast Guard Ship ICGS Vijit was during the friendly visit of

this ship to Doha Port in December, 2014;

b. The reception was attended by large number of invited guests including Qatari dignitaries, Heads of Mission and other diplomats, media and representatives of the Indian community;

c. In the framework of the excellent relations between India and Qatar and keeping in view that the ICGS Vijit had arrived close to the National Day of Qatar, the visit was projected as taking place in conjunction with the celebrations of National Day of Qatar, and not a New Year celebration as contended by the petitioner;

d. As is the case during the foreign visits of the ships of Indian Navy and Coast Guard, the entire arrangements were made by the officers and crew of the ship under the supervision of the Commanding Officer. Arrangements for National Day Receptions and other Embassy functions are made by Embassy officials, and the Ambassador does not get involved in the minute and finer details of the arrangements for these events;

e. As per local custom, practice and protocol in Qatar, the cutting of ceremonial cake with decorative pictures of National Flags invariably takes place on several official occasions, including National Day Receptions and Receptions held on board visiting ships. In Qatar, such ceremonial cakes, which are symbolically cut by the Ambassador of the country concerned and the highest ranking dignitary present on the occasion are invariably catered by the Diplomatic Club run by the Ministry of Foreign Affairs of Qatar. These ceremonial cakes are symbolically cut

with traditional ceremonial swords. The so called 'cutting' is more of a gentle and discreet touching of the sword and not cutting in the literal sense. Similar customs and practice and protocol prevail in a large number of other countries;

f. As a part of the arrangements made by the officials of the Indian Coast Guard Ship ICGS Vijit for the said Reception on-board, immediately after formal remarks by the Commanding Officer of the ship and this respondent, as per the customs, practice and protocol prevailing in the host country of Qatar, the ship officials brought a ceremonial cake, with decorative pictures of National Flags of India and Qatar and requested this Respondent as well as the senior-most Qatari Defence official present on the occasion to cut it with the ceremonial swords;

g. As an Indian citizen who has always shown highest respect for the National Flag and as a seasoned diplomat representing India as Ambassador in the name of the Hon'ble President of India, this Respondent was extremely careful even with the decorative pictures (which is like icing on the cake) of the two Flags and ensured that the sword did not touch either the Indian National Flag or the Qatari National Flag. Likewise, the Qatari National Flag was also careful in this regard. Therefore, the cake was not cut into pieces, as wrongly and preposterously alleged by the petitioner. It is incontrovertibly clear that this action was in no way a violation of the Flag Code of India 2002 or of the Prevention of Insults to National Honour Act, 1971;

h. The ceremonial cake was taken away by the

ship officials immediately after the symbolic and dignified ceremony mentioned above, and was not served as a part of the buffet arranged by them;

i. The visit of ICGS Vijit including the reception held on-board, was very successful. It further increased the awareness of the capabilities of the Indian Coast Guard among the Government and the people of Qatar, and made positive contribution to further strengthening the historic friendly relations and multi-dimensional co-operation between India and Qatar;

j. As regards invitations, it is customary to send these in the name of the Ambassador and the Commanding Officer of the visiting ship for Receptions held on-board visiting ships, and in the name of the Ambassador for National Day Receptions of the Embassy;

k. The allegation of the petitioner that this respondent arranged publicity of pictures of the ceremonial cake cutting is totally baseless and denied. The pictures are taken by the media journalists / photographers and other photographers present on such occasions. In any case, the pictures at these events highlight the friendly relations and co-operation between India and the host country, and it is unethical for the petitioner to characterise such pictures as anti-national or impute any negative motives for their publicity;

l. As regards the allegation that the picture of the cutting of ceremonial cake on board ICGS Vijit was used as a New Year greeting, it is common in Embassies/Consulates abroad to have a picture of one

or more important event during the year as an E-greeting for the New Year. This is in line with Government advisories to use E-greetings and also highlight important events/activities. The E-greetings are prepared and publicised by junior officials, all of whom take actions in a positive and patriotic spirit.”

