

Balaji Raghavan

Vs

Union of India

S. P. Anand

Vs

Union of India

Transferred Cases (C) No. 9 of 1994 with No. 1 of 1995

(CJI A. M. Ahmadi, Kuldip Singh, S. Saghir Ahmed, B. P. Jeevan Reddy, N. P. Singh)

15.12.1995

JUDGMENT

AHMADI, C. J. -

1. The short but interesting question that arises for our consideration is :

"Whether the Award, Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri (hereinafter called 'The National Awards') are 'Titles' within the meaning of Article 18(1) of the Constitution of India?"

2. Before dealing with the legal aspects of the question at issue, we may briefly set out the factual matrix of the two cases. The two petitions which have given rise to this issue were filed in the High Courts of Kerala and Madhya Pradesh (Indore Bench), respectively. The petitioner in TC (C) No. 9 of 1994, Balaji Raghavan (hereinafter called 'Petitioner 1') had filed OP No. 2110 of 1992 (hereinafter called 'the OP') on 13-2-1992 before the Kerala High Court. The petition filed under Article 226 of the Constitution, sought, by way of a writ of mandamus, to prevent the respondent from conferring any of the National Awards. The petitioner in TC (C) No. 1 of 1995, S. P. Anand (hereinafter called 'Petitioner' 2) filed Miscellaneous Petition No. 1900 of 1992 (hereinafter called 'the MP') on 24-8-1992, before the Indore Bench of the Madhya Pradesh High Court, praying for the same relief.

3. In the Kerala High Court, the two contesting parties filed written submissions and counters between 30-9-1992 and 7-4-1994. During this period, the High Court of Kerala did not hear oral arguments or pass any interim order. However, in the other case, a Division Bench of the High Court of Madhya Pradesh (Indore Bench), on 25-8-1992, through an ex parte order, issued notice to the respondent and also restrained it from conferring on any person or persons any of the National Awards, until further orders. The respondent filed TPs (C) Nos. 6 and 7 before this Court, seeking to transfer the case and to vacate the ex parte order of the High Court of Madhya Pradesh dated 25-8-1992. On 8-1-1993, a Division Bench of this Court, while refusing to transfer the case to itself, directed the Madhya Pradesh High Court to give its decision on the application filed by the respondent for vacating the ex parte order, on or before 20-1-1993. On 20-1-1993, a Division Bench

of the Madhya Pradesh High Court vacated its earlier order dated 25-8-1992. Meanwhile, the respondent filed TPs (C) Nos. 811-812 of 1993, by which it sought transfer of both the OP and the MP to this Court. On 29-10-1993, a Division Bench of this Court directed that the matter be posted before a Bench presided over by the Chief Justice of India on 17-1-1994. On that day, a bench of this Court presided over by the then Chief Justice issued notice in TPs Nos. 811-812 of 1993 and stayed further proceedings in both the petitions. Later, on 7-3-1994, this Court transferred both the aforesaid cases to itself.

4. Thereafter, on 11-9-1995, TCs (C) Nos. 9 of 1994 and 1 of 1995 were posted before a Division Bench of this Court. The last date for submission of written briefs by both sides was fixed and each side was allotted time for oral arguments. While counsel for Petitioner 1 and the respondent submitted their written briefs within the stipulated time, Petitioner 2, however, failed to do so. The date for the hearing before this Constitution Bench was fixed for 14-11-1995. On 31-10-1995, Petitioner 2 was given notice of this fact. However, he did not present himself before the Constitution Bench and no arguments were advanced on his behalf. Subsequently, after the conclusion of the hearing and the judgment being reserved, he sent communications dated 1-11-1995 and 6-11-1995, which were received by the Supreme Court on 15-11-1995 and 21-11-1995 respectively, requesting that his petition should be delisted or else he should be given a hearing by the Constitution Bench. It is not possible to accede to his request. A public interest litigant cannot choose his forum. Once the case stands transferred to the Supreme Court, he must make arrangements to present himself and advance arguments before it. A Constitution Bench cannot be expected to fix its schedule with a view to accommodating each and every litigant. Litigants must conform to the time schedule fixed by the Court. Hence we have refused to entertain his request.

