

## Ramlila Maidan Incident, In Re v. , (2012) 5 SCC 1

### Constitution of India

Arts. 19(1)(a) & (b) and (2) & (3), 21 and 32 and Preamble - Public meetings, rallies and demonstrations - Public conducting itself in orderly fashion and agitating peacefully - Proper and permissible response of State and police in case of apprehension of breach of peace, disorder, etc., despite the public being in a peaceful state - Police crackdown at midnight on members of public sleeping in enclosed public ground, who were a part of public agitation spread over a number of days - Propriety - Ramlila Maidan incident of 4-6-2011/5-6-2011 - Imposition of prohibitory order at night and hasty and forcible evacuation of sleeping public by police which resorting to violence to force the evacuation - Suo motu probe of incident ordered by Supreme Court on basis of media reports and CCTV camera footage - Police found to have misused its power and leader of agitation, a Yoga Guru also found partly responsible - Directions issued for initiation of disciplinary and criminal action against police officials/persons concerned, and for remedial action and payment of compensation to victims of incident - Permission granted to Yoga Guru, Baba Ramdev for holding yoga camp from 1-6-2011 to 20-6-2011 at Ramlila Maidan in New Delhi abruptly withdrawn on the night of 4-6-2011, and prohibitory order imposed under S. 144 CrPC, 1973 - Action taken on pretext that Yoga Guru instead of using premises exclusively for Yoga Camp as permitted, was promoting his agitation against black money and corruption - Huge gathering of people allegedly expected on Baba Ramdev commencing indefinite hunger strike on 4-6-2012 as part of abovesaid agitation - Apprehension raised that swelling crowd may cause danger to human life and disturbance of public tranquillity - Yoga Guru and his supporters asked to leave Ramlila Maidan at midnight itself - Yoga Guru not cooperating with police in implementation of prohibitory order though he appealed to his supporters to remain peaceful - Confrontation leading to caning and tear gas shelling from police side and stone-pelting from public side - Several persons including police personnel injured and one woman succumbing to injuries later on - Hasty police action at odd hours was in fact a fallout of talks' failure on preceding day (3-6-2011) between Yoga Guru and representatives of Central Government which was trying to persuade Yoga Guru to call off his agitation against black money - Police action, held (per curiam), unconstitutional inasmuch as there was no justification to compel sleeping public to leave at night when there was no immediate danger of peace being disturbed - Necessary procedural safeguards like public announcement of promulgation, banner display of prohibitory order and prior warning before use of force, also not observed by police - Yoga Guru also found to be partly responsible for incident - It was his legal and moral duty to obey prohibitory order - His cooperation might have avoided police-public confrontation and resultant damage to life and property - Contributory negligence of organisers of yoga camp - Held, organisers by refusing to cooperate with police contributed to sufferings of people and were therefore also liable - Remedial and compensatory measures directed (per curiam) - Disciplinary action directed to be taken against police officials who used undue force or failed to render assistance to injured persons - Criminal cases directed to be registered both against police officials and members of public who resorted to violence - Compensation of Rs 5 lakhs awarded to legal heirs of lady who died as a result of this incident - Compensation of Rs 50,000 awarded to each of persons who were hospitalised due to serious injuries - Compensation of Rs 25,000 also awarded to each of persons who were discharged after simple medical treatment - Liability for monetary compensation apportioned between State and Yoga Guru in ratio of 3:1 - Such compensation to be treated as ad hoc compensation, and victims, further held, could claim additional compensation by moving competent court, (2012) 5 SCC 1-A

### Constitution of India

Arts. 32, 136 and 226 - Public law compensation - Police excesses - Violation of fundamental rights - Compensation awarded, (2012) 5 SCC 1-B

### Service Law

### Departmental Enquiry

Court direction regarding - Misconduct - Improper exercise of official power, (2012) 5 SCC 1-C

### Criminal Procedure Code, 1973

Ss. 144 and 134 - Prohibitory order under S. 144 - Enforcement of - Necessity of strict compliance with requirements of publication/affixation, (2012) 5 SCC 1-D

### Constitution of India

Art. 21 - Sleep as a human right - Nature and scope - Sleep, held (per Chauhan, J.), is a biological necessity - Its deprivation affects a person's health and mental condition - Interference with a person's sleep is therefore a form of third-degree method of torture prohibited by Constitution, (2012) 5 SCC 1-E

### Constitution of India

Arts. 21, 19 and Preamble - Security of citizens - Protection of privacy and human dignity - Held (per Chauhan, J.), are primacy tasks of Government - Restrictions on privacy - Held, ought to be just, fair and reasonable - State power has to be exercised within constitutional limitations, (2012) 5 SCC 1-F

### Constitution of India

Arts. 38, 39, 42, 47, 48-A and 51-A and Preamble - India as a welfare State - Protection to all forms of life created by nature - Constitutional goal on this aspect highlighted (per Chauhan, J.), (2012) 5 SCC 1-G

