

MADRAS PUBLIC ORDER ACT

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by Chief Justice Gwyer in the Niharendu Dutt Muzumdar versus the King case of 1942 which said: "Public disorder, or the reasonable anticipation or likelihood of public disorder, is the gist of the offence of sedition and the acts or words complained of must either incite to disorder or must be such as to satisfy reasonable men that that is their intention or tendency". The framers of the Constitution must have, therefore, found themselves face to face with the dilemma as to whether the word sedition should be used at all in Article 19 (2) and if it was to be used in what sense it was to be used.

Mr. Justice Fazl Ali continued that the framers of the Constitution used the more general words which covered sedition and everything else which made sedition a serious offence. That sedition undermined the security of the State usually through the medium of public disorder was also a matter on which eminent Judges and jurists were agreed. So it was difficult to hold that public disorder or disturbances of public tranquility were not matters which undermined the security of the State.

Continuing, he said it could not be held that Section 7 (1) (C) under which Organiser was served with a pre-censorship order fell outside the ambit of Article 19 (2). "That clause clearly stated that nothing in Clause (1) (A) shall affect the operation of any existing law relating to any matter which undermined the security of, or tended to overthrow, the State. I have tried to show that public disorders and disturbances of public tranquility do undermine the security of the State and if the Act is a law aimed at preventing such disorders, it fulfils the requirement of the Constitution".

Mr. Justice Fazl Ali referred to an affidavit sworn by the Home Secretary to the Chief Commissioner of Delhi, who also stated among other things that the order in question was passed by the Chief Commissioner in consultation with the Central Press Advisory Committee "which is an independent body elected by the All-India Newspaper Editors' Conference and is composed of representatives of some of the leading papers such as the Hindustan Times, Statesman etc". He, therefore, held that it was beyond the power of the Court to grant the reliefs claimed by the journal.

—FTI.