5. It would now be relevant to notice the events connected with the institution of the National Awards. It is important to note that a policy of instituting National Awards and Honours had been adopted even before the Constitution of India was formally drafted. On 13-2-1948, the Prime Minister's Committee on Honours and Awards was set up under the Chairmanship of the Constitutional Adviser to the Government of India, Sir B. N. Rau. Its purpose was to recommend the number and nature of civil and military awards; the machinery for making recommendations for the granting of these awards; the frequency with which they were to be awarded, etc. The Committee worked on the premise that orders and decorations, carrying no title, were not meant to be prohibited. It submitted its report on 9-3-1948 and gave extensive suggestions in respect of each of the subjects upon which it had been required to give its recommendations. Thereafter, in a series of meetings held between 30-5-1948 and 29-10-1953, the Cabinet had occasion to discuss the nature and conditions of the proposed National Awards.

6. The National Awards were formally instituted in January 1954 by two Presidential Notifications No. 1-Pres. /54 and No. 2-Pres. /54 dated 2-1-1954 which were subsequently superseded by four fresh notifications, viz., No. 1-Pres. /55, 2-Pres. /55, 3-Pres. /55 and 4-Pres. /55 dated 8-1-1955. The purpose for which these award were to be given are as follows :

#Name of the Award Purpose for which it is given
Bharat Ratna For exceptional service towards the advancement of art, literature and science and in recognition of public service of the highest order.
Padma Vibhushan For exceptional and distinguished service in any field including service rendered by government servants.
Padma Bhushan For distinguished service of a high order in any field including the service rendered by government servants.
Padma Shri For distinguished service in any field including service rendered by government servants.##

The aforementioned Presidential notifications also provide that any person, without distinction of race, occupation, position or sex, shall be eligible for these awards and also that the decorations may be awarded posthumously.

7. A press note was issued by the Government of India on 17-4-1968 making it clear that the practice of using Civilian Awards, such as, Padma Vibhushan, Padma Bhushan and Padma Shri, as titles on letterheads, invitation cards, posters, books, etc., is against the scheme of the Government as the awards are not titles and their use along with the names of individuals is contrary to the spirit of the Constitution which has abolished titles. It was also emphasised in the press note that civilian awards should not be attached as suffixes or prefixes to the names of the awardees to give them the appearance of titles.

8. In the year 1969 and again in the year 1970, the late Acharya J. B. Kripalani, who was then a Member of the Lok Sabha, moved a non-official Bill entitled "The Conferment of Decoration on Persons (Abolition) Bill, 1969" for their abolition. In the draft statement of Objects and Reasons appended to the Bill, the main points were thus stated :

(a) Although Article 18 had abolished titles, they were sought to be brought in by the backdoor in the form of decorations.

(b) The decorations were not always awarded according to merit, and the Government of the day is not the best judge of the merits or the eminence of the recipient.

(c) These "new titles" were at first given to very few, exceptional persons; this small stream had since become quite a flood.

The Bill led to an elaborate debate in Parliament but was ultimately defeated.

9. On 8-8-1977, the institution of the National Awards was cancelled, vide Notification No. 65-Pres./77. On 25-1-1980 the Government revived these awards by Notification No. 25-Pres./80 which cancelled the earlier Notification No. 65-Pres./77 dated 8-8-1977. Since then, the National Awards have been conferred annually on the Republic Day.

10. We may now refer to the text of Article 18 of the Constitution which reads as follows :

"18. Abolition of titles. - (1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

(4) No person holding any office of profit under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State."

11. The learned counsel for Petitioner 1 pointed out that while Article 18(1) prohibits the

conferment of 'titles' by the State with the exception of military and academic distinctions, it does not define the words 'titles' and 'distinction'. In an effort to throw light upon this aspect, he referred us to the legislative history of the provision. According to him, the framers of the Constitution had intended to do away with the practice followed by the British of conferring various 'titles' upon Indian citizens who carried favour with them. This practice and the recipients of the titles had earned the contempt of the people of pre-independent India and hence such pernicious practices were proposed to be prohibited in independent India through this provision. According to him, viewed against this background, the word 'title' should be given the widest possible meaning and amplitude in order to give effect to the legislative intent. Since the only exception to this rule has been carved out in respect of military and academic distinctions, it follows that all other distinctions are impliedly prohibited. We were then referred to several dictionaries to ascertain the meaning of the words 'Title', 'Order', 'Distinction', 'Award' and 'Designation'. It was sought to be demonstrated that even the dictionary meaning of the word 'title' is wide enough to encompass all other similar concepts.