4. The petitioner has filed a reply affidavit dated 27.9.2019 to the counter affidavit filed by the 4th respondent, relevant portions of which read thus:

“12. The statement of Respondent 4 under para 10 and 11 are nothing but a feeble face-saving attempt to cover up the gruesome crime committed by him. The statement that he do not recall the other two incidents, the cake cutting ceremonies held on 26 January, 2013 and 25 February, 2013 (The Republic Day Celebrations and Visit of Indian Coast Guard Ship "Samudra" to Qatar) is not acceptable. The statement of Respondent 4 that he is not able to recall the similar previous incidents may due to the fact that the Respondent 4 could be suffering from retrograde amnesia. However it is consoling fact that he even remembers the finer details of incidents happened during the visit of Indian Naval Ship "ICGS Vijit" to Doha Qatar. The photographs of alleged insult of Indian National Flag during the Republic Day Celebrations in 2013 and during the visit of Indian Coast Guard Snip "Samudra" in February 2013 were downloaded from the official website of Embassy of India, Doha Qatar and not fabricated by the Petitioner using any software applications. Regarding the

statement of Respondent 4 under para 11 (sub-paras a-l) on the alleged incident on board of the Indian Cost Guard Ship ICGS Vijit, the Petitioner would like to submit the following facts.

a. The Petitioner miss-took it as a New Year celebration as the photograph of the alleged incident was posted on the official website of the Embassy of India, Doha, Qatar as a New Year Greetings from the Respondent 4 as Ambassador of India to Qatar. This was not deliberate.

b. The arrangements for National Day Receptions and other Embassy functions are made by Embassy officials and the Ambassador does not get involved in the minute and finer details of these events is to camouflage the responsibility of the Respondent 4 as Ambassador and he has done the same in the case No.4530/2017 filed by him at Central Administrative Tribunal (CAT), New Delhi. The Petitioner would like to state that it is the prime responsibility of the Ambassador to oversee that no such alleged incidents questioning the integrity and Sovereignty of country be taken place at the National Day and other Embassy functions and he cannot wash his tainted hand by merely passing on the responsibility to subordinates.

c. The statement of Respondent 4 that it is customary in Qatar to use ceremonial cake with decorative pictures of National Flags and is invariably used on several official occasions is miles far from reality and truth. The Petitioner admits that cakes are used such occasions, but it is not customary to have decorative Respondent 4 as Ambassador of India to Qatar, on two

more pictures of National Flags as icing on the cake. During the stint of Respondent 4 as Ambassador of India to Qatar, on two more Occasions Indian Naval Ships paid goodwill visits to Qatar after the alleged incident. In September, 2015 the Indian Navy Ship "INS Delhi" visited Qatar and a cake cutting ceremony was held on the board of the ship. In this photograph, the Hon'ble Court may kindly note that there is no decorative picture of the Indian National Flag on the ceremonial cake being cut. Similarly another Indian Naval Ship "Beas" paid a goodwill visit to Qatar in March-April 2016 again during the stint of Respondent 4 as Ambassador of India to Qatar. During the visit, as before a cake cutting ceremony was held on the board of the ship. This Hon'ble Court may kindly see that in this picture also there is no decorative picture of the Indian National Flag on the ceremonial cake being cut. To further buttress his statement the Petitioner would like Submit yet another picture of cake cutting ceremony held on board of Indian Naval Ship "Tarangini" during a visit to Qatar in December 2018. In the picture the present Ambassador of India to Qatar Mr. P. Kumaran is cutting the ceremonial cake along with other dignitaries present on the occasion and the Hon'ble court may note that there is no decorative picture of the Indian National Flag on the ceremonial cake. To cement his claim the petitioner would like to submit two more picture of similar functions held in Qatar for the consideration of the Court. Both the events were related to the visits of Pakistani Naval Ships in November 2014 and March 2015 and the ceremonial cakes used on the occasions

does not have Pakistani National Flag as decoration. It may be noted that the miniature of Qatari and Pakistani flags have been kept separately on the dais of the ceremonial cakes. The Petitioner would like to state that even for mere arbitration the act of the Respondent 4 cannot be taken for granted in any circumstances as it is clear abuse of the National Flag using it as decorative picture on the ceremonial cake and cut the same in the presence of public comprising dignitaries of the host country, foreign Ambassadors of other nations accredited to Qatar and high ranking Indian Defence personnels and other prominent Indians. The Petitioner can vouch safe that none of the former Ambassadors of India to Qatar (predecessors of Respondent 4) have never ever done this gruesome crime during their stint in Qatar and if required by the Hon'ble Court, the Petitioner is ready to provide ample evidence to prove his claim.

