

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).25237/2010

(From the judgement and order dated 21/08/2009 in  
No.15440/1998 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

CMWP

ABHAY SINGH

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T. and permission to  
file additional documents and permission to file additional  
affidavit and correction of pleadings and office report)

WITH SLP(C) NO. 23984 of 2010

(With appln(s) for exemption from filing O.T. and urging additional  
grounds and permission to file additional affidavit and with prayer  
for interim relief and office report)

Date: 14/10/2011 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Mr.Harish N.Salve, Sr.Adv.  
Mr. Sushil Kumar Jain,Adv.  
Mr.C.D.Singh, Adv.  
Mr.Puneet Jain, Adv.

For Respondent(s) Mr.Shail Kumar Dwivedi, AAG  
Mr.Manoj Kumar Dwivedi, Adv.  
Mr.Ashutosh K.Sharma, Adv.  
Mr. Gunnam Venkateswara Rao,Adv.  
Mr.Arvind Shukla, Adv.  
Mr.Abhinav Shrivastava, Adv.

Mr.Pallav Shishodia, Sr.Adv.  
Mr.Ravi Bhushan Singhal, Sr.Adv.  
Mr. Sunil Kumar Jain,Adv.  
Mr.Parmatma Singh, Adv.  
Mrs.Jaya Tomar, Adv.

Mr.P.K.Dey, Adv.  
Mr.Chetan Chawla, Adv.  
Mr. Shreekant N. Terdal, Adv.

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

Although, the prayer made in this petition filed under  
Article 136 of the Constitution is for setting aside the order  
passed by the Division Bench of Allahabad High Court directing  
consideration of the case of respondent No. 6 for providing 'Z'  
category security to him and his family members, at the hearing

Shri Harish N. Salve, Learned Senior counsel for the petitioner submitted that dehors the facts of the case, the Court should examine important issues affecting an important facet of the Constitutional democracy i.e. whether the country should have two categories of citizens, of which one enjoys all sorts of privileges including unwanted security at public expense and is also allowed to use different kinds of symbols which represented the authority of the State in pre-independence era and the fundamental rights to life and liberty of other category are not protected. Shri Salve

suggested that the following questions may be considered by the Court:

1. Whether the permission to use signs and symbols of authority, such as beacons, insignia, and convoys/escorts by public servants or any person who holds any office under the States or the Union of India, or any other person, is contrary to Article 18 and 38 and the basic feature of republicanism enshrined in the Constitution?

2. Whether the State was and is under an affirmative obligation to ensure that the vision of the founding

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fathers to change the perception of the State and its functionaries from rulers to public servants who are to serve rather than govern the people, was implemented in letter and spirit?

3. Whether by virtue of Article 21 read with Article 14, State is under an obligation to afford the same degree of protection to the safety and security of every person irrespective of any office held by such person or status of such person or any other factor?

4. Whether the grant of protection [by way of escorts or otherwise], particularly at the expense of the State, on the basis of an office held by a person or any other factor [other than a perceived need to grant heightened protection on account of aggravated threat to the life of any person on account of his lawful occupation, assessed

on an objective basis] is illegal, ultra vires and unconstitutional?

5. Whether the State is under an obligation to ensure that any heightened protection granted to any person, or any special security arrangements made for any person, holding public office, is done in a manner that does not violate the principle of republicanism and the provisions or Art. 18 and 21 of the Constitution?

Shri Pallav Shishodia, learned senior counsel appearing for respondent No.6 says that the questions proposed by the learned counsel appearing for the petitioner are of great public importance

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and he will have no objection if same are considered by the Court. He also suggested that the Court may suo motu order impleadment of all the States and Union Territories as parties so that they may also make appropriate submissions.

We have considered the submissions of the learned counsel and are prima facie satisfied first four of the five questions framed by Shri Salve would require detailed examination.

Let notice be issued to all the States and Union Territories through their Secretaries, Home Department so as to enable them to file their written response in the context of question No. 1 to 4 framed by learned senior counsel appearing for the petitioner. Notice is returnable in six weeks.

Keeping in view the importance of the questions framed hereinabove, we request the learned Solicitor General to assist the Court.

A copy of this order be sent to the States and Union Territories along with notice.

A copy of the order may also be supplied to the office of the learned Solicitor General of India.

Let the case be listed after seven weeks.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master