12. It was further contended that the National Awards make distinctions according to rank. They are divided into superior and inferior classes and the holders of the Bharat Ratna have been assigned the 9th place in the Warrant of Precedence (which indicates the rank of different dignitaries and high officials of the State). It was pointed out that several recipients were following the practice of appending these awards to their names, using them as titles in their letterheads, publications and at public functions. This practice has continued unabated despite the fact that the Government had issued a press note in 1968 prohibiting such conduct. Says the learned counsel, all these factors have resulted in the creation of a rank of persons on the basis of recognition by the State, in the same manner as was achieved by the conferment of nobility during the British rule. This, according to him, is clearly violative of Article 14 read with the Preamble to the Constitution which guarantee to every citizen, equality of status. It was also pointed out that there are no objective guidelines for the manner in which the recipients are to be chosen and over the years, these awards have degenerated into rewards proffered by the powers that be, i.e., the Government of the day, in great numbers, to those who serve their political ends.

13. The learned Attorney General for India prefaced his arguments on behalf of the Union of India by stating that almost every country in the world, including those with republican and socialist constitutions, follows the practice of conferring awards for meritorious services rendered by its citizens. The learned counsel then referred us to several dictionaries for the meanings of 'Title', 'Award', 'Distinction', 'Decoration' and 'Order'. He then stated that, according to the ordinary and contextual meaning in Article 18, the word 'title' means a title of honour, rank, function or office in which there is a distinctive appellation. An appellation, according to him, is a name or title by which a person is called or known, something which is normally prefixed or suffixed, for example, Sir, K. C. I. E., Maharaja, Nawab, Dewan Bahadur, etc. The learned counsel submitted that it is these appellations that appear as prefixes or suffixes which are sought to be interdicted by Article 18(1). Since the National Awards are not titles of nobility and are not to be used as suffixes or prefixes, they are not prohibited by Article 18. In this regard, we were referred to the press note dated 17-4-1968 issued by the Government of India. The learned counsel further submitted that the words "not being a military or academic distinction" in Article 18 have been used *ex abundanti cautela*. Since military and academic distinctions, such as, General, Colonel, Professor, Mahavir Chakra, B. A., etc. do carry suffixes or prefixes, the framers of the Constitution, by way of abundant caution, expressly mentioned that they would be exempted. It follows that distinctions which do not carry suffixes or prefixes will not be affected by the interdiction in Article 18(1). At this stage, the learned counsel took us through the relevant parts of the discussions in the Constituent Assembly that led to

the framing of Article 18(1) to support the aforesaid stance.

14. The learned Attorney General then reiterated his argument that republican nations across the world have similar awards for recognizing meritorious services and these National Awards are not violative of the right to equality as enshrined in Part III of the Constitution. In this context, we were referred to civil awards instituted and conferred by the United Kingdom, the United States of America, the Republic of France, the People's Republic of China, the Republic of Canada and the former Soviet Union. In response to our query for guidelines that control the manner of selection of the recipients of these awards, the learned Attorney General delivered to us a copy of the communique that was sent to him from the Ministry of Home Affairs in this regard.

15. Mr. Santosh Hegde, Senior Counsel, responded to our request to act as amicus curiae and advanced arguments before us. He began by stating that the fact that these awards are being grossly misused had occasioned one of the writ petitions. He referred us to the views of eminent authors, Mr. D. D. Basu and Mr. H. M. Seervai on the issue at hand. Thereafter, he led us through the relevant parts of the discussions in the Constituent Assembly before submitting that it is clear that the Constitution does envisage a situation where meritorious services rendered by individuals are to be recognised by the State, through the conferment of awards. However, to avoid the criticism of creating a separate class, it needs to be ensured that these awards are not used as prefixes or suffixes. He concurred with the submission of the learned Attorney General that the words "military or academic distinction" had been used by way of abundant caution. Commenting on the misuse of these awards, he submitted that the maximum number of awards that can be conferred should be specified. He also felt that ordinarily public servants and civil servants should not be eligible for these awards, unless there are extraordinary reasons.

16. We may now address the central issue in the case. At the outset, we may point out that the marginal heading of Article 18, which reads as "Abolition of Titles" is an incorrect summarisation of its contents as it does not seek to abolish titles granted in the past. Sir Ivor Jennings, the noted constitutional lawyer, has described Article 18 as "not a right at all, but a restriction on executive and legislative power."

17. From the aforementioned discussion, two views on the proper interpretation of Article 18(1) emerge :

(1) The first, put forth by the petitioners, is that the word 'title' in Article 18(1) is used in an expansive sense to include awards, distinctions, orders, decorations or titles of any sort whatsoever, except those that qualify as military or academic distinctions.

