

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF APRIL, 2025



PRESENT

THE HON'BLE MR. N.V. ANJARIA, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE M.I.ARUN

WRIT PETITION NO.4635 OF 2024 (GM-RES-PIL)

BETWEEN:

HIGH COURT LEGAL SERVICES COMMITTEE
REPRESENTED BY ITS SECRETARY
SMT. KAVERI
HIGH COURT BUILDING
BENGALURU - 560 001

... PETITIONER

(BY SMT. SOHANI A. HOLLA, ADVOCATE)

AND:

- 1 . PRINCIPAL SECRETARY
GOVT. OF KARNATAKA
DEPARTMENT OF TRANSPORT
No. 153, FIRST FLOOR
M.S. BUILDING
BENGALURU - 560 001
- 2 . ADDL. CHIEF SECRETARY
GOVT. OF KARNATAKA
DEPARTMENT OF HOME
GOVERNMENT SECRETARIAT
VIDHANA SOUDHA
BENGALURU - 560 001
- 3 . DIRECTOR, GOVERNMENT OF INDIA/
BHARAT SARKAR
MINISTRY OF HOME AFFAIRS/
GRIH MANTRALAYA
PUBLIC SECTION

NORTH BLOCK
NEW DELHI - 110 001

4 . MINSITRY OF ROAD TRANSPORT
AND HIGHWAYS
ROOM No.310
TRANSPORT BHAVAN
1-PARLIAMENT STREET
NEW DELHI - 110 001

5 . DIRECTOR, MINISTRY OF
CONSUMER AFFAIRS
FOOD & PUBLIC DISTRIBUTION
ROOM NO 54C, KRISHI BHAVAN
NEW DELHI - 110 001

... RESPONDENTS

(SMT. NILOUFER AKBAR, AGA FOR RESPONDENT NOS.1 AND 2
SRI H. SHANTHI BHUSHAN, DSGI FOR RESPONDENT NOS.3 TO 5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE WRIT OF MANDAMUS BY GIVING DIRECTION TO RESPONDENTS TO IMPLEMENT THE PROVISIONS OF THE EMBLEMS AND NAMES (PREVENTION OF IMPROPER USE) ACT 1950, OF THE EMBLEMS AND NAMES (PREVENTION OF IMPROPER USE) RULES 1982, OF THE STATE EMBLEM OF INDIA (PROHIBITION OF IMPROPER USE) ACT 2005 WITH THE STATE EMBLEM OF INDIA (REGULATION OF USE) RULES 2007 AND 2010; ALONG WITH THE PROVISIONS OF RULE (145) (A) OF KARNATAKA MOTOR VEHICLE RULES AND RULES (50) & (51) OF CENTRAL MOTOR VEHICLES RULES & ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE THE CHIEF JUSTICE MR. JUSTICE
N.V. ANJARIA
and
HON'BLE MR. JUSTICE M.I.ARUN

CAV JUDGMENT

(PER: HON'BLE THE CHIEF JUSTICE
MR. JUSTICE N. V. ANJARIA)

National Symbols and National Emblems represent pride and honour of our nation and country. They signify sovereignty for the country. For instance, as the trio-colour does it.

1.1 Not only that, these Symbols, Emblems and Names, disseminate nation's illuminating stories and preach ideals of our glorious history, essentials of culture, fundamental values and national ethos. They in their style, projection, make and mould, often carry landmarks of Indian civilization and history. The National Symbols and Emblems are identity in themselves which stand to elate and embellish the status and dignity of the country.

1.2 An honour ensured to the National Symbols, Emblems and Names is also an honour accorded and extended to our country. The misuse, misprojection and misstatement of these Symbols, Emblems and Names have to be prevented resolutely.

2. The present is a public interest petition filed by the High Court Legal Services Committee.

2.1 The prayer made is to direct the respondent-authorities to implement the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950 and the Emblems and Names (Prevention of Improper Use) Rules, 1982. It also seeks to implement the provisions of the State Emblem of India (Prohibition of Improper Use) Act, 2005 with the State Emblem of India (Regulation of Use) Rules, 2007 and Rules of 2010. The petition along with the aforesaid prayers further prays for implementation of the provisions of the Rule 145 (A) of the Karnataka Motor Vehicle Rules, 1989 and Rules 50 and 51 of the Central Motor Vehicle Rules, 1989.

