

CS – 1492-21

Rohit Jha Vs. Dr. J. A. Jayalal, National President, Indian Medical Association

03.06.2021

Urgent matter taken up through Video Conferencing.

Present: None.

1. ***Majhab Nahi Sikhata Apas Mein Bair Rakhna;
Hindi Hai Hum Watan Hai Hindustan Humara;
Saare Jahan se Acha Hindustan Humara.***

2. This couplet of Mohd. Iqbal gives strength to our belief and secularism and will remain so for ages in our country. The word Hindi in this couplet, written by a Muslim poet, does not refer to Hindus but is referred to all Hindustanis irrespective of caste, colour and religion, which is the beauty of secularism.

3. In terms of facts of the present case, plaintiff is hurt by the malicious and defamatory campaign started by defendant against a particular religion i.e. Hindu religion by way of promoting Christian religion in India in the garb of proving superiority of Allopathic medicines over Ayurveda medicines in treatment of Covid patients. It is stated that defendant in order to convert the Hindu of India to Christian religion, is taking the umbrage of IMA and is misusing his position as President of IMA and is doing everything to mislead the nation and its citizens including the plaintiff. The relevant headlines and news cutting of Nation World News Desk dated 30.03.2021 published at the behest of defendant have been mentioned in plaint,.

4. It is averred that said article of 30.03.2021 published in Nation World News read with TV debate of defendant with Shri Baba Ramadeva on various TV news channels in the month of May 2021 have seriously disparaged and denigrated the reputation of plaintiff in the society being Hindu. That the said article of 30.03.2021 and thereafter again raising the issue of Allopathic Vs. Ayurveda is a clear and deliberate attempt and intended to defame the plaintiff's Hindu religion

and nothing else. Hence, the present suit was filed by plaintiff against defendant.

5. Notice was issued to defendant and application U/o 7 Rule 11 coupled with section 10 CPC was filed. The locus standi of plaintiff was also questioned and it was submitted that there is no case of defamation pertaining to particular community as a general unless the plaintiff avers defamation to him particularly. It was further argued that defendant himself is guilty of false reporting and out of three interviews alleged to be made by defendant, two of them were never given by him. Time was sought to file the written statement.

6. It was also stated at bar that defendant has never made any personal comment on Hinduism nor intended to do so. On query raised by court, as to whether defendant wanted to give such statement on oath, in which eventuality, suit itself will be infructuous and same may be withdrawn by plaintiff. Counsel for defendant did not wish to make such statement but made two fold submission to the effect that he neither uttered any remarks against Hinduism nor ever tried to force conversion of any Indian of any religion into Christianity nor he intends to do so.

7. Counsel for defendant, nevertheless, admitted having given interview to 'Christian Today' dated 30.03.2021. but denied regarding interviews given to Haggai International and article dated 30.03.2021 on www.nationworldnews.com. and stated that nowhere interview given reflected or confirmed the allegations of plaintiff. It was also argued that mere relating the Covid-19 recovery in epidemic with Jesus does not mean that he exerted regarding Christianity at any point of time or it meant to facilitate the conversion. He also argued that any Hindu doctor or person can also say that such and such God of Hindus is helping the recovery of Covid-19 patients, and in the same manner, Parsi, Muslim, Sikh and Jews can also claim recovery due to their respective God. It was further argued that plaintiff being Hindu does not mean that his feeling has been hurt and the suit seems to have been filed at the behest of RSS.

8. Counsel for the plaintiff vehemently denied the allegation and stated that the suit has been filed by plaintiff in individual capacity and alleging involvement

of RSS again points out towards ill conceived intentions of defendant. As further submitted by cl. for plaintiff, the extract of the interview relied upon by defendant before this court is edited and tempered with as no action was taken by defendant against the two interviews available on net despite knowing the objectionable content. Accordingly it was prayed that injunction application be allowed by directing the defendant not to write, speak in any media including electronic media, or publish in any manner or from any content/material which is defamatory for the plaintiff or to Hindu religion or to Ayurveda and not to further circulate the defamatory and scurrilous articles such as the Article dated 30.03.201 posted on website www.nationworldnews.com or any other social or electronic print media.

9. I have heard the arguments and gone through rival submissions made by parties.

10. Before advertng to consider necessary aspects of the case, this court would like to note that present suit seems to be offshoot of verbal dual with respect to Alopthy Vs. Ayurveda, which turned in ugly tussle between two sections of society, out of which one of the parties is before this court. Defendant though has been arrayed in individual capacity and not as President of 'Indian Medical Association'. Though, on behalf of defendant, it has already been stated at bar that he never made any allegations against Hinduism and never tried for any conversion but because of his disinclination to give such statement on oath, this court is required to proceed ahead.

11. As submitted by ld cl for plaintiff, Doctor Johnrose Austin Jayalal was nominated in December 2020 as the President of Indian Medical Association, the largest council of health professionals in India. It was announced at the organization's 95th annual session. At the same time, Christians of secular institutions also desired to convert. They wanted hospitals to be used for Christian conversion as well. Recently he had an interview on Haggai International. In this they claimed that the nationalist government wanted to destroy modern medicines by calling them western. He appealed to the people for international prayer and claimed that if the Indian government succeeds, there will be no modern medical

course in India by 2030. Dr. Jayalal also wants to use his position for Christian missionary activities. In a way, the corona virus infection epidemic has also become an opportunity for them to convert medical students, doctors and patients to Christianity. He said that he wants the IMA to share the love of Jesus Christ and assure everyone that Jesus is the one to protect them personally. He said that due to churches and Christian kindness, many previous pandemics and diseases were cured in the world. He also stressed the need to share the Gospel (Christian message) in Christian institutions. He also said in his presidential address at the IMA that whatever he is today is the gift of Almighty Jesus Christ and what will happen tomorrow, will also be his gift. In an interview with Christian today, he told how the Christian religion is progressing despite the epidemic. He also give credit to Jesus for reducing the corona outbreak. He had said that people are safe only by the grace of Jesus and in this epidemic they have protected everyone. He said that with the help of family prayers and night prayers, Christians are now experiencing heaven and not materialistic world.