(2) The second, advanced by the learned Attorney General and Mr. Santosh Hegde, is that what is sought to be prohibited are titles of nobility and those that carry suffixes or prefixes, which violate the concept of equality by creating a separate class. According to this view, the words "military or academic distinction" were added by way of abundant caution. It was not meant to prevent the State from honouring or recognizing meritorious or humanitarian services rendered by citizens.

18. We may now refer to the developments preceding the introduction of Article 18(1) as it presently stands and the debates thereon amongst the framers of the Constitution. The Constituent Assembly, as we all know, functioned by constituting committees which were expected to deliberate

and take decisions on specific issues of constitutional law to be incorporated in the Constitution. On 21-1-1947, three such Committees were constituted by the Assembly, one of them being the Advisory Committee on Fundamental Rights, Minorities and Tribals and Excluded Areas (hereinafter called "The Advisory Committee on Fundamental Rights"). Thereafter, the Assembly met at regular intervals to discuss the reports submitted by the various Committees. On 29-8-1947, the Assembly appointed a Drafting Committee which was to analyse the reports of these Committees, take note of the discussions in the Assembly regarding them, and prepare the text of a Draft Constitution. This Draft Constitution came to be prepared during February 1948 and on 15-11-1948, the clause-by-clause discussion of the Draft Constitution began in the Assembly. This process culminated on 26-11-1949 when the Constitution as settled by the Constituent Assembly was adopted by it.

19. The provision that is now Article 18(1) was discussed and formulated in the report of the Advisory Committee on Fundamental Rights. This Committee had, in view of its wide agenda, appointed two Sub-Committees, one on Fundamental Rights and the other on Minorities. The former Sub-Committee was chaired by Acharya J. B. Kripalani. On 25-3-1947, the present Article 18(1) was discussed for the first time in the Sub-Committee on Fundamental Rights. The agenda for the meeting was the discussion of the note prepared by Mr. K. T. Shah on Fundamental Rights which contained five clauses relating to the prohibition of, and restrictions on, the conferment and acceptance of titles, honours, distinctions and privileges. Clause 3 of this note read;

"No artificial or man-made distinction between citizens and citizens, by way of titles, honours, privileges - whether personal or inheritable, - shall be recognised by and enforceable under this Constitution, or laws made thereunder : provided that academic degrees, official titles, or popular honorifics, whether of Indian or foreign origin, or conferment, may be permitted insofar as they create no privileged class or heritable distinction."

At the meeting, Mr. K. T. Shah formally proposed the abolition of titles and the privileged class of title-holders. In the final report of the Sub-Committee, the relevant part of clause 8 read as follows :

"No titles except those denoting an office or a profession shall be conferred by the Union."

20. This clause was considered by the Advisory Committee on Fundamental Rights on 21-4-1947. A number of influential members expressed reservations about the abolition of titles. Mr. C. Rajagopalachari suggested that it should be left open to the legislature to decide from time to time whether titles are good or bad. He stated that, especially if there was a nationalist, communist or socialist policy, and the profit motive was removed, there would be a great necessity for creating a new motive in the form of titles. Sir Alladi Krishnaswamy Aiyar and Mr. M. Ruthnaswamy also supported the omission of this clause. The latter stated that equality is not opposed to distinction and even in a democracy, it must be provided. Mr. K. T. Shah, however, urged that the conferring of titles offended against the fundamental principle of equality sought to be enshrined in the Constitution. Mr. K. M. Panikkar, while suggesting a half-way solution stated :

"Orders and decorations are not prohibited. The heritable titles by the Union undoubtedly create inequality. In the Soviet Union many encouragements are given on account of certain national policies. What I am submitting is that we must make a clear distinction between titles which are heritable and thereby create inequality and

titles given by governments for the purpose of rewarding merit or by recognising merit. There are two methods that exist. As you know one is by title and the other by decoration. What we have to aim at is really the question of heritable titles and we should see that provision is made for decorations and various other things because it is only titles that have been prohibited, not decorations and honours."

Pressed to a vote, the suggestion that the clause should be omitted was lost by 14 votes to 10; but Mr. Panikkar's proposal that only heritable titles should be forbidden was accepted by Mr. Shah and was unanimously adopted by the Committee. The relevant part of clause 7 of the Committee's Interim Report to the Constituent Assembly read;

"No heritable title shall be conferred by the Union."