3. In the backdrop of the institution of this petition as public interest petition, was an order dated 09.06.2023 passed by this Court in **Sri Ananda Shetty Vs. The State through the Police Inspector and another**, which is **Criminal Petition No.1850 of 2017**. The issue involved in the said criminal petition was regarding use and misuse of the name-"Human Rights Commission".

3.1 The extraction of the said order dated 09.06.2023 is relevant,

"During the course of the proceedings, having regard to the submissions made at the Bar, this Court found that the names of "Human Rights Commission" and many other such statutory and constitutional authorities were being misused by many persons. It was found that various NGOs/Organisations/Societies and individuals have been misusing such names on the number plates of private vehicles. It was found that the name of the State Government was being used on the number plates, which again would be in contravention of the provisions contained in the Motor Vehicles Act and Rules. Consequently, various directions were issued by this Court to the respondent-State Government, through Home Department and Transport Department to ensure that the names of the State Government, the Central Government, Statutory Authorities and Commissions shall not be used on the number plates of the private vehicles. The directions were given to ensure that all such unauthorized number plates are removed and penalty be imposed.

Inspite of the efforts at the hands of the respondent-State, this Court find that such unauthorized number plates are still being found on the vehicles plying on the roads, especially in the city of Bengaluru."

3.1.1 The Court further observed that as it was a criminal petition, the Court had limitation and could not keep the matter pending only for implementation of various orders issued by the Court to the State Government and its State authorities to remove unauthorized number-plates and to prevent the misuse of official symbols by the

individuals and organizations. Learned Single Judge, therefore, requested the High Court Legal Services Committee to register a public interest litigation in the subject. Accordingly, the petition was filed moving the Court.

3.2 The issue flagged in this public interest proceedings is thus about misuse and unauthorised use of the names of the authorities, emblems and symbols on the registered number plates of the vehicles as was found in the proceedings of the criminal petition in **Sri Ananda Shetty** (*supra*) where the name of Human Rights Commission and other statutory authorities were mentioned on the number plates misusing the same. It appears that during the pendency of the aforesaid criminal petition, the Court issued various directions from time to time requiring the authorities to ensure that the names of the state governments, the central government, statutory authorities or commissions are not mentioned on the number plates of the private vehicles.

3.2.1 The petitioner-Legal Services Committee highlighted the issues which were identified by the Court while dealing with the said criminal petition, to be,

- (i) Names of "Human Rights Commission" and many such other statutory and constitutional authorities are misused by public.
- (ii) Various Non-Governmental Organizations, organizations, societies and individuals have been misusing such names on the number plates of private vehicles.
- (iii) Corporators/ex-corporators of various municipal corporations, municipal councils etc., and members/ex-members of various Panchayats use their designations on private vehicles in violation of provisions of Acts and Rules.

3.2.2 The petition pleaded about the Karnataka State Emblem, its kind, nature and character to submit that it stands on the lofty principles. Paragraph 13 is extracted herein,

"That the Karnataka State emblem has a red shield charged with a white two-headed bird, Gandabherunda bordered in blue. The crest depicts the Lion Capital King Ashoka (also used as the emblem of the Government of India) on a blue circular abacus with a blue frieze carrying sculptures in high relief of a galloping horse on the left, a Dharmachakra in the center, a bull on the right, and the outlines of Dharmachakras on the extreme left and right as part of Sarnath's Ashoka pillar. The shield is flanked on either side by red-maned, yellow lion-elephant indicating the auspicious mythological character "Gajakesari" a hybrid form of two wise and powerful animals Lion and Elephant- a mythical creature believed to be conquering the world, same referring to a kingdom which justifies all characteristics of a conqueror

standing on a green, leafy compartment. Below the compartment is written in stylized Devanagari script, the national motto of India. "Satyameva Jayathe" for "Truth alone Triumphs". The concept of Sathya and Dharma was so ingrained in the people of this Nation that the whole edifice of this country and its people stood on those two principles and that is the reason why it was taken as an emblem for the State and the Nation. Thus, reminding the people of this country that the lofty principles of Sathya (truth) and Dharma (universal order) has to be upheld at all times and under all circumstances."