12. As further submitted by ld cl. for plaintiff, in this way, strangely, the government or the doctors or the vaccination had no role in fighting corona for the head of India's largest medical organization. Even in the criticism of Ayurveda, defendant does not lag behind. He alleged that the Modi Government believes in Ayurveda because of its cultural values and traditional belief in Hindutva. He claimed that for the last 3-4 years, efforts are being made to replace Ayurveda with modern medicine. He said that Ayurveda, Greek, Homeopathy and Yoga etc. have their roots in Sanskrit, which is the language of Hindutva. He alleged that through all this, the government wants to infuse Sanskrit language in the hearts and minds of the people. Defendant told that he had organized protests against the policies of the government across the country through doctors and medical students. He once said that there were many gods for Hindus but now they should consider Jesus as God. He said that it is the duty of every Christian to spread the message of the Bible to everyone. Ld. cl for the plaintiff drew attention of the court to the relevant extract of the interview, submitting that the same implies propagating Christianity and

condemning Hindu religion.

13. Though the counsel for defendant has denied all such allegations and also disputed two interviews mentioned above and argued that no cause of action exists on the basis of article/interview but this court having gone through the admission of defendant regarding article given by defendant to 'Christian Today' dated 30.03.2021 constrains to note that the same is not in good taste.

14. Secularism is fundamental aspect of our Constitution and the duty to keep aspect of secularism alive in India does not rest on any one community but is cumulative efforts of all Indians. Freedom to profess own religion is also the integral part of constitution but with respect to other religions as well. For the public functionaries which discharge public functions, religion, faith or belief of a person is immaterial. Recently, Hon'ble High Court of Kerala in The trustee Hidaya educational & charitable trust... vs state of kerla decided on 24.1.20 held that ***“Private schools which are required to have recognition from state must not promote one religion over others. The exclusive promotion of a particular religion by private education institutions defies the secular character of the Constitution and denies the constitutional value and morality”***. Reference was also made to observation of Hon'ble Justice D.Y.Chandrachud in Navtez johar case.

15. Exclusivism or preference of one religion over others by State or public functionaries or private bodies, while discharging public functions, strikes at the very root of the fundamental values of our Constitution, namely, secularism. It negates neutrality promotes discrimination and denies equal treatment. The exclusive promotion of a particular religion by an institution defies the secular character of the Constitution and denies the constitutional value and morality.

16.. While the fundamental rights have been given in constitution then fundamental duties have also been assigned . It becomes bounden duty of every

Indian to honour the religion of each other. Nobody should over reach by allowing, by forcing, by creating such circumstances which imply forced consent or in a way attempt to lure. Saying Christianity and Allopathy are the same and is the gift by western world would be the most inaccurate assertion. Sushruta who was an Indian is considered God of Surgery and surgery is integral aspect of Allopathy.

17. It has been stated by defendant that he is not against Ayurveda but is against mixopathy. Though the controversy regarding Ayurveda and Allopathy has been raised but this court is not inclined to further comment upon the same. Every form of treatment is important, having its own benefits and drawbacks depending upon circumstances. . Albeit, any kind of unguarded or loose comment cannot be expected from anybody chairing the responsible post. IMA is prestigious institution whose aims and objectives are meant for the welfare of doctor and other related aspects. Such a platform cannot be used to propagate any individual's views on any religion.

18. The court question was raised during hearing as to whether the interview given by him was in the capacity of individual or as President to IMA to which court received an evasive reply. Be as it may be, any word spoken by defendant at public platform shall relate to his responsible position therefore **responsibility to act cautiously rests heavily on the shoulder of person who is having higher position. Even his casual remarks have great impact on the society.** Certain aspects of the interview, while taking prima facie view ,therefore are seemingly not in harmony with Constitution of India.

19. Two application seeking exemption from filing Court fees and attested supporting affidavits with plaint and applications are already on record. The court fees and attested supporting affidavits have not been filed due to on going pandemic of Covid-19. However, considering the prevailing circumstances, both the applications are allowed and plaintiff is directed to file court fees and attested supporting affidavits on physical opening of courts.

20. In view of the observation made herein above, at this stage, accepting the submissions of defendant though no injunction is required to be passed on the assurance given during arguments by defendant to the court that he shall not indulge in such kind of activity. It is expected from him that he will not give any such occasion so that people may believe otherwise or indulge in any activity contrary to the principles enshrined in constitution and shall maintain the dignity of position chaired by him. He shall not use the platform of IMA for propagating any religion and rather shall concentrate for welfare of medical fraternity and progress in medical field.

21. Defendant is directed to file written statement within stipulated period alongwith reply to pending applications. Digitally signed PDF copy of this order be e-mailed to Facilitation Centre, Dwarka for onward transmission of same to concerned Advocate/litigant. Hard copies of plaint and documents be filed by counsel for parties on opening of courts physically. Meanwhile, file be placed before Ld. Principal District & Session Judge, South West District, Dwarka on **09.06.2021** for assignment of the present case as suit has been filed during summer vacation.

(Ajay Goel)

Vacation Judge/ADJ-04/Dwarka Courts/SW
New Delhi/03.06.2021

