

**AFR****IN THE HIGH COURT OF ORISSA AT CUTTACK****W.P.(C) No.33077 of 2024***Alone Trust*

....

*Petitioner***-Versus-***Union of India and others*

....

*Opposite Parties***Advocates appeared in this case:**

For Petitioner : Mr. P.K. Dutta, Advocate

For Opp. Parties : Mr. P.K. Parhi, Deputy Solicitor General of India
 Mr. J.B. Mohanty, Central Government Counsel
 Mr. Debashis Tripathy, Addl. Govt. Advocate
 Mr. Manoj Kumar Mishra, Senior Advocate
 (Amicus Curiae)
 Mr. Subir Palit, Senior Advocate (Amicus Curiae)

CORAM:**HON' BLE THE CHIEF JUSTICE****AND****HON'BLE MR. JUSTICE MANASH RANJAN PATHAK****J U D G M E N T****Date of Hearing : 19th November, 2025****Date of Judgment : 5th February, 2026****HARISH TANDON, C.J.**

1. On the advent of human civilization taking a paradigm shift from a community-based power to monarchy and taking shape in the form of a country, the Symbol, Flag, and/or Emblem were used symbolizing honour, right and the authority exercised to achieve the



object of justice, ethos behind the purity of the administration and above all, inculcating the sense of values towards the motherland. It not only encompasses the honour and pride to any nation but also depicts its historical, cultural and moral values.

2. The National Symbol or the Emblem adopted by the nation percolates a sense of responsibilities and core values of life which at times, is distinct from the other nations within the globe. Preservation of the core cultural, ethical and moral values and its dissemination through the Symbol, Flag and Emblem is aimed not only to unite the people of the country but to be reminded of the basic values of life.

3. After the independence achieved by the people of our country from the colonial rule, the first and foremost task, which was felt inevitable to represent the sovereign republic identity and its values in adopting the National Flag, National Anthem and also the National Emblem. It was proposed in the Constituent Assembly that the National Emblem should be inspired from the mode of rule and the governance embraced by the capital of Ashoka, which illuminates and/or resolute the sovereignty, unity and ancient civilization and its heritage.



4. Before the adoption of the Constitution of India and after the independence achieved from the British colonial rule on 15th August, 1947, the dominion of India adopted the State Emblem through a press communique dated 29th December, 1947 to be published or broadcast on 30th December, 1947 which should consist of the Sarnath Lion Capital of king Ashoka with the lions standing on an abacus having Dharma Chakra in the center, a bull on the right and horse on the left and the outlines of the Dharma Chakra on extreme right and left with further stipulation that a suitable motto will be included in due course as soon as one has been decided upon. Subsequently, the State Emblem representing the Lion Capital of king Ashoka with motto "Satyameva Jayate" in Devanagari was adopted as a State Emblem of India on 26th January, 1950.

5. Immediately after the adoption of the Constitution of India to take effect from 26th January, 1950, in contemporaneous period of time, the Emblems and Names (Prevention of Improper Use) Act, 1950 was promulgated, tracing the source of powers from the residuary Article 97 of List-I, defining the word "Emblem" to mean any Emblem, Seal, Flag and Insignia, the coat of arms or pictorial representation as specified in the schedule appended thereto.



6. The said Act contains an exhaustive provision, including the prohibition of improper use of the Emblems and Names, yet there appears a continuous improper use thereof in diversified fields, including in trade and commerce. The Constitution Bench of the apex Court in *M/s. Sable Waghire & Company v. The Union of India*, reported in (1975) 1 SCC 763, though was considering the pictorial representation and the words, Chhatrapati Shivaji Maharaj used as a registered trademark by the said company engaged in a business of manufacturing, marketing and selling *bidis* across the country, the challenge was made by the said company to the constitutional validity of the said Act and its *vires* and in pursuit of addressing such issues, the Constitution Bench succinctly recapitulated the object and purpose, underlining the promulgation of the said act in the following:

“15. Let us, therefore, have a background of the promulgation of the Act. The Statement of Objects and Reasons will make the position clear and may be quoted in extenso:

The General Assembly of the United Nations Organisation recommended in 1946 that members of the United Nations should take necessary legislative or other appropriate measures to prevent the use, without proper authority, and in particular for commercial



purposes, of the emblem, the official seal and the name of the United Nations and of the abbreviations of that name. A similar recommendation has since been received also from the World Health Organisation for prevention of the use of its name (and abbreviations), emblem and official seal. Instances have also come to light of the use in India (and abroad) of the Indian National Flag and emblem and of the names or pictorial representations of Mahatma Gandhi and other national leaders, for commercial and trade purposes and in a manner likely to offend the sentiments of the people. The provisions of the Indian Trade Marks Act, 1940, Indian Patents and Designs Act, 1911, Indian Merchandise Marks Act, 1889, and the Indian Companies Act, 1913, are not adequate to prevent these abuses. The Bill seeks to prevent the improper use of these names, emblems, etc., for the purpose of trade, business, calling, profession, patent or design, and to impose a penalty for misuse of emblems, etc., specified in the Schedule and empowers the Central Government to make additions and amendments in the Schedule as and when necessary.”

7. While recapitulating the celebrated and oft-quoted words of William Shakespeare, used in his play Romeo and Juliet that, "What is in a name; That which we call a rose by another name would smell as sweet" in the following:



“16. What is in a name” may not always be innocent. Logically proper names are not connotative but have often gathered a content, a halo, around them sometimes or for all times to come. National or international significance gets attached to certain names or institutions over the years or ages and then they belong to the nation or to all nations. Human sentiments and often a deep sense of religiosity pervade through and provide a sacred mantle as it were to the nomenclature. In order to arouse national sentiments everywhere invocation of “Chhatrapati Shivaji” in manifold ways in the era of struggle for independence of our country is now, by turn of history, replaced by an ardent worship of the proud heritage by a grateful nation. Law reflecting the national consciousness, therefore, forbids ordinary commercial use of the sacred name by individuals in their own interest as opposed to national interest.”

8. Despite such preventive law being in place since 1950, the improper use of the Emblem continued and ultimately, after several decades, a specific legislation relating to Emblem and its use in a more reasonable and responsible manner was enacted, i.e., the State Emblem of India (Prohibition of Improper Use) Act, 2005. The primary object behind such legislation is to prohibit the improper



use of the State Emblem of India for professional and commercial purposes and for matters connected therewith or incidental thereto.

9. The definition of an Emblem as given in the Act of 1950 undergone a sea change and a new definition was assigned to mean the State Emblem of India as described and specified in the Schedule to be used as an official seal of the Government. The Schedule appended to the said Act vividly contains the description and the design of the Emblem with the motto, "Satyameva Jayate"- "Truth alone triumphs" written in Devanagari Script below the profile of the lion capital. Appendix I & II of the said Schedule depict the pictorial features of the Emblem being an adaptation from the Sarnath Lion Capital of Ashoka, preserved in the Sarnath Museum.

10. Apropos, the power to make Rules having provided in the said Act, the State Emblem of India (Regulation of Use) Rules, 2007 was framed and notified on 4th October 2007. Rule-3 of the said Rules postulates the design of an official seal to be an Emblem enclosed in an oval or round frame, which may contain the name of the Ministry or the Office between the inner and outer rims of a frame and in the event, the full name of the Ministry or Office is not



feasible and/or possible, the abbreviated form can be used. Rule-8 contains an exhaustive provision related to display of Emblem on a public building in such manner as provided therein and it would be apposite to reproduce the said provision in the following:

“8. Display on public buildings.– (1) The emblem may be displayed on very important public buildings, like, the Rashtrapati Bhawan, Parliament House, Supreme Court and Central Secretariat buildings.

(2) The emblem may be displayed on Raj Bhawan or Raj Niwas and State Legislature, High Courts and Secretariat buildings of the States or the Union Territories that have adopted the emblem or have incorporated the emblem in the Emblem of the State or the Union Territory.

(3) The emblem may be displayed on the premises of India's Diplomatic Mission abroad and the heads of Missions may display the emblem at their residences in the countries of their accreditation.

(4) The emblem may be displayed on the buildings occupied by India's Consulates abroad at the entrance doors thereof and on the residences of Heads of consular posts in the countries of their accreditation.”

11. One of the significant aspects was addressed in the said Rule in relation to a use of the Emblem in the official seal as the same was restricted to the authorities specified in the First Schedule

W.P.(C) No. 33077 of 2024 Page 8 of 17



appended thereto. While making the said Rules, the framers of the law were conscious of the user of the Emblem in the vehicle and the use thereof was restricted to the authorities enumerated in the Second Schedule appended thereto.

12. We are not concerned with the use of the Emblem for other purposes as incorporated in Third Schedule, as the entire focus was concentrated to the improper depiction of the Emblem in various public buildings, including the precincts of the Courts. The petitioner has also highlighted improper use of the Emblem in public places, like Indira Gandhi Park, Bhubaneswar, where the motto, "Satyameva Jayate" is conspicuously absent.

13. The petitioner further flagged a significant and important mistake having committed in the 1st Prize of 2024 TABLEAUX on 26th January, 2024, where the State of Odisha won the 1st Prize during the 75th Republic Day Parade, as the motto, "Satyameva Jayate" was not written below the profile of a lion capital and four numbers of Ashoka Chakras were not encrypted under each lion in between elephant and horse.

14. Upon noticing such mistakes, the petitioner, being a public-spirited person, filed the instant Public Interest Litigation seeking



the reliefs in the form of *mandamus*, so that immediate steps may be taken against such misuse of the State Emblem of India and also to create a mass awareness program amongst the common citizens of India percolating the importance in legal, social and cultural values of the said State Emblem.

15. It would sheer augment the volume of the judgment in adumbrating the stand of the State as it would be suffice to say that the State, in its affidavit, has not only acknowledged their statutory responsibility in guarding the improper use of the Emblem and activating the process of the provisions of law but also admitted the mistakes having committed and the remedial measures to be taken in this regard.

16. At the time of entertaining the writ petition and perceiving the importance and the significance of the proper and reasonable use of the Emblem, we requested Mr. Manoj Kumar Mishra and Mr. Subir Palit, the Senior Members of the Bar to give their suggestions by appointing them as Amicus Curiae. The suggestion of the learned Amicus Curiae not only contains the suggestions but also the initiatives to be taken ensuring the compliance and preservation of the dignity of the Emblem. The learned Amicus Curiae highlighted



the importance of promoting social media awareness, which is most powerful and cost-effective medium to reach out the citizens across all age groups. The learned Amicus Curiae also suggested the regular monitoring mechanisms by engaging the officials of the State, not only to take action on the misuse of the State Emblem of India but also to prevent such misuse.

17. The setting up of the State Level Task Force was also felt by the Amicus Curiae as a preventive measure and the Standard Operating Procedure to regulate its functioning was also felt necessary. According to learned Amicus Curiae, the timely reporting of the misuse should be made accessible through Online Reporting Portal and a Helpline number can also be assigned. All such broader suggestions and the remedial measures highlighted by the Amicus Curiae need deep introspection on its workability, feasibility and implementation within the framework of law.

18. It admits no ambiguity that despite the preventive and/or prohibitory legislation being in place, the misuse appears to continue, not with any malice or ill motive but by mistake, because of the lack of proper awareness having inculcated into the users of the said State Emblem. This phenomenon is not restricted to the



State of Odisha but in other States across the country and the Courts of the country has frowned upon such improper use of the Emblem, which can be envisioned from a Division Bench judgment of the Karnataka High Court *in Re: High Court Legal Services Committee* (Writ Petition No.4635 of 2024), decided on 4th April, 2025.

19. The writ of *mandamus* was issued upon various authorities and the preventive measures to be undertaken in the following:

“8. A writ of mandamus is hereby issued to

- (i) The Secretary, Ministry of Home Affairs, Government of India*
- (ii) The Secretary, Ministry of Road Transport, Government of India*
- (iii) The Director, Ministry of Consumer Affairs, Government of India*
- (iv) The Principal Secretary, Department of Home, Government of Karnataka and*
- (v) The Principal Secretary, Department of Transport, Government of Karnataka, to strictly implement the provisions of,*
 - (a) The Emblems and Names (Prevention of Improper Use) Act, 1950;*
 - (b) The Emblems and Names (Prevention of Improper Use) Rules, 1982;*



(c) The State Emblem of India (Prohibition of Improper Use) Act, 2005;

(d) The State Emblem of India (Regulation of Use) Rules, 2007 as well as Rules of 2010;

(e) All applicable provisions of Central Motor Vehicle Rules, 1989, in particular Rules 50 and 51, as well as the applicable rules of Karnataka Motor Vehicle Rules, 1989, in particular 145-A;

9. *The respondents are directed to instruct and require all implementing authorities below them to ensure the compliance of the aforementioned statutory provisions of the Acts and the Rules.*

10. *In addition to the above general directions to implement the Act and the Rules, the following specific directions are given which would further sub-serve the public purpose,*

(i) The respondent-authorities are directed that notice shall be issued by way of different public modes through print and visual media to remove all kinds of unauthorised Flags, Emblems, Names, Symbols, Stickers, Seals, Logos of any kind which are prohibited. There shall be instructions to all to remove such emblems and discontinue unauthorised use thereof within four weeks.



(ii) The higher-ups of the respondents shall chalk out the methods and programmes to sensitise the officials and implementing authorities to see and ensure that the misuse of National Emblem and National Symbols in various forms do not occur, stopped and prevented.

(iii) Where such conduct of using them unauthorisedly is noticed, they are dealt with sternly.

(iv) The respondents shall instruct the implementing authorities to register the cases under the provisions of the relevant Acts and the Rules wherever the complaints with regard to the misuse of the National Symbols and Emblems are found correct. Necessary circulars in this regard should be issued.

(v) The school children or the law students shall also be involved in spreading awareness against misuse and unauthorised display of National Symbols and Emblems by any person, body or organization.

(vi) The respondents should frame regulations for imposition of fine and for cancellation of driving licence by providing such penal measures in the relevant Rules for violating law on use of the National Emblems and Symbols.

(vii) The traffic police should be educated by undertaking programmes and imparting training to keep observance and proper vigil to take penal action



whenever they come across the violation of the kind and nature.”

20. Such directions are exhaustive but apart from the same, we feel certain directions would put an impetus to a due and meaningful implementation of the provisions of the said Act. In order to eradicate any confusion and/or discrepancy in understanding the directions issued in the instant PIL, we hasten to add that the directions by the High Court of Karnataka will be treated as an integral part of the directions passed by us in the instant Public Interest Litigation.

21. We have noticed that because of the lack of proper awareness, the misuse of the State Emblem of India appears to be a reality. The awareness must be generated across the people of the country, including the State of Odisha and the sense of responsible use of the Emblem must be ubiquitously ensured. We thus pass the following additional directions:

- (i) The State shall create a State Level Task Force, which would comprise of a high-ranking Officer of the Home Department to act as the Chairman thereof with one Member from Police, Transport, Education, I & PR, Law, Urban and Panchayati Raj to monitor and review any suggestion, objection and/or



reporting of the misuse of the State Emblem of India on a monthly basis.

- (ii) The State shall make a Standard Operating Procedure for functioning of the said State Level Task Force and would also review the reports of the said Task Force to be submitted on a monthly basis. The State shall create a unified online reporting portal as a single window for accessibility of every citizen of the country to upload the photos, videos, geo-tagged complaints, which should contain the Frequent Asked Questions (FAQs) illustrating the permissible and the prohibited uses and the timely intervention and the action to be taken shall be uploaded under the action taking icon. Such portal not only to be integrated to the State Level Task Force but also be integrated with the District e-offices to provide an auto route to the DMs, SPs, and the RTOs.
- (iii) The convergence and the synergy to be created in the different Departments of the Government, which would include the local bodies and the civic bodies for due implementation of the provisions of the said Act ensuring not only timely intervention but may prevent any such misuse.



(iv) All the institutions using the State Emblem must be communicated in case of any mistake in depicting the State Emblem to remedy and rectify such mistakes within six weeks from the date of such communication.

22. In the light of the observations and directions made hereinabove, the instant writ petition is disposed of.

23. Let this judgment be circulated amongst the different Departments of the Government as well as the High Court for taking remedial measures as suggested herein above.

24. We put our note of appreciation to Mr. Manoj Kumar Mishra and Mr. Subir Palit, learned Senior Members of the Bar for their suggestions in the instant matter.

(Manash Ranjan Pathak)
Judge

(Harish Tandon)
Chief Justice

S. Behera