3.2.3 In paragraph 14, the National Emblem of four roaring lions was mentioned. It was adopted by the Government of India on 26.01.1950 to highlight that it is a symbol representing the sovereignty of the country.

3.2.4. Paragraph 14 is extracted herein,

"The four roaring lions as National Emblem is adopted by the Government of India on 26th January 1950 is regarded as a symbol of sovereign power of Government of India. It is based on the Lion Capital of Ashoka, a sculpture that was originally erected at Saranath, a place where Goutama Buddha first taught Dharma. The emblem four Asiatic lions standing back to back symbolizing power, courage, confidence and faith. The lions are mounted on a circular abacus and the abacus is mounted as a lotus. The wheel of law, Dharmachakra, in the center having 24 spokes (symbolizing the progress and evolution of human civilization, a bull on the right, a galloping horse on the left. The motto "Satyameva Jayate" ("Truth alone Triumphs") is inscribed below the abacus in Devanagiri script."

3.3 Noticing the applicable statutes, the Emblems and Names (Prevention of Improper Use) Act, 1950 regulates use of the National Flag, the Names, the Emblems, the Official Seals or any other insignia or coat-of-arms used by the Governments or their Departments. The rules called the Emblems and Names (Prevention of Improper Use) Rules, 1982 are framed in exercise of the powers under the Act.

3.3.1 The Statement of Objects and Reasons of 1950 Act is as under,

“Statement of Objects and Reasons.- 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.”

3.3.2 'Emblem' is defined in Section 2(a) to mean any emblem, seal, flag, insignia, coat-of-arms or pictorial representation specified in the Schedule. Section 3 contains Prohibition of improper use of certain emblems and names to provide that notwithstanding anything contained in law for the time being in

force, no person shall, except in such cases permitted and under such conditions prescribed, use for the purpose of any trade, business, calling or profession, etc. as also for the purpose of any trade mark or design, etc. any name or emblem specified in the Schedule. Even any colourable imitation thereof cannot be done without previous permission of the Central Government or of such officer authorised for the purpose.

3.3.3 The aforementioned Rules of 1982 came to be framed in exercise of powers conferred under Section 9 of the Act. The said Rules contemplates appointment of designated officer and Rule 8 deals with the use of Emblems and Names contained in the Schedule. The Schedule referable at Section 2(d) contains description and designs including pictorial depictions.

3.4 Another Act called the State Emblem of India (Prohibition of Improper Use) Act, 2005 came to be enacted by the Parliament. It is stated in the Statement of Objects and Reasons of the Act *inter alia* that the use of State Emblem is governed presently by a set of executive instructions with regard to standard design of the State Emblem of India, its adoption by the State Government, its use in official seals and on stationery, design of official seal, display on

the vehicles and on public buildings and for various other such purposes.

3.4.1 It is stated that the State Emblem of India being the official seal of Government, its use in any manner and in any document or anything leads to create an impression that it is an official document or thing of the Government. Therefore, it is considered appropriate to prevent its misuse by unauthorised persons. It is stated that use of emblem, unless authorised, by the Central Government cannot be permitted by the member of public including retired government officials and public servants as also it cannot be permitted to be used and its improper use has to be prohibited for professionals and commercial people who use such emblem for such private projection.

3.4.2 The prohibition of use of emblem for wrongful gain is Section 4 of the 2005 Act. Under Section 3 of the 2005 Act, it is clearly provided that no person shall use emblem or any colourable imitation in any manner which tends to create an impression that it relates to the Government or that it is an official document. In this Section "person" includes a formal functionary of the Central Government or the State Governments. Section 8 is about the prosecution and previous sanction for prosecution to provide that

no prosecution for any offence punishable under the Act shall have to be instituted with the previous sanction of the Central Government.

3.4.3 The Rules are framed in exercise of powers under Section 11 of the 2005 Act known as the State Regulation of India (Regulation of Use) Rules, 2007. It provides adoption by States or Union Territories and further provides that the State Government may adopt the emblem as the official emblem of the State or Union Territory without obtaining the approval of the Central Government. Rule 7 of 2007 Rules provides for display on vehicles to state that the use of emblem on vehicles shall be restricted to the authorities specified in Schedule II. Similarly, Rule 8 deals with the issue of display on public buildings and Rule 9 is as regards use of the emblem for various other purposes.

3.4.4 The restriction of use of emblem is contemplated as per Rule 10 of the State Emblem of India (Regulation of Use) Rules, 2007. The Rule is as under,

"10. Restriction on the use of the emblem.-

(1) No person (including former functionaries of the Government, like, former Ministers, former Members of Parliament, former Members of Legislative Assemblies, former Judges and retired Government officials), other than those

authorised under these rules, shall use the emblem in any manner.

(2) No Commission or Committee, Public Sector Undertaking, Bank, Municipal Council, Panchayat Raj Institution, Parishad, Non-Government Organisation, University, other than those authorised under these rules, shall use the emblem in any manner.

(3) No association or body of persons, whether incorporated or not, shall use the emblem on their letterheads, brochures, seats, crests, badges, house flags or for any other purpose in any manner.

(4) No professional qualification or private profession shall be mentioned with the name of the person authorised to use the emblem under these rules on the stationery, including letter heads, visiting cards and greetings cards with emblem printed or embossed on it. "

3.4.5 Schedule I of the 2007 Rules with reference to Rules 5 and 6 enlists the constitutional and other statutory authorities who may use the emblem. Schedule II Part I and Schedule II Part II stipulates about the other dignitaries and authorities which may display the emblem on their cars and may display the Ashoka Chakra, which is an emblem of triangular metal plaques on their cars. Schedule III which is a context of Rule 9 deals with other purpose for which the emblem may be used.

3.5 The Government of India, Ministry of Home Affairs has issued Circular dated 11.03.2016 to all the State Governments and

Departments regarding display of complete State Emblem of India (SEI) with the motto "*Satyameva Jayate*". The Government of Karnataka with reference to the aforementioned Circular of the Central Government, issued Circular dated 18.04.2016 directing all the Departments of the State to follow the directions issued by the Government of India.

3.5.1 Furthermore, the Karnataka Government through its Department of Electronics issued Circular dated 01.04.2022 prohibiting the use of State Emblem/logo by the State organization other than Government departments and even the State supported organizations. The Act of 2005 and Rules of 2007, referred to the above bars the use of State Emblem by any one other person than those authorised under the Rules.

4. While the above aspects are highlighted by learned advocate Smt. Sohani A Holla for the petitioner, learned Deputy Solicitor General of India Mr. H. Shanthi Bhushan who appeared for respondent Nos.3 to 5 and learned Additional Government Advocate Smt. Niloufer Akbar for respondent Nos.1 and 2 submitted before the Court that they do not have any objection for grant of the prayers made in the petition since they are for implementation of statutes with a purpose to prevent the misuse of

the National Emblems and National Symbols unauthorisedly by private persons.

5. The Hon'ble Supreme Court in **M/s. Sable Waghire & Company Vs. Union of India**, [(1975) 1 SCC 763] observed and analysed about the object and reasons for promulgating the Emblems and Names (Prevention of Improper Use) Act, 1950,

"The General Assembly of the United Nation Organisation recommended in 1946 that the members of UN 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 the name. A similar recommendation has since received also from the World Health Organisation for the 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 other trade purposes and in a manner likely to offend the sentiments of the people."

(para 15)

5.1 In **Sable Waghire** (*supra*), the Apex Court had occasion to consider the validity of Sections 3, 4 and 8 of the Act of 1950 wherein it was observed and held,

"There is also no merit in the contention that section 3 and 4 violate the provisions of Article 19 (1) (f) and (g) of the Constitution. The petitioners'

right to trade in bidis is not at all interfered with by the legislation. Section 3 in terms provides for enabling the affected persons to adjust their business or affairs inasmuch as the Central Government can permit some time to alter their emblems, designs, etc. to carry on with their trade. Indeed in the present case the petitioners on their own application obtained an extension of time presumably under section 3 of the Act and, therefore, cannot complain on that score.

(para 18)

5.1.1 It was further observed,

"There is built-in safeguard in section 3 itself for mitigating any hardship to persons or any rigor of the law. The provisions are accordingly regulatory in nature and even, if at all, impose only reasonable restrictions on the exercise of the petitioners' right under Article 19 (1) (f) and (g). Section 4 is a consequential provision and validly co-exists with section 3."

(para 18)

5.2 In **M/s. Sable Waghire** (*supra*) the Hon'ble Supreme Court *inter alia* observed that the saying that "What is there in name" is not always true, specially when the name relates to the officiality or it is one which had national sovereign image or connotation,

"What is in a name may not always be innocent. Logically proper names are proper 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 nations. Human sentiments and often a deep sense of religiosity pervade through and provide a sacred mantel as it were to the nomenclature..."

(para 16)

5.3 The Madras High Court in **S. Mukachand Bothra (deceased) Vs. Central Government represented by the Secretary, Ministry of Home Affairs and others, [(2022) 1 Mad LJ 434]** had an occasion to consider the writ petition in which the direction was sought against a private person who misused the National Emblem for his personal use and personal gain. The petitioner was a son of the original writ petitioner who wanted to pursue the issue inasmuch as his father was victimized due to misuse of Indian National Emblem by Ex-Member of Parliament.

5.3.1 The Ex-Member of Parliament had used the Indian National Emblem on his letter pad to lodge a complaint against the original writ petitioner. It was contended that the authorities had entertained the complaint and had arrested the father of the petitioner keeping him in custody for 21 days. It was contended by the petitioner that his father was a financier in cinema field and when his father demanded return of the loan amount, the disputes arose and for the purpose of ensuring arrest of petitioner's father, National Emblem was misused.

5.3.2 The Madras High Court in **Mukachand Bothra** (*supra*) expressed its concern about the misuse of the emblem and

observed about the implementation of the law in that regard in the following words. Extracting paragraph 53,

"The very idea of misuse of Emblems, Flags, Symbols, Names, Stickers etc., are to escape from the penal actions by the law enforcing authorities. Therefore, implementation of the Act and Rules are of paramount importance in order to minimise the commission of offences by unauthorisedly using such Emblems, Names, Flags, Stickers etc,. The very statement of object and reasons of the Act itself enumerates that the enactment was made to prevent misuse. Therefore, implementation of the Act and Rules are vital for the purpose of prevention of crimes, commission of offences and violations etc,. Unfortunately, the Act and Rules are not at all implemented by the competent authorities. It is painful to record that not even a single case has been registered in the entire State of Tamil Nadu, under the provisions of the Act and Rules. This being the situation, an urgent actions are imminent considering the growing tendency of misuse of Emblems, Stickers, Names, Government Symbols etc., in vehicles, buildings, letter pads etc,."

5.4 It is true and unfortunate that there is tendency amongst the constitutional authorities who are the former authorities no more in the office, the former Members of the Parliament or Ex-Legislators have been misusing the Emblem, Flags, Names, etc. by fixing them in their letter heads and the number plates of the vehicles. This conduct is both unfortunate and depreciable. The misuse of Symbols, Seals, Flags, Emblem and Names have to be countered

for their illegal and unauthorised display at various places in various manners.

5.5 The Madras High Court in **Mukachand Bothra** (*supra*) viewed such misusing of the emblems, etc. seriously to observe that the constitutional authorities while holding office and after demitting the office are expected to maintain good conduct in all respects.

6. The state of affairs prevails in the society which needs to be immediately remedied by the law enforcing agencies that the people at large are witnessed on public roads and public places and also the institutions who have been unauthorisedly using the emblem, government names, department names in contravention of Rule 10 of the State Emblem of India (Regulation of Use), 2007 aforementioned that the said rule contains a prohibition.

7. In light of foregoing discussion, the prayer in the petition deserves to be allowed.

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.

11. The present public interest petition is disposed of in terms of the aforesaid observations and directions.

**Sd/-
(N.V. ANJARIA)
CHIEF JUSTICE**

**Sd/-
(M.I.ARUN)
JUDGE**

AHB