d. The statement by Respondent 4 that he was extremely careful even with decorative pictures (which is like icing on the cake) of the two Flags and ensure that the sword did not touch either the Indian National Flag or the Qatari National Flag is totally wrong. The sword held by the Respondent 4 and the Qatari dignitary was clearly on the Indian National Flag and not on the Qatari flag in the picture which was submitted as exhibit along with the writ petition and is again submitted for the convenience of the Hon'ble Court. The picture clearly states the motives of the Respondent and Qatari dignitary is to disfigure and distort the Indian National Flag into pieces. The action of the Respondent is a clear violation of the

Flag Code 2002 and of the Prevention to Insults to National Honour Act, 1971. Hence his statement that he ensured that the sword did not touch either the Indian National Flag or Qatari National Flag may be sarcastically compared to the confession of a murder convict that he has not inflicted any pain to the victim while committing the act of killing. Again it is an ironic statement by the Respondent 4 that the ceremonial cake was taken away immediately and was not served as part of the buffet. In every such functions official or private the ceremonial cake used for the function is cut into pieces and served to guests attending the function along with the food or separately and a mere statement that it was not served may be condoned considering his earlier statement that the Ambassador does not get involved in the minute and finer details of for arrangements of the National Day Receptions and other functions held under the aegis of the Embassy.

e. With regard to the statement of Respondent 4 on New Year E-greetings, the Petitioner would like to state that the mentioned E-greetings were sent in his official and personal capacity and not as a greeting from Embassy of India as his name was mentioned above his designation and it is ultimately the responsibility of the Respondent 4 to scrutinize and approve the content of the greetings before being sent and passing the responsibility to junior officials stating that E-greetings are prepared and publicized by junior officials be condoned.”

5. Respondents 1 to 3 have filed a counter affidavit dated

9.8.2019, relevant paragraphs of which are as hereunder:

“11. The averment made in Para 2 of the Writ Petition is denied to the extent that the cake on which picture of the National Flag was embossed was not cut into pieces by Respondent No.4, as claimed by the petitioner. The 4th respondent, in his letter dated 19.07.2015, has submitted that he was very careful in cutting the cake, ensuring that the sword did not touch either the Tricolour or Qatar's National Flag. The Qatari dinitary was also careful in this regard. Respondent No.4 also stated the cake was taken away immediately after this dignified ceremony and was not served as a part of the buffet. However, the submission made by Respondent No.4 was not found convincing and a non-recordable warning was issued to him by Respondent No.3, with the approval of Respondent No.1 because the Flag Code of India and the Preention of Insults to National Honour Act, 1971 prevents and prohibits burning, mutilating, defacing, defiling, disfiguring, destroying, trampling upon or otherwise showing disrespect to the Indian National Flag in any public place or in any other place within public view. Respondent No.1 & 3 after taking into consideration, the full facts of the case came to the conclusion that although the cake in the shape of the National Flag was not arranged by Respondent No.4, he could have avoided its cutting and inform the Ministry of the reasons of his decision. Instead, he went ahead and cut the cake, thus acting in violation of Government of India's instructions on the subject. While issuing him a non recordable warning, Respondent No.4 was directed to refrain from any

action that leads to an insult of the Indian National Flag and any further misconduct of this nature on his part would be liable to attract disciplinary action against him. Remaining submissions made in this paragraph, such drawing attention towards the provisions of Flag Code of India, 2002, "The Prevention of Insults to National Honour Act, 1971", are statements of facts.

12. In response to paragraphs 3 to 7 of the Writ Petition, the submission made in Para 3 to 9 of the counter affidavit is reiterated. It is admitted that following this incident an advisory was circulated to all Indian Mission/Post abroad and amongst all Head of Dept. at Headquarters by respondent No.2, vide e-gram No.JSAD14052015-01 dated 14.05.2015. It is further submitted that the information sought by the petitioner vide his RTI application dated 24.4.2015, was denied as the information sought by him does not fall in the category of information as defined under Section 2(f) of RTI Act, 2005".