21. On 30-4-1947, this clause was discussed in the Constituent Assembly. While moving the clause, Mr. Vallabhbhai Patel observed that titles were often being abused for corrupting the public life of the country and, therefore, it was better that their abolition should be provided as a fundamental right. He informed the Assembly that it had been decided to drop the word 'heritable' as it had become a matter of controversy. While moving the amendment, Mr. M. R. Masani stated :

"This will mean that the free Indian State will not confer any titles of any kind, whether heritable or otherwise, that is, for the life of the incumbent. It may be possible for the Union to honour some of its citizens who distinguish themselves in several walks of life like science and the arts, with other kinds of honours not amounting to titles; but the idea of a man putting something before or after his name as a reward for service rendered will not be possible in a free India."

While supporting the amendment, Sri Prakasa stated :

"Sir, I should like to make it plain that this clause does not prohibit even the State from bestowing a proper honour. We are distinguishing between titles and honours. A title is something that hangs to one's name. I understand it is a British innovation. Other States also honour their citizens for good work but those citizens do not necessarily hang their titles to their names as people in Britain or British-governed parts of the world do. That is all that this clause seeks to do.... We want to abolish this corroding, corrupting practice which makes individuals go about currying favour with authority to get particular distinctions."

While opposing the amendment, Seth Govind Das and Mr. H. V. Kamath complained that the clause covered only the future conferment of titles and that it was necessary also to abolish titles conferred earlier by the "alien imperialist Government". Mr. Vallabhbhai Patel in replying to the debate referred to the point raised by Seth Govind Das and Mr. Kamath. Pleading for forgetting "all about past titles", he said that the Assembly was really legislating for the future and not for the past; some people who had obtained titles from the British Government after they had "spent so much" and "worked so hard" for them, should be left alone; disturbing their titles might be "interpreted as a sign of spiteful feeling".

After the acceptance of the amendment moved by Mr. M. R. Masani the relevant part of the clause read as follows :

"No title shall be conferred by the Union."

22. With a minor modification, the provision appeared as Article 12(1) in the Draft Constitution prepared by the Drafting Committee :

"12. (1) No title shall be conferred by the State."

23. The Drafting Committee and its Special Committee, after considering the various comments, suggestions and amendments received on Draft Article 12, suggested further amendments. The Constitutional Advisor, Sir B. N. Rau, supported these new amendments and stated :

"Presumably it is not intended that titles such as 'Field Marshal', 'Admiral', 'Air Marshal', 'Chief Justice' or 'Doctor' indicating an office or profession, should be discontinued. It may be pointed out that the term 'State' as defined includes 'all local or other authorities within the territory of India'. Nor, presumably, is it intended to prohibit the award of medals or decorations for gallantry, humanitarian work, etc. not carrying any title."

The Drafting Committee redrafted Article 12(1) to read :

"Hereditary titles or other privileges of birth shall not be conferred by the State."

24. It is important to note that when, on 30-11-1948, Draft Article 12 came up for final discussion before the Constituent Assembly, Dr. Ambedkar did not move the amendment for redrafting clause (1) of Draft Article 12 which had earlier been accepted by the Drafting Committee. The Draft Article, as presented to the Assembly, read as it was framed originally by the Drafting Committee :

"(1) No title shall be conferred by the State."

Mr. T. T. Krishnamachari sought to add the words "not being a military or academic distinction" after the word title in clause (1). He felt that this was necessary, firstly, because certain types of titles had to be permitted, the Government having, for example, already decided to confer certain military distinctions : secondly, because the State might decide to revive academic titles like Mahamahopadhyaya, and lastly, because a university might not be completely divorced from a State in view of the definition of the latter in Draft Article 7. (Article 12 of the Constitution.)

25. The amendment moved by Mr. T. T. Krishnamachari was accepted by the Constituent Assembly on 1-12-1948 and the final clause [later renumbered by the Drafting Committee as Article 18(1)] read as it does today.

Note : The quotations that appear in the preceding paragraphs have been extracted from Volumes III and VII of the Constituent Assembly Debates and from "The Framing of India's Constitution", a study in five volumes, edited by B. Shiva Rao.

26. We may also refer to the views expressed by Sir B. N. Rau. As already stated, he was appointed the Chairman of the Prime Minister's Committee on Awards and Honours which was appointed as early as in 1948. At the very first meeting of the Committee, one of the members raised the issue of the validity of the proposed awards, in view of Article 12 of the Draft Constitution which sought to abolish titles. Sir B. N. Rau, who had, in his capacity as Member of the Drafting Committee contributed to the discussion regarding Draft Article 12, pointed out that 'titles' did not necessarily

include all orders and distinctions. He referred to the U. S. Constitution which forbids the grