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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION NO.3 OF 2010

Janhit Manch & othersPetitioners
V/s.	
Union of India & othersRespondents

Mr.Bhagwanji Raiyani – Petitioner No.2 appearing in person.

Mr.A.M. Sethana for Respondent No.1.

Mr.B.H. Mehta, A.G.P. for Respondent Nos.2, 3, 4 and 5.

Ms.Sanju Udayabhanu for Respondent No.9.

Mr.V.K. Damale with Mr.M.S. Agashe for Respondent No.10.

Mr.A.N. Moorthy for Respondent No.11.

Ms.J.A. Sarkhot for the Applicant.

CORAM : MOHIT S. SHAH, C.J. AND
S.J. VAZIFDAR, J.
THURSDAY, 3RD FEBRUARY 2011.

P.C. :-

1. In this petition, purporting to be public interest litigation, the petitioners have prayed for several reliefs which may broadly be classified under different heads :-

I. **For New Legislation :**

“(e) The Respondent Government to file a separate affidavit on the pending bill No.LALXXXIX of 2005 as passed by the Legislative Assembly on 16th Dec. 2005 and the stage where it is lying.

(k) To direct the Respondent Union and State

Govts. to file an affidavit on whether they can enact a legislation to make compulsory in schools to teach scientific temper, humanism and the spirit of enquiry and reform as enshrined in the said Art. 51-A (h)) as they made teaching of environment compulsory in schools and primary education as compulsory which is under chapter of directive principle.”

By these prayers, the petitioners seek against the State Government a writ of mandamus requiring the Government to enact the legislation.

II. Certain prayers are directed against astrology and related subjects. The petitioners have prayed that the authorities, astrologers etc. be required to write on their advertisements, boards, letterheads, visiting cards etc. that this type of service is only for entertainment and it is not tried and tested.

[The learned counsel for the Union of India has invited our attention to a decision of the Apex Court in *P.M. Bhargava & Ors. v. University Grants Commission & Anr.* AIR 2004 SC, 3478, in support of the submission that no such advertisement would amount to violation of the provisions of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 (for short “the said Act”).

III. The petitioners have also prayed for providing machinery for implementing Article 59(h) of the Constitution of India.

IV. The petitioners have also prayed for directions regarding implementation of provisions of the said Act.

2. As far as the category of prayers is concerned, it is not open to this Court to entertain a petition for directing the Government or Legislature to enact a legislation. The petition in this regard, is thoroughly misconceived.

3. As far as the prayers regarding astrology are concerned, in *P.M. Bhargava & Ors. v. University Grants Commission & Anr.* AIR 2004 SC, 3478, the Apex Court had occasion to consider the question whether the introduction of Jyotir Vigyan (Astrology) as a course of study by UGC, was unconstitutional. The Supreme Court held that it was not possible to accept the contention of the appellants therein that the prescription of Jyotir Vigyan as a course of study has the effect of saffronising education or that it in any manner militates against the concept of secularism which is part of the basic structure of the Constitution.

Petitioner No.2 appearing in person, submits that the decision requires reconsideration.

The decision of the Apex Court is binding on this Court and it is not open to us to entertain any argument to the contrary.

4. As far as the third set of reliefs is concerned, the prayers regarding implementation of the provisions of Article 51A(h) of the said Act are vague and cannot be entertained in a petition under Article 226 of the Constitution.

5. As far as implementation of provisions of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, the Joint

Commissioner, Food & Drug Administration, Government of Maharashtra, respondent no.2, has filed an affidavit in reply stating that the action is being taken against the bogus doctors and vaidyas for violating the provisions of the Maharashtra Medical Practice Act, 1961 and also the provisions of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 .

6. In view of the above, we see no reason to entertain this public interest litigation. The same is therefore, dismissed.

CHIEF JUSTICE

S.J. VAZIFDAR, J.