

Bal Thackery v. Harish Pimpalkhute and ors
(2005) 1 SCC 254

Y.K Sabharwal, D.M. Dharmadhikari, Tarun Chatterjee ,JJ.

Facts/Background

- This is an appeal from the decision in **Harish S/O Mahadeo Pimpalkhute vs Bal Thackeray And Ors ((1997) 99 BOMLR 455)** wherein two contempt petitions were filed against the appellant (Bal Thackeray) under section 15 for having committed contempt of court in terms of section 2(c) by making a public speech (on 21-10-1996 at a Dasera rally at Shivaji Park, Mumbai, that he was reported by someone that a judge demanded `35 lakh for delivering a judgment in his favour')
- The said petitions were filed without obtaining the consent of the Advocate General. The petitioner in contempt petition no 12 had submitted an application dated 22.10.1996 to the Advocate General seeking the requisite permission by 2.12.1996 and further stating that in case of not receiving an answer he would presume that permission had been granted and would proceed with the intended contempt proceedings
- The high court held the appellant guilty of contempt and inflicted simple imprisonment for one week and a fine of Rs. 2000. The appellant then filed the present appeals.

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- Before the Supreme Court the appellant contended that the direction in P.N. Dudas case were not followed by the High court in as much as the informative papers styled as contempt petitions were not placed before the Chief Justice of the High Court for suo motto action and therefore the contempt proceedings were illegal
- In the P.N.Duda v. P. Shiv Shanker&Ors. [(1988) 3 SCC 167] SC approving the Delhi High Court direction in **Anil Kumar Gupta v. K.Suba Rao &Anr.** [ILR (1974) 1 Del.1] : "The office is to take note that in future if any information is lodged even in the form of a petition inviting this Court to take action under the Contempt of Courts Act or Article 215 of the Constitution, where the informant is not one of the persons named in Section 15 of the said Act, it should not be styled as a petition and should not be placed for admission on the judicial side. Such a petition should be placed before the Chief Justice for orders in Chambers and the Chief Justice may decide either by himself or in consultation with the other judges of the Court whether to take any cognizance of the information." The Supreme court stated that the "...the direction given by the Delhi High Court sets out the proper procedure in such cases and may be adopted, at least in future, as a practice direction or as a rule, by this Court and other High Courts."

Issue

- Whether contempt proceedings were initiated against the appellant suo motu by the court or by Respondents.

Observations

- The Court had not taken suo motu action against the appellant.

(In contempt petitions, there was no prayer for taking suo motu action for contempt against the appellant. The specific objection taken that though suo motu action could be taken under Section 15 of the Act on any information or newspaper but not on the basis of those contempt petitions which were filed in regular manner by private parties, was rejected by the High Court observing that being Court of Record it can evolve its own procedure)

- The charge against the appellant was not framed.
- The procedure of Section 15 is required to be followed even when petition is filed by a party under Article 215 of the Constitution.
- In the present case, the proceedings before the High Court were initiated by the respondents by filing contempt petitions under Section 15. The petitions were vigorously pursued and strenuously argued as private petitions. The same were never treated as suo motu petitions. In absence of compliance of mandatory requirement of Section 15, the petitions were not maintainable. As a result of aforesaid view, it is unnecessary to examine in the present case, the effect of non-compliance of the directions issued in Duda's case by placing the informative papers before the Chief Justice of the High Court.

Held

- “For the foregoing reasons we set aside the impugned judgment and allow the appeals. Fine, if deposited by the appellant shall be refunded to him.”
- “Before parting, it is necessary to direct framing of necessary rule or practice direction by the High Courts in terms of Duda's case. Accordingly, we direct Registrar-General to send a copy of this judgment to the Registrar-Generals of the High Courts so that wherever rule and/or practice direction on the line suggested in Duda's case has not been framed, the High Courts may now frame the same at their earliest convenience.”
- <https://www.outlookindia.com/newswire/story/sc-sets-aside-thackerays-conviction-in-contempt-case/264326>