

Civil Writ Petition-PIL No. 29 of 2024 (O&M)
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Uday Pratap Singh versus **Union of India and others**

Present:- Mr. Uday Pratap Singh, Advocate-petitioner in person in
CWP PIL No. 29 of 2024.

Mr. Arvind Seth, Advocate-petitioner in person in
CWP PIL No. 30 of 2024.

Mr. Anil Mehta, Senior Standing Counsel for Union
Territory, Chandigarh.

Mr. Deepak Sabharwal, Addl. Advocate General, Haryana.

Mr. Gurminder Singh, Advocate General, Punjab with
Mr. M.S.Longia, Addl. Advocate General, Punjab.

Mr. S.P.Jain, Addl. Solicitor General of India with
Mr. Dheeraj Jain, Senior Counsel for Union of India.

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Both the petitions have been filed to propagate a contrasting relief
in the nature of Public Interest Litigation.

2. In Civil Writ Petition-PIL No. 29 of 2024, the petitioner
Mr. Uday Pratap Singh, Advocate, appearing in person, seeks interim orders to
stay all obstructive actions by the States of Haryana, Punjab and Union of
India against the peaceful protest by the farmers keeping in view the
provisions of Articles 19(1)(a)(b) and 21 of the Constitution of India. The
suspension of mobile internet services in various districts of Haryana
depriving the citizens of their right to information and communication is being
putforth in the said petition. It has been pleaded that the farmers proposal to
'*Delhi Chalo March*' on 13.02.2024 to press for their legitimate demands
including the enactment of a law to guarantee a Minimum Support Price
(MSP) for their crops is a manifestation of their democratic right to protest
peacefully. The imposition of Order to invoke Section 144 of the Code of
Criminal Procedure is accordingly objected to by the petitioners apart from the

fact that the Chandigarh Police has also issued an advisory to this effect on 11.02.2024.

3. In Civil Writ Petition (PIL) No. 30 of 2024, the petitioner, namely, Mr. Arvind Seth, Advocate, appearing in person, has sought the relief that National Highways/State Highways/Railway tracks falling in the States of Punjab and Haryana are not blocked by the agitators and action be taken against them as per the provisions of the National Highways Act, 1956. The guidelines issued by the Apex Court in ***Destruction of Public and Private Properties in Re vs. State of Andhra Pradesh and others 2009(5) SCC 212*** have also been relied upon by the petitioner praying that the respondent-authorities should take adequate measures to prevent destruction of public and private properties and the mass protests and demonstrations.

4. It is not disputed that the right of free passage of the public at large is to be balanced with right of freedom of speech and expression and that none of them existing in isolation can be put-forth so that the general public is not put to any inconvenience. The judgment of the Apex Court in ***Amit Sahni vs. Commissioner of Police and others, AIR 2020 (Supreme Court) 4704***, has been pushed into service that occupation of public ways whether at the site or anywhere else for protests is not acceptable and the Administration ought to take action to keep the areas clear of encroachments or obstructions.

5. The interim order dated 23.09.2022 passed by this Court in CWP (PIL) No. 91 of 2022, wherein the blockade resorted to by the group of Bhartiya Kisan Union at the National Highways, has also been referred to, wherein it has also been noticed that the word '*caution*' needs to be kept in mind and the matter has to be resolved amicably and resort to use of force should be as a last option and that too unless the Administration has no other way out.

6. Mr. Satyapal Jain, Additional Solicitor General of India appearing for the respondent-Union of India, has apprised us that to resolve the issues raised by the agitators, first meeting was held on 08.02.2024 amongst three Union Ministers of the Government of India, two Secretaries of the Departments of Agriculture and Food and the Chairman of the Food Corporation of India and the leaders of the agitators of the Kisan Unions. Another meeting was also held on 12.02.2024 amongst two Union Ministers of the Government of India and the two Secretaries and the Chairman of the Food Corporation of India and the leaders of the agitators. It has also been informed that even the Chief Minister of the State of Punjab had also attended the first meeting held on 08.02.2024. Mr. Jain has informed that a Committee was also formed headed by Mr. Sanjay Aggarwal in pursuance to earlier agitation held in July, 2022 by the Kisan Unions and the said Committee became non-functional on account of boycott by the farmers' bodies.

7. Mr. Deepak Sabharwal, learned Additional Advocate General appearing for the respondent-State of Haryana, submits that to maintain law and order is the bounden duty of the State as such and therefore, the State of Haryana has taken necessary precautions having received an advisory from the Union of India and they have an apprehension that tractor-trolleys have been modified as such to storm barricades and protestors are equipped for a long sit-out. Mr. Sabharwal has informed that similar order under Section 144 of the Code of Criminal Procedure has also been passed by the Commissioner of Police, Delhi on 11.02.2024.

8. On the other hand, Mr. Gurminder Singh, Advocate General, Punjab, submits that they have not set up any barricades or hindrances to ensure free movements on the highways since the protest is peaceful. However, the agitators, who have assembled, have yet to cross over into the State of Haryana and their target is to reach New Delhi and are assembling

in the State of Punjab. It is submitted that it is also the bounden duty of the State to ensure that law and order situation is maintained and they are monitoring the situation.

9. Keeping in view the exigencies of the situation and the general hardship being caused to the public, the Court is sanguine that all the parties to the present dispute would make efforts to sit down and solve the problem and even if a demonstration has to take place, an area should be identified by both the States to allow peaceful agitation by the protestors.

10. Thus, in view of the above, we direct impleadment of 'Kisan Mazdoor Morcha and Samyukta Kisan Morcha (non-political) through their authorized representatives as necessary respondents to both the petitions. Process dasti as well. Newly added respondents be served by the State of Punjab.

11. Mr. Jain, Additional Solicitor General of India, submits that he has no instructions regarding any advisory issued by the Union of India. Keeping in view the above situation, we are of the considered opinion that State of Delhi through Home Secretary would also be a necessary party and therefore, it be also impleaded as respondent in both the petitions.

12. Let status reports be filed by the respondents- State of Punjab, State of Haryana and Union Territory, Chandigarh before the next date of hearing.

13. List both the petitions on 15.02.2024.

14. A copy of this order be placed in the connected file.

(G.S.SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

13.02.2024
ravinder