6. The petitioner has filed a reply affidavit dated 4.12.2019 to the counter affidavit filed by respondents 1 to 3, relevant paragraphs of which are extracted hereunder:

"7. The expected course of action by Respondent 3 in the matter of repeated Flag Code violations questioning sovereignty and integrity of India by the Respondent 4 was an interim directive of calling him back from the post he held as Ambassador of India to Qatar and simultaneously initiating an Impartial and detailed enquiry on the

alleged incidents. This never Happened, instead the Respondent 4 was allowed to continue in the post of Ambassador of India to Qatar till October 2016 and after that he was again posted as Ambassador of India to Lebanon and then bestowed the post of Secretary (CPV & OIA) at Ministry headquarters in New Delhi. Considering the above facts in the wake of gruesome offences committed by Respondent 4, the petitioner is compelled to believe that the proceeding followed by Respondent 1 to 3 in the matter lacked the necessitous diligence, deterrent vigilance and perseverance. However, it is consoling that the Respondents 1 to 3 are also of the opinion of the Petitioner that the alleged acts of Respondent 4 were not in accordance with the Flag Code Act 2002 and prevention of Insult to the National Honour Act, 1971. With regard to the statement of Respondents 1 to 3 under para 11, the Petitioner would like to state that the findings of above Respondents that 'after taking into consideration, the full facts of the case Respondents 1 & 3 came to the conclusion that the cake was not arranged by Respondent 4' is peremptory to the situation. The Commanding Officer (CO) and crew members of the ship are on board officials who totally depend the Embassy including arrangements made for onboard reception. It is the Embassy and the Ambassador who does the liaison work with the host government and other related entities in coordinating the visit including permission to visit the host country, official meetings with

counterparts and other ceremonial events such as onboard reception etc. Hence the statement of Respondent 4 that it was the CO and the other onboard defence officials did the arrangements for onboard reception including the cake decorated with Indian and Qatari National Flags is not correct and is with the intention of evading from his responsibility as Ambassador who was the host of the event held onboard. Moreover the Petitioner would like to state that the Respondent 4 had done the same offence earlier also. During the Indian Republic Day Reception held on 26th January 2013 where no other entity other than the Embassy and the Ambassador were involved in the arrangements of the function where a ceremonial cake decorated with Indian National Flag was cut with Sword by the Respondent 4 and also at the onboard reception held during the visit of Indian Coast Guard Ship "Samudra Prahari" on 25 February 2013. The Statement of Respondent 1 to 3 under para 8 that the submission of the non-recordable warning issued to him is not to be withdrawn is totally contradictory as the Respondent 4 was later elevated to Grade-I when the respondent was found unconvincing and a decision was taken on the file that non-recordable warning issued to him is not to be withdrawn is totally contradictory as the Respondent 4 was later elevated to Grade-I when the decision of non-withdrawal was on the file. It is surprising that the Departmental Promotion Committee (DPC) headed by Respondent 1 as the chairman decided to

promote Respondent 4 to Grade-I of IFS on notional basis with effect from 24.07.2017 and on actual basis with effect from the forenoon of 13.07.2018. The Respondent 4 in his submissions to Respondent 1 (marked as Exhibit R-1(F)) in the counter affidavit submitted on behalf of Respondents 1 to 3) had pleaded that the Ministry may also ensure that the correspondence on this subject would have no bearing whatsoever either on my APARS or on my well- deserved promotion to the next level i.e. Grade I of IFS or for considering me for a well-deserved more important next assignment was acceded and upheld by the DPC, Chaired by Respondent 1, which decided to elevate the Respondent 4 to Grade-I of IFS.

8. If the statement of Respondents 1 to 3 that a decision was taken on the file that non-recordable warning issued to Respondent 4 is not to be withdrawn, then he should not be considered for promotion to Grade-I of IFS and the decision to promote Respondent 4 is contrary to the statement of Respondent 1 to 3 and in effect the non-recordable warning issued to Respondent 4 had no bearings if the decision of the DPC is taken into account. The Respondent 1 was well aware of the seriousness of the gruesome crime committed by Respondent 4 but had chosen to ignore it while considering the name of Respondent 4 for promotion to Grade-I of IFS in the DPC meeting. The Petitioner would like to point out before the Hon'ble Court that the promotion of Respondent 4

to Grade-I of IFS might be perhaps the first and the only one in the history of Government of India Service, where a Public Servant who had repeatedly flouted the Flag Code of India and thereby challenged the Article 51(A) of Constitution of India is rewarded with the elevation to Grade-I in the service. The Petitioner is compelled to believe that it is the veiled fraternity binding the Respondent 1 to 3 and Respondent 4 is the reason behind the leniency of issuing the 'non-recordable warning in a crime of repugnant nature challenging aggrandizement, integrity and sovereignty of India. In this respect, the petitioner would like to state that the promotion of Respondent 4 to Grade-I of IFS is illegal and contradictory to the CCS (Conduct) Rules 1964 covering promotion of Government of India servants and it is pleaded that Hon'ble Court may kindly issue necessary directives to Respondent 1 to review his decision as Chairman of DPC with regard to elevation of Respondent 4 and advise the DPC panel to review and rectify the decision taken in the wake or the warning issued to Respondent 4 and issue a new order nullifying the earlier order appointing respondent 4 to Grade-I of IFS.”

7. Heard learned counsel for the parties and perused the material on record.

8. After examining the matter, Government of India have issued a non-recordable warning to the 4th respondent, with a direction to refrain from further action that leads to an insult to

the Indian National Flag and any further misconduct of this nature on his part would be liable to attract disciplinary action against him.

9. Incident had happened in the year 2013. The officer is stated to have been retired. Even taking it for granted that the act alleged to have been committed is an offence as per Section 2 of the Prevention of Insults to National Honour Act, 1971, cognizance should be taken within three weeks. Section 2 of Act, 1971 reads thus:

"2. Insults to Indian National Flag and Constitution of India.-

Whoever in any public place or in any other place within public view burns, mutilates, defaces, difiles, disfigures, destroys, tramples upon or 1[otherwise shows disrespect to or brings into contempt (whether by words, either spoken or written, or by acts) the Indian National Flag or the Constitution of India or any part thereof, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Explanation 1.-- Comments expressing disapprobation or criticism of the Constitution or of the Indian National Flag or of any measures of the Government with a view to obtain an amendment of the Constitution of India or an alteration of the Indian National Flag by lawful means do not constitute an offence under this section.

Explanation 2.--The expression "Indian National Flag" includes any picture, painting, drawing or photograph, or other visible representation of the Indian National Flag, or of any part or parts thereof,

made of any substance or represented on any substance.

Explanation 3.-- The expression "public place" means any place intended for use by, or accessible to, the public and includes any public conveyance.

Explanation 4.--The disrespect to the Indian National Flag means and includes--

- (a) a gross affront or indignity offered to the Indian National Flag; or
- (b) dipping the Indian National Flag in salute to any person or thing; or
- (c) flying the Indian National Flag at half-mast except on occasions on which the Indian National Flag is flown at half-mast on public buildings in accordance with the instructions issued by the Government; or
- (d) using the Indian National Flag as a drapery in any form whatsoever except in State funerals or armed forces or other para-military forces funerals; or
- (e) using the Indian National Flag,--
 - (i) as a portion of costume, uniform or accessory of any description which is worn below the waist of any person; or
 - (ii) by embroidering or printing it on cushions, handkerchiefs, napkins, undergarments or any dress material; or
- (f) putting any kind of inscription upon the Indian National Flag; or
- (g) using the Indian National Flag as a receptacle for receiving, delivering or carrying anything except flower petals before the Indian National Flag is unfurled

- as part of celebrations on special occasions including the Republic Day or the Independence day; or
- (h) using the Indian National Flag as covering for a statute or a monument or a speaker's desk or a speaker's platform; or
 - (i) allowing the Indian National Flag to touch the ground or the floor or trail in water intentionally; or
 - (j) draping the Indian National Flag over the hood, top and sides or back or on a vehicle, train, boat or an aircraft or any other similar object; or
 - (k) using the Indian National Flag as a covering for a building; or
 - (l) intentionally displaying the Indian National Flag with the "saffron" down."

10. Section 468 of the Code of Criminal Procedure, 1973 reads thus:

"468. Bar to taking cognizance after lapse of the period of limitation.—(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be—

- (a) six months, if the offence is punishable with fine only;
- (b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;
- (c) three years, if the offence is punishable with

imprisonment for a term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.”

11. Considering the long lapse of time, retirement of the officer, issuance of non-recordable warning with further directions, as stated above, and taking note of Section 468 of the Cr.P.C., at this length of time, no useful purpose would be serviced in adjudicating the issues raised herein.