### Constitution of India

Arts. 21 and 19 - Right to life - Privacy, right to silence, freedom from noise and to have proper rest and sleep, as essential constituents of right to life - Held (per Chauhan, J.), are guaranteed by Constitution subject to certain just and fair exceptions, (2012) 5 SCC 1-H

### Constitution of India

Arts. 19(1)(b) & (a) and (2) & (3) and Preamble - Public meeting - Regulation of time and place besides looking into its content/subject-matter - Permissibility - Prohibitory order under S. 144 CrPC, 1973 - Permissibility to invoke in larger public interest - Reasonable restrictions, held (per Swatanter Kumar, J.), can be imposed on public meeting in larger public interest - Content/subject-matter of meeting is not the only concern of authority competent to grant permission, (2012) 5 SCC 1-I

### Constitution of India

Arts. 19(1)(a) & (b) and Preamble - Hunger strike - Threat of - Held (per Swatanter Kumar, J.), is a form of protest permissible under law, (2012) 5 SCC 1-J

### Constitution of India

Art. 19 - Scope and extent of six freedoms conferred under Art. 19(1) - Principles reiterated - Reasonable - Meaning and scope - Said freedoms, held, are neither absolute nor completely obliterated - Constitution adopts a middle course - Imposition of reasonable restrictions is permissible within parameters prescribed in Arts. 19(2) to (6) so as to avoid anarchy and chaos - Purpose is to strike proper balance for meaningful enjoyment of rights by society as a whole - State ought to follow least invasive approach and must act openly and fairly, yet restrictions can be suitably tailored depending

upon gravity of situation to be tackled - Law and order problem for example calls for least restriction, public order problem may justify greater restriction while threat to security of State may warrant maximum restriction - Restrictions however are subject to judicial review so as to check State arbitrariness or highhandedness - Prohibitory order imposed under S. 144 CrPC, 1973 - Held, being a restriction on freedoms under Arts. 19(1)(a) & (b), is subject to judicial review, (2012) 5 SCC 1-K

#### Constitution of India

Arts. 19(2) to (6) and 21 - Reasonability of restrictions - Touchstone for - Restrictions, held, must be just, fair and reasonable as in the case of due process requirement under Art. 21 - Restrictions backed by law, like prohibitory order S. 144 CrPC, 1973 - Held, such restrictions must withstand test of reasonableness, (2012) 5 SCC 1-L

#### Constitution of India

Arts. 19(2) to (6) - Restrictions on six freedoms available under Art. 19(1) - Burden of proof to justify reasonability - Reversal of burden on State when violation of right prima facie proved, (2012) 5 SCC 1-M

#### Constitution of India

Arts. 19(1)(a) & (b) and (2) & (3), 21 and Preamble - Prohibitory order under S. 144 CrPC, 1973 - Held (per Swatanter Kumar, J.), per se is not an unreasonable restriction provided order is passed within parameters set in S. 144 itself - Order however is open to judicial review, (2012) 5 SCC 1-N

#### Constitution of India

Arts. 19(2) to (6) - Restrictions on fundamental rights - Significance of expression in the interest of - Held (per Swatanter Kumar, J.), confers wide scope for imposing reasonable restrictions, (2012) 5 SCC 1-O

#### Constitution of India

Arts. 19(1)(a) & (b) and (2) & (3) and Preamble - Freedom of speech and expression and freedom to assemble - Scope of right - Indian and US positions compared - Said freedom in India, held (per Swatanter Kumar, J.), is not as wide as in USA, (2012) 5 SCC 1-P

#### Constitution of India

Arts. 19(1)(a), 25 and Preamble - Speech an undeniable human right - Held (per Swatanter Kumar, J.), it is basic human nature to give vent to one's inner feelings through speech and expression - Belief too is inherent in human nature - Figuratively, belief, thought and expression are three angles of a triangle which cannot be separated from one another - All other freedoms spring from this freedom, (2012) 5 SCC 1-Q

#### Constitution of India

Arts. 19(1)(a) & (b), 25, 21, 14 and Preamble and Arts. 73 & 162 - Freedom of speech and to assemble peaceably -

State's duty to make available safe environment for fruitful enjoyment of rights - Held (per Swatanter Kumar, J.), State has multi-dimensional role including protection of its citizens - State is therefore obliged to ensure safety of people participating in a public meeting, (2012) 5 SCC 1-R

Constitution of India

Arts. 21, 14 and 19 and Preamble - Liberty - True import of - Reasonableness as hallmark of valid administrative and legislative actions (per Swatanter Kumar, J.), (2012) 5 SCC 1-S

Constitution of India

Pt. III and Art. 13 - Fundamental rights vis--vis laws framed by legislature - Overriding effect of fundamental rights subject to exceptions created within Pt. III - Art. 13, held, is repository of various protections given to individuals (citizens or otherwise) against violation of their fundamental rights, (2012) 5 SCC 1-T

Constitution of India

Pts. IV and III, Art. 37 and Arts. 21 and 21-A - Directive principles - Lifting up of their status equivalent to fundamental rights on certain aspects - Instances of directive principles being given same recognition as fundamental rights - Right to free and compulsory education, recognised now as fundamental right (per Swatanter Kumar, J.), (2012) 5 SCC 1-U

Constitution of India

Pts. III, IV and IV-A and Preamble - Fundamental rights, directive principles and fundamental duties - Composite scheme to achieve social order which affords liberty to all - Unbridled individual rights, held, will create imbalance in society - Appropriate proportion therefore has to be maintained between individual rights and collective rights of society as a whole which imply observance of fundamental duties by individuals - Directive principles as community rights, (2012) 5 SCC 1-V

Constitution of India

Arts. 19(2) to (6) and 51-A - Fundamental duties as facets of reasonable restrictions under Arts. 19(2) to (6), (2012) 5 SCC 1-W

Constitution of India

Pts. III, IV and Art. 37 - Fundamental rights and directive principles - Fundamental - Meaning of - Different connotations in Pts. III and IV - Held (per Swatanter Kumar, J.), rights in Pt. III have been made fundamental in the sense that State's power to abridge those rights have been curtailed - Directive principles have been treated fundamental in the sense that they are basic goals which State must strive to achieve, (2012) 5 SCC 1-X

Constitution of India

Arts. 73, 162, 21 and 14 - Protection of life and property of citizens - State's duty - Emphasised, (2012) 5 SCC 1-Y

## Constitution of India

Arts. 239-AA(3)(a) & (4) and Arts. 73 and 162 - Law and order management in Delhi - Delhi Police acting in coordination with Central Home Ministry - Held (per Swatanter Kumar, J.), nothing objectionable in it so long as police action is within framework of law, (2012) 5 SCC 1-Z

## Constitution of India

Arts. 32, 226 and Pt. III - Appropriate proceedings for enforcement of fundamental rights - Suo motu action by Supreme Court - Material relied upon - Media reports, photographs, CCTV camera footage of incident and police records, (2012) 5 SCC 1-ZA

## Penal Code, 1860

Ss. 96, 97, 188 and 189 - Retaliatory action by public as a result of police crackdown - Criminal liability of attacking public - Use of tear gas by police, held, did not justify brickbattening by a section of public - Erring persons would be criminally liable, (2012) 5 SCC 1-ZB

## Criminal Procedure Code, 1973

S. 144(1) - Prohibitory order - Scope and parameters for exercise of power - Emergent situation warranting quick remedial action - Power to be invoked to serve public purpose, (2012) 5 SCC 1-ZC

## Words and Phrases

Emergency - Meaning explained - Exigent situation arising suddenly, (2012) 5 SCC 1-ZD

## Criminal Procedure Code, 1973

Ss. 144(1) and 134 - Contents of prohibitory order - Precise statement of material facts and emergent circumstances warranting invocation of power under S. 144(1) - Order being a restriction on freedom of speech and to assemble peaceably, must be in writing and should set out grounds for imposing such order - Order to remain in force for a limited period of time only (per Swatanter Kumar, J.), (2012) 5 SCC 1-ZE

## Criminal Procedure Code, 1973

S. 144 - Social need to maintain peace and tranquillity - Temporary overriding of private rights - Permissibility (per Swatanter Kumar, J.), (2012) 5 SCC 1-ZF

## Criminal Procedure Code, 1973

S. 144 - Prohibitory order - Grounds for issuance of - Imminent threat and need for immediate preventive steps - Simultaneous existence of both parameters - Held, is necessary for invocation of S. 144 - Objective application of mind - Material on record, held, must disclose objective decision, (2012) 5 SCC 1-ZG

Criminal Procedure Code, 1973

S. 144 - Prohibitory order - Grounds for issuance of - Use of public place for purpose other than for which permission was obtained - Apprehended overcrowding of public place - Held, not relevant grounds for invoking S. 144 - On facts held, actual occupancy in Ramlila Maidan by peacefully agitating members of public was less than its capacity and therefore there was no justification to issue prohibitory order on this count, (2012) 5 SCC 1-ZH

Criminal Procedure Code, 1973

S. 144 - Threat perception - Relevance of, for issuance of prohibitory order - Held (per Swatanter Kumar, J.), threat perception must be real and based on objective assessment of situation - Mere possibility of a danger is not enough to invoke S. 144 - Proportionality in prohibitory order - Held, order must be least intrusive and period of its operation should not be longer than necessary, (2012) 5 SCC 1-ZI

