

Press Information Note

High Court opens the door for the common man to fly the Tiranga at Night

Hon'ble High Court Bilaspur quashes complaint against Naveen Jindal and also quashes the order of Chief Judicial magistrate

Bilaspur, 10th August, 2010 – In a landmark Judgement Hon'ble High Court of Bilaspur quashed the FIR and the complaint against the management of Naveen Jindal led Jindal Power Limited and also quashes the order of Chief Judicial magistrate, Raigarh, dated 4th March 2008 for flying the National Flag during night. The court in its judgement said that not lowering the flag at night is no violation of the Prevention of Insults to National Honour Act, 1971. This historical judgement opens the door for the common man to fly the Tiranga at night.

Giving the judgement on 9th August 2010, the Hon'ble court said that no citizen can be punished on the basis that he/she did not lower the national flag during dusk and has not insulted the dignity and honour of the national flag. Not lowering the flag at night is no violation of the Prevention of Insults to National Honour Act, 1971. The Hon'ble court quashed all the complaints against the management of Jindal and also the orders of Chief Judicial magistrate, Raigarh dated 4.3.2008.

One Mr. Santosh Mishra, resident of Raigarh, Chhattisgarh filed a complaint against Jindal Power Ltd and its management at PS Tamnar stating that the National Flag was flying in the Naveen Jindal owned Jindal Power Limited premises after dark at around 6.30 PM. It was alleged that this was the violation of the Prevention of Insults to National Honour Act, 1971 and also the violation of Flag Code 2002.

A case was filed at PS Tamnar on 18.10.2006 under Section 2 of the Prevention of Insults to National Honour Act, 1971. But after through investigation it was found by the police that no offence was made out and closure report was duly submitted to JMFC Ghargoda vide no. 1/2007, 26.06.07.

In the meanwhile, another complaint was filed by one Rajesh Tripathi, S/o Mr. Kamla Prasad Tripathi, representative of so called NGO Janchetna against the company and its Executive Director, Mr. D P Saraogi On 05.01.08 alleging that there has been offence committed u/s 2 of the Prevention of Insults to National Honour Act, 1971 read with section 153-A, 295 A and 268 Of IPC.

Jindal Power Limited through its counsel Mr. Satish Chandra Dutt and Satish Verma filed for quashing of the criminal proceedings under Article 226 on 01.07.2008. On 3rd July 2008 Hon'ble high stopped the proceedings of lower court. Taking note of the matter Hon'ble High Court has finally quashed the FIR and the Complaint stating that, "not lowering down the flag at night is not violative of the Flag Code of India and hence, both the FIR as well as the complaint against JPL and its management is hereby quashed."

It may be noted here that JPL is a subsidiary of Jindal Steel and Power Limited headed by Shri Naveen Jindal.

Highlights of the case

- Case filed by one Santosh Mishra at PS Tamnar for flying the national flag at night on 18.10.06
- Police finds no offence is made after investigation
- One Rajesh Tripathi of so called NGO Janchetna files a complaint against JPL and its management under National Honour Act
- The company files a writ petition under article 226 of constitution of India
- The proceedings in lower court were stayed on 03.07.08
- Finally, Hon'ble High Court of Bilaspur quashes the FIR and complaint against the company and its management

After almost a decade long legal battle initiated by Shri Naveen Jindal on behalf of the people of India to give them the right to hoist the National Flag publically, the Hon'ble Supreme Court gave the landmark judgment in 2004 saying that every citizen of the country has the right to fly the

National flag with respect, dignity and honor thus becoming a fundamental right of every citizen. The decision prompted the Central Government to amend the National Flag Code.

In December, 2009 the young Member of Parliament and one of the leading industrialists of the country Shri Naveen Jindal got the Flag Code once again amended and secured permission to fly the National Flag even during night hours. Prior to December, 2009 flying of the National Flag during night was normally not allowed. Flag mounted on 100 ft and above high flagpole could be flown even during nights when adequately illuminated.

Based on a campaign of Shri Naveen Jindal, The Lok Sabha on 18th February, 2010 decided to allow Members of Parliament to wear Lapel Pins displaying the National Flag on their person in the august House. It may surprise many to know that according to Rule No. 349 (XIV) of the Rules of Procedure and Conduct of Business in the Lok Sabha Members of the Parliament were not allowed to wear badges of any kind while seated in the House.
