

IN THE SUPREME COURT OF INDIA
CR. M. P. NO. _____ OF 2010
IN
CRL. CONTEMPT PETITION NO. 10 OF 2010
IN
IA NO. 1374, 1474, 2134 OF 2007
IN WP (C) NO. 202 OF 1995

IN THE MATTER OF:

AMICUS CURIAE

...

PETITIONER

VERSUS

PRASHANT BHUSHAN AND ANR.

...

RESPONDENTS

AND

IN THE MATTER OF:

1. Arvind Kejriwal
403 L, Girnar Kaushambi
Ghazibad-201010 (U.P.)
2. Aruna Roy
Mazdoor Kisan Shakti Sangathan (MKSS)
Village Devdungri, Post Barar
District Rajsamand 313341 (Rajasthan)
3. Nikhil Dey
Mazdoor Kisan Shakti Sangathan (MKSS)
Village Devdungri, Post Barar
District Rajsamand 313341
Rajasthan
4. Sekhar Singh
17A, DDA Flat,
Munirka, New Delhi-110067
5. Harsh Mander
105/6, Adhchini, (Near Mr Biliken Restaurant),
New Delhi 110017

6. Prof. Jagdeep S. Chhokar
A-278, New Friends Colony,
New Delhi- 110 025
7. Madhu Bhaduri
A 12, IFS Apartments
Mayur Vihar Phase -1
New Delhi
8. Rajendra Singh
Tarun Ashram,
Bheekampura- Kishori
Thanagazi, Alwar- 22,
Rajasthan
9. Shankar Singh
Mazdoor Kisan Shakti Sangathan (MKSS)
Village Devdungri, Post Barar
District Rajsamand 313341 (Rajasthan)
10. Amit Bhaduri
A 12, IFS Apartments
Mayur Vihar Phase -1
New Delhi
11. Kalyani Chaudhury
Flat No.- 2A, Nayantara Co-op,
DL 28, Salt Lake II,
Kolkata -700091
12. Madhu Purnima Kishwar
C-1/3, Sangam Estate,
No. 1 Under Hill Road,
Civil Lines, New Delhi - 110 054
13. Manish Sisodia
350/ 4 C, Vartalok
Vasundhra, Ghaziabad-201310 (U.P)

14. Abhinandan Sekhri
G-601 Som Vihar Apartments,
R K Puram,
New Delhi
15. Diwan Singh
A-9, Chaman Apartment
Lane no. 9, Dwarka
Sector-23
New Delhi-110077
16. Swati Maliwal
302, Kartik Kunj
Sector 44
NOIDA (Uttar Pradesh).
17. Sunit Madhur
G.A. 34, Pul Pehlad Pur,
New Delhi-110044
18. Venkatesh Nayak
B-117, Second Floor, Sarvodaya Enclave
New Delhi - 110 017
INDIA
19. Neeraj Kumar Pandey
B-35 Pandav Nagar Complex
Ganesh Nagar, New Delhi-92
20. Kamal Kant Jaswal
B-34 (Ground Floor)
Gitanjali Enclave
New Delhi- 110017

21. Sarvesh Sharma
965, Sector 14,
Gurgaon-122007
22. Maj. Gen(retd) J.P Gupta
B-701, som Vihar ,R.K Puram
New Delhi-110022
23. Dr. Ashok Khosla
s/oDr. Jagan Nath Khosla
22 old Palme Marg
New Delhi-110057
24. Amit Kumar Mishra
2/32 M-Block, Model Town-3
Delhi-9
25. Ram Kumar Jha
A-35, Room No-1
Patel Chest
Cristian Colony, Delhi-7

**APPLICATION FOR IMPLEADMENT OF PARTIES AS RESPONDENTS IN
CRL. CONTEMPT PETITION NO. 10 OF 2010 IN IA NO. 1374, 1474,
2134 OF 2007 IN WP (C) NO. 202 OF 1995**

TO,

THE HON'BLE CHIEF JUSTICE
AND HIS COMPANION JUSTICES OF
THE SUPREME COURT OF INDIA

THE HUMBLE APPLICATION OF

THE APPLICANTS ABOVEMENTIONED

MOST RESPECTFULLY SHOWETH:

1. The Applicants are citizens of India. The people of India declared in the Preamble of the Constitution, which they gave unto themselves their resolve to secure to all the citizens liberty of thought and expression. This resolve is reflected as fundamental right of a citizen in Article 19(1)(a) which is one of the Articles found in Part III of the Constitution. 'freedom of speech' is the freedom to speak freely, without fear, without censorship or limitation. The synonymous term freedom of expression is sometimes used to indicate not only freedom of verbal speech but any act of seeking, receiving and imparting information or ideas, regardless of the medium used.
2. That the Applicants have provided their brief introduction in the subsequent paragraphs, and are concerned about initiation of the present contempt proceeding against the Respondents for exercising his 'freedom of speech', without fear, without censorship in raising the issues of misconduct and corruption in the Judiciary. It appears that the initiation of present contempt proceedings are not only an assault on the freedom of speech and expression of the citizen of this country, but also sends out a wrong signal that any attempt to expose/discuss the misconduct and corruption within the judiciary will be stifled by using power of contempt.
3. Therefore, the applicants in this application are reiterating whatever has been said by Mr. Prashant Bhushan i.e. Respondent No. 1 regarding misconduct and corruption in Judiciary in his interview given to Tehelka and thus, present applicants also seek their impleadment as Respondents so that they could also be punished for the alleged contempt of the court.

4. Brief introduction of the Applicants seeking to get impleaded in the present contempt proceedings are the following:

- (i) **Arvind Kejriwal** is a RTI activist and has founded Parivartan and Public Cause Research Foundation for the promotion of Right to Information Act. He also works to promote on local self-governance. He has been awarded Roman Magsaysay Award for Emergent Leadership in the year 2006.
- (ii) **Aruna Roy** is an Indian political and social activist who founded and heads the Mazdoor Kisan Shakti Sangathana ("Workers and Peasants Strength Union"). She received the Ramon Magsaysay Award for Community Leadership in year 2000.
- (iii) **Nikhil Dey** works now as a non-party socio-political activist. Nikhil Dey has also been actively involved with the Campaign on Right to Food and other Human Rights organizations.
- (iv) **Sekhar Singh** is an prominent RTI activist and founding member of National Campaign for Peoples Right to Information (NCPRI).
- (v) **Harsh Mander** is an Indian social activist and writer and heads "Aman Biradari" which work for communal harmony. He became member of National Advisory Council of the UPA government in 2010 and special commissioner to the Supreme Court.
- (vi) **Prof. Jagdeep S. Chhokar** has a Ph.D. from Louisiana State University, USA and is a former Director In-charge of Indian Institute of Management, Ahmedabad.

- (vii) **Madhu Bhaduri** is a former IFS officer and a social activist, she has spearheaded Right to water campaign. She is also associated with many other social movements.
- (viii) **Rajendra Singh**, is a winner of 2001 Ramon Magsaysay Award For Community leadership. He leads an organization, Tarun Bhagat Sangh, which is supported by the United Nations, USIAD, and the World bank. He was highly appreciated and recognized for the efforts he made for harvesting rain water by building check dams in Rajasthan. It is because of this he is popularly known as the 'Jal Pusush' or the 'Water man of Rajasthan'.
- (ix) **Shankar Singh** was born and brought up in Tilonia and along with Aruna Roy and Nikhil Dey founded MKSS. He was the fulcrum of the SWRC communication team.
- (x) **Amit Bhaduri** is Professor Emeritus of Jawaharlal Nehru University, Delhi. He has also been Professor of Political Economy at the University of Pavia. Previously he was Reader at the Delhi School of Economics and Professor at the Indian Institute of Management, Calcutta.
- (xi) **Kalyani Chaudhuri** is an IAS officer of 1973 batch, who has retired as Additional Chief Secretary to Govt. of West Bengal in 2008, after serving in various capacities in the State and Central Govts. Presently she is engaged in writing and purely honorary NGO work.