Criminal Procedure Code, 1973

S. 144 - Procedural safeguards to be observed by police - Public announcement and banner display of promulgation of prohibitory order - Declaration of the assembly as unlawful and prior warning on public address system before use of any kind of force - Videography of event - Safeguards not followed in Ramlila Maidan incident of 4-6-2011 - Tear gas also used improperly in an enclosed space - Police action apparently suggested highhandedness and therefore declared unconstitutional, (2012) 5 SCC 1-ZJ

Criminal Procedure Code, 1973

S. 144 - Time to be allowed for obeying prohibitory order - Held (per Swatanter Kumar, J.), such time period is to be decided by competent authority depending on situation emerging in a given case - Normally reasonable time to be allowed but in emergent situation, order may be enforced immediately - However, undue haste to be avoided as it may make situation worse than sought to be prevented - Ramlila Maidan incident of 4-6-2011 - Sleeping public, held, ought to have been allowed to leave by morning instead of asking them to leave immediately at night - Prohibitory order, further held, also ought to have been announced by means of public address system, (2012) 5 SCC 1-ZK

Criminal Procedure Code, 1973

Ss. 144(1), 129, 130 and 195(1)(a) - Prohibitory order - Effect on assembly against which such order is passed - Disagreeing opinions expressed - Per Swatanter Kumar, J., assembly becomes unlawful and assembled persons must immediately comply with order failing which force may be used against them - Per Chauhan, J. (disagreeing on this point), disobedience becomes punishable only when it causes or tends to cause obstruction, annoyance or injury in terms of S. 188 IPC - Follow-up action if prohibitory order defied - Complaint to be filed under S. 195(1)(a) before competent Magistrate, (2012) 5 SCC 1-ZL

Criminal Procedure Code, 1973

S. 144 - Duty to obey prohibitory order - Consequences of failure to obey - Held (per Swatanter Kumar, J.), every defaulting person, by virtue of S. 149 IPC, becomes vicariously liable for illegal acts committed by other members of assembly, (2012) 5 SCC 1-ZM

Tort Law

Contributory Negligence

Application of concept to organisers of public meetings - Injuries and death taking place as a result of organisers' failure to obey order passed under law - Liability for - Held (per curiam), organisers become negligent and therefore become tortiously liable when statutory order is defied and consequently participants of meeting suffer due to chaos resulting therefrom - Responsibility arises both under duty of care and fundamental duties prescribed in Art. 51-A - Ramlila Maidan incident of 4-6-2011 - Baba Ramdev, chief organiser, held, was under legal and moral duty to prevent mishap by complying with prohibitory order under S. 144 CrPC, 1973 even if order was strictly not in conformity with requirements of S. 144 - Liability therefore fastened on organisers of yoga camp as well as police authorities, (2012) 5 SCC 1-ZN

Tort Law

Negligence

Concept - Absence of care warranted in a given situation resulting in injury to other person - Kinds of negligence - Composite or contributory (per Swatanter Kumar, J.), (2012) 5 SCC 1-ZO

Tort Law

Negligence

Contributory negligence - Factors giving rise to liability - Whether one party could avoid consequences of other's negligence by taking reasonable care - Application of principle to public gatherings - Liability for injuries suffered in a public meeting - Rule of identification for determining who was responsible - Agony-of-moment theory - Held (per Swatanter Kumar, J.), court can determine kind of behaviour expected of a party in particular circumstances and how far such party contributed to injuries suffered by public, (2012) 5 SCC 1-ZP

Criminal Procedure Code, 1973

S. 144 - Prohibitory order - Contents of - Order not disclosing exceptional circumstances warranting invocation of S. 144 at midnight and also not giving any specific direction to organisers of public meeting - Held (per Swatanter Kumar, J.), bad in law, (2012) 5 SCC 1-ZQ

Criminal Procedure Code, 1973

S. 144 - Constitutional validity - Power to issue prohibitory order under S. 144, held (per Swatanter Kumar, J.), is conferred in the interest of public tranquillity and is therefore constitutional, (2012) 5 SCC 1-ZR

Words and Phrases

Law and order - Meaning and content - Held (per Swatanter Kumar, J.), expression is comprehensive enough to take in its fold public order, public peace, public tranquillity and orderliness, (2012) 5 SCC 1-ZS

Words and Phrases

Public order - Held (per Swatanter Kumar, J.), is different from orderliness in a local area - Breach of peace confined to a particular area, may not necessarily lead to public disorder - However, where a disturbance affects community or public at large, it may give rise to public disorder - Disturbance of public peace, when aggravated, may become a public order problem, (2012) 5 SCC 1-ZT

#### Legal Maxims

Qui non prohibet quod prohibere potest, asentire videtur (he who does not prohibit when he is able to prohibit assents to it) - Applied, (2012) 5 SCC 1-ZU