12. Accordingly, writ petition is closed.

Pending interlocutory applications, if any, shall stand closed.

**sd/-
S.Manikumar,
Chief Justice**

**sd/-
Shaji P.Chaly
Judge**

vpv

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE FLAG CODE OF INDIA, 2002, WHICH CAME INTO FORCE ON 26/1/2002.
- EXT.P2: COPY OF THE NOTIFICATION ISSUED BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI DATD 11/3/2016.
- EXT.P3: COPY OF THE NOTIFICATION ISSUED BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI DATED 16/1/2015
- EXT.P4: COPY OF NEW YEAR GREETINGS BY FOURTH RESPONDENT GIVEN AT THE WEBPAGE OF THE EMBASSY OF INDIA DOHA (QATAR) DATED NIL
- EXT.P5: COPY OF THE COMPLAINT OF THE PETITIONER TO THE R1 DATED 5/2/2015 ATTACHING THE PHOTOS ANNEXURES 1 TO 4 OF THE SAME.
- EXT.P6: COPY OF THE INDIAN REPUBLIC DAY SUPPLEMENT BY "GULF TIMES" DATED 26/1/2015.
- EXT.P7: COPY OF THE INDIAN REPUBLIC DAY SUPPLEMENT BY "THE PENINSULA" DATED 26/1/2015.
- EXT.P8: COPY OF THE COMPLAINT OF THE PETITIONER DATD 3/11/2015.
- EXT.P9: COPY OF THE COMPLAINT OF THE PETITIOENR DATED 4/8/2015.
- EXT.P10: COPY OF THE COMPLAINT OF THE PETITIONER DATED 26/7/2015.
- EXT.P11: COPY OF THE COMPLAINT OF THE PETITIONER DATED NIL.
- EXT.P12: COPY OF THE REPLY ON BEHALF OF THE R1 DATED 16/10/2015.
- EXT.P13: COPY OF THE REPLY FROM MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI ON BEHALF OF THE R1 DATD 6/11/2015.
- EXT.P14: COPY OF THE FURTHER REPLY FROM MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI ON BEHALF OF THE R1 DATED 6/11/2015.
- EXHIBIT P15 A TURE COPY OF THE DECISION OF THE DELHI HIGH COURT DATED 22/9/1995.
- EXHIBIT P16 A TRUE COPY OF THE DECISION OF THE C A T DATED 29/5/2018.
- EXHIBIT P17 A TRUE COPY OF THE PHOTOTS TAKEN ON SEVERAL OCCASIONS OF DIFFERENT DATES.

RESPONDENT'S EXHIBITS:

- EXHIBIT R4 A A TRUE COPY OF THE LIST OF POSTINGS OF THE 4TH RESPONDENT TILL DATE.
- EXHIBIT R1(A) A COPY OF THE COMPLAINT DATED 5.2.2015 BY THE PETITIONER
- EXHIBIT R1(B) A TRUE COPY OF THE LETTER NO Q/VIG/551/27/2015 DATED 29.5.2015 BY THE 3RD RESPONDENT.
- EXHIBIT R1(C) A TRUE COPY OF THE LETTER No.DOH/18/AMB/2015 DATED 19.7.2015 SUBMITTED BY THE 4TH RESPONDENT.
- EXHIBIT R1(D) THE PHOTOGRAPHS INDICATING THE CAKE CUTTING CEREMONY ORGANIZED BY BANGLADESHI MISSION IN DOHA.
- EXHIBIT R1(E) THE PHOTOGRAPHS INDICATING THE CAKE CUTTING CEREMONY ORGANIZED BY FRENCH MISSION IN DOHA.
- EXHIBIT R1(F) A TRUE COPY OF THE MEMORANDUM NO Q/VIG/551/277/2015 DATED 21.12.2015 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT R1(G) A COPY THE REPRESENTATION NO DOH/9/AMB/2016 DATED 24.1.2016 BY THE 4TH RESPONDENT.
- EXHIBIT R1(H) A TRUE COPY OF THE E-GRAM NO JSAD14052015-01 DATED 14.5.2015 ISSUED BY THE 2ND RESPONDENT.

// True Copy //

P.A. to Judge