

In the High Court of Judicature at Madras

(Special Original Jurisdiction)

W.P. No. 18639 of 2014

Dr. S.P. Udayakumar
27, Isanganvilai
Mani Veethi
Parakkai Road Junction
Nagerkovil 629 002

.. Petitioner

Vs

1. Union of India
represented by the Secretary
Ministry of Home Affairs
North Block, Central Secretariat
New Delhi 110 001
2. The Director
Intelligence Bureau (MHA)
North Block, Central Secretariat
New Delhi 110 001
3. Mr. S. A. Rizvi
Joint Director
Intelligence Bureau (MHA)
North Block, Central Secretariat
New Delhi 110 001
4. The Chief of Bureau
"Times Now"
(a National Television Channel)
123 Times House 3rd Floor
Chamiers Road
Nandanam
Chennai 600 035
5. The Editor-in-charge
The Times of India (Chennai Edition)
126/127 Chamiers Road
Nandanam
Chennai 600 035
6. The Editor
The Hindu
860 Anna Salai
Chennai 600 002
7. The Editor
The New Indian Express
29 2nd Main Road
Express Gardens
Ambattur Industrial Estate
Chennai 600 058

.. Respondents

AFFIDAVIT

I, Dr. S.P. Udayakumar, Son of Mr. S. Paramarthalingam, aged about 54 years residing at No. 27, Isanganvilai, Mani Veethi, Parakkai Road Junction, Nagerkovil 629002, do hereby on solemn affirmation state as under:

1.. I am the petitioner herein. I am conversant with the facts of the case. I am competent to file this affidavit.

2.. I state that I am the coordinator of the People's Movement Against Nuclear Energy (PMANE).

3.. I state that respondent no. 3 has, with a view to maligning my reputation as an anti-nuclear activist and with a view to lowering my credit, sent a report to the Home Minister, the Finance Minister, the Prime Minister's Office, the Cabinet Secretary (MHA) etc. captioned "Concerted efforts by select foreign funded NGOs to take down Indian development projects." In paragraph 3 of the communication dated June 3, 2014 signed by respondent no. 3, it has been stated as follows: "3. In 2011, anti-nuclear activism stalled the nearly commissioned Russian- assisted, Koodankulam Nuclear Power Project in Tamil Nadu. The protests were spear-headed by Ohio State University funded, SP Udayakumar, and host of Western-funded NGOs. The larger conspiracy was unravelled when a German national provided Udayakumar a scanned map of all nuclear plant and uranium mining locations in India. The map included contact details of 50 Indian anti-nuclear activists revealing an intricate Network aimed to 'take-down' India's nuclear programme through NGO activism."

4.. I state that the above communication dated June 3, 2014 along with the enclosure (a detailed review) is classified as a "SECRET" document. Despite the fact that the detailed review annexed to the above communication dated June 3, 2014 signed by respondent no. 3 is a secret document, respondent no. 3 appears to have, with the sole purpose of defaming me, released the said document to the press. The contents of the above communication and the "detailed review" appeared almost in all leading newspapers and visual media on June 12, 2014. The Times of India (Chennai Edition : 12 June 2014) reported as follows:

"IB POINTS TO FOREIGN FUNDING FOR N-ACTIVIST

Chennai: An Intelligence Bureau report on NGOs that organize protests against India's development projects while receiveing foreign funding has named anti-nuclear activist S P Udayakumar as having connections with US and German authorities.

The report said NGO-inspired protests had pulled down India's GDP growth by 2-3%, and named Greenpeace as "a threat to natinal economic security".

It is said that in July 2010, Udayakumar received a contract from the Kirwan Institute for Study of Race and Ethnicity at Ohio State University, US, as a consultant on 'group, race, class and democracy issues'.

The report said Udayakumar was paid \$21,120 up to June 2011 in a US bank account and was contracted to earn another \$ 17,600 up to April 2012 for fortnightly reports."

5.. I state that respondent no. 3 has mischievously interpreted the "detailed review" in paragraph 3 of his letter that "the larger conspiracy was unravelled when a German national provided Udayakumar a scanned map of all nuclear plant and uranium mining locations in India. The map included contact details of 50 Indian anti-nuclear activists revealing an intricate Network aimed to 'take-down' India's nuclear programme through NGO activism."

6.. I state that respondent no. 3 has, by stating that I was involved in a conspiracy of an intricate network aimed to take down India's nuclear program through NGO activism by means of foreign funds, committed an offence punishable under Section 500 IPC since the said imputation made against me directly, in the estimation of the members of the public, lowers my moral character and also lowers the my credit. The said imputation about me is an utter falsehood. By making such imputation, respondent no.3 has harmed my reputation beyond words.

7.. I state that respondent no. 3 has, by releasing a secret document to the press without obtaining prior permission of respondent no. 2, violated the

provisions of Section 3 (1) (c) of the The Intelligence Organisations (Restriction Of Rights) Act, 1985 and has thereby committed an offence punishable under Section 4 of the said Act.

8.. I state that since respondent no. 3 has deliberately released a secret document to the press with a view to harming my reputation and since he has made defamatory allegations against me in the disguise of interpreting a report relating to the activities of Indian NGOs, I sent a legal notice dated 18 June 2014 through my lawyer to respondent no. 1 requiring him to initiate appropriate departmental disciplinary proceedings against respondent no. 3 for his grave misconduct of releasing a secret document relating to internal security of the country to the press. No action whatsoever has so far been taken by respondent no.1 against respondent no. 3. Hence this Writ Petition on the following ground:

GROUND

It is submitted that the failure of respondent no. 1 to take appropriate action against respondent no. 3 for his grave misconduct of releasing a secret document vide a communication dated June 2, 2014 alongwith the enclosure (a detailed review) captioned "Concerted efforts by select foreign funded NGOs to take down Indian development projects" to the press and visual media would be arbitrary, unfair, unreasonable and violative of Article 14 of the Constitution.

9.. I state that I have no equally efficacious alternative remedy but to approach the Hon'ble Court by way of this Writ Petition under Article 226 of the Constitution of India.

10.. I state that I have not filed any other petition regarding the subject matter of this Writ Petition in the Hon'ble Court or any other Court.

Solemnly affirmed at Chennai

Before me

this the 11th day of July 2014

and signed his name in my presence.

Advocate, Chennai

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29 2nd Main Road
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Chennai 600 058

.. Respondents

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION

- 1.. The address for service on the petitioner is that of his counsel M.Radhakrishnan, Advocate, 134, Thambu Chetty Street, Chennai. 600 001.
- 2.. The address for service on the respondents is as stated above.

For the reasons stated in the accompanying affidavit, it is prayed that the Hon'ble Court be pleased to issue a WRIT OF MANDAMUS directing respondent No.1 to take appropriate action against respondent no. 3 for his grave misconduct of releasing a secret document under the caption "Concerted efforts by select foreign funded NGOs to take down Indian development projects" vide his communication dated June 3, 2014 to the press and visual media, and thus render justice.

Dated at Chennai this the 11th day of July 2014

Counsel for the petitioner