- (xii) **Madhu Purnima Kishwar** is an Indian academic. She is the founder President of Manushi Sangathan, registered under the Societies Registration Act, is a forum for research based activist interventions. It works for democratic reforms that will promote greater social justice and strengthen human rights, especially for women.
- (xiii) **Manish Sisodia** is a journalist by profession and was working with Zee News before joining the movement of RTI. He is also an active volunteer of Parivartan and is also one of the trustees of the Public Cause Research Foundation. He is also associated with Kabir, which handles media initiative of RTI.
- (xiv) **Abhinandan Sekhri** is a writer and film maker managing his production house. He has worked as a researcher and reporter for TV News networks. He currently writes political satire for NDTV. He has been deeply involved in many Right to Information campaigns.
- (xv) **Diwan Singh** was a part of Yamuma Jiye Abhiyan mainly worked for the environment related campaigns.
- (xvi) **Swati Maliwal** is a computer professional. She has been deeply involved with the RTI movement over the years. She works on local self-governance, on ideas about strengthening citizen's participation in Panchayati Raj Institutions and municipalities.
- (xvii) **Sunit Madhur** is a literature graduate from Hindu College, Delhi. He has been associated with RTI and Employment Guarantee movement for more than 6 years. He was Secretary

of Delhi Pradesh Congress Committee and also contested for MCD Election, 2007. He is amongst Asia's Young Political Leaders nominated for a 2 years International Program organized by KASYP, Singapore and Ateneo De Manila University, Phillippines.

(xviii) **Venkatesh Nayak** is a social activist work with CHRI(commonwealth Human Rights Initiative)

(xix) **Neeraj Kumar Pandey** has been working in the field of RTI since 2002, when the Delhi Right to Information Act was enacted. He has been associated with NCPRI and Kabir. He handled the RTI helpline for Kabir for more than three years.

(xx) **Kamal Kant Jaswal** servrd with distinction in the Uttar Pradesh Cadre of the Indian Administrative Service for over 36 years till his superannuation in October 2004.

(xxi) **Sarvesh Sharma**, is an engineer by training and profession with a Bachelor's degree from Calcutta University and a Master's and a Master's degree from Manchester University.He worked with British Post Office Corporation in the field of the telecommunications,digital switching and computers before returning to India in 1974.

(xxii) **Maj. Gen. Gupta** belongs to the first course of the National Defence Academy.He received his commission in 1952.A post graduate,Gen. Gupta is an alumnus of the National Defence College,New Delhi and the National Defence University,Washington,D.C.

(xxiii) **Dr. Ashok Khoshla** is founder and chairman of the thirty-year old Development Alternatives Group.Headquartered in New Delhi,the DA Group was among the first civil society

organisations set to address the issues of sustainable development as a whole.

(xxiv) **Amit Kumar Mishra** worked as an accountant for a year before completing his B.Com. at Magadh Vishwavidyalaya, Patna in 2007. He also completed his MBA at Janhit Institute of Education and Information, Greater Noida, in 2009. He has since been working on analysis of the decisions of information commissioners; in Public Cause research Foundation.

(xxv) **Ram Kumar Jha** has a double post graduation degree in Hindi from Kirori Mal College (Delhi University) as well as Mass Communication from Bhartiya Vidya Bhawan. He has long been an active participant in outdoor activities of National Cadet Corps (NCC) and social activities of National Service Scheme (NSS). He joined PCRf as a member of the RTI Awards team in April 2009; he has since been an analyst of the decisions of information commissioners and has also shouldered other responsibilities.

5. The Applicants are of the view, and believe strongly, that the present contempt proceeding would give a mortal blow to not only the precious fundamental right of freedom of speech and expression but also to the reputation of the judiciary. Such proceeding is antithetical to the fundamental principles of our republican democracy. It is respectfully submitted that any act to prevent the disclosure of impropriety and wrong doing on the part of any public servant, howsoever high he or she may be, is against the basic principles of our constitution.

6. It is submitted that for the proper functioning of any democracy it is important that judiciary must inspire public confidence but such confidence cannot be engendered by using the threat of contempt action to deter exposure of any wrong doing in the judiciary. This position has been consistent both in England and here and has been elucidated very succinctly by this Hon'ble Court Supreme Court in the matter of, Reference under Article 143 of the Constitution of India, Special Ref. No. 1 of 1964 D/- 30-9-1964: (reported in AIR 1965 SC 745) in the following terms:

"142. Before we part with this topic, we would like to refer to one aspect of the question relating to the exercise of power to punish for contempt. So far as the Courts are concerned, Judges always keep in mind the warning addressed to them by Lord Atkin in *Andre Paul vs. Attorney General of Trinidad*, AIR 1936 PC 141. Said Lord Atkin, "Justice is not a cloistered virtue; she must be allowed to suffer the scrutiny and respectful, even though outspoken, comments of ordinary men." We ought never to forget that the power to punish for contempt large as it is, must always be exercised cautiously, wisely and with circumspection. Frequent or indiscriminate use of this power in anger or irritation would not help to sustain the dignity or status of the Court, but may sometimes affect it adversely. Wise Judges never forget that the best way to sustain the dignity or status of their office is to deserve respect from the public at large by the quality of their

judgments, the fearlessness, fairness and objectivity of their approach, and by the restraint, dignity and decorum which they observe in their judicial conduct.

...

Public confidence in the Judiciary is created by the actions of the Judiciary and any reckless allegations against it are quickly seen to be what they are. In a free society, such allegations do not stick, if they are incorrect or reckless. The use of the power of contempt to stifle allegations the accuracy of which has not been disputed would only increase public suspicion about the Judiciary as a whole."

7. The Applicants respectfully submit that they, like millions of citizens of India, have great regard for many things that the Indian Judiciary has done in the past, particularly to protect the cherished fundamental right of free speech. However, the Applicants feel that present contempt proceeding is directly destructive of the same.
8. Therefore, the Applicants, being concerned citizen of this country, are greatly distressed with the initiation of this contempt proceeding against the Respondents and are forced to reiterate whatever has been said by Respondent No. 1 and published by Tehelka magazine regarding corruption and other misconducts in the Judiciary. As the Applicants are reiterating the alleged contemptuous statements made by Respondent No. 1 in his interview to Tehelka, they would also like to be impleaded in the present contempt petition and face the consequences of this contempt along with Respondent Nos. 1 and 2.

PRAYERS

9. In view of the above, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- a) allow the present application and implead the Applicants as Respondents in the CRL. CONTEMPT PETITION NO. 10 OF 2010 in IA NO. 1374, 1474, 2134 OF 2007 in WP (C) NO. 202 OF 1995; and
- b) pass any other or further order/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY BOUND SHALL EVER BE GRATEFUL.

Applicants

Through

Puja Sharma

(Advocate for the Applicants)

Drawn on: 25.10.2010

E-45, Lajpat Nagar - I

Filed on:

New Delhi

New Delhi 29/10/2010

IN THE SUPREME COURT OF INDIA

Cr. M.P. NO. _____ OF 2010

IN

CRIMINAL CONTEMPT PETITION NO. 10 OF 2009

IN

I.A. NO. 1374, 1474, 2134 OF 2007

IN WP (C) NO. 202 OF 1995

IN THE MATTER OF:

AMICUS CURIAE

....PETITIONER

VERSUS

PRASHANT BHUSHAN AND ANR.

....RESPONDENTS

IN THE MATTER OF:

ARVIND KEJRIWAL AND ORS.

...APPLICANTS

AFFIDAVIT

I, Arvind Kejriwal, S/o Sh. G. R. Kejriwal, R/o 403 L, Girnar Kaushambi, Ghaizabad, UP, currently in New Delhi do hereby solemnly state and affirm as under:

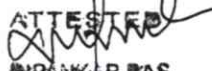
1. That I am one of the applicants in the accompanying application and am fully acquainted with the facts of this case and I am competent and authorized to swear this affidavit.
2. That I have read and understood the facts mentioned in the accompanying application, which is drafted on my instructions and I state and affirm that the facts mentioned in the said application are true and correct to the best of my knowledge.


DEPONENT

VERIFICATION:


I, the above named Deponent, do hereby verify that the contents of the above Affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed therefrom.



ATTESTED

SHANKAR BAS
ADVOCATE
NOTARY PUBLIC
REGD. NO. 916
GOVT OF INDIA
SUPREME COURT OF INDIA
NEW DELHI

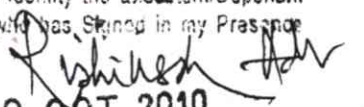
Verified at New Delhi on this ____ day of _____ 2010.

28 OCT 2010


DEPONENT

I Identify the Executant/Depenant
who has Signed in my Presence

28 OCT 2010


M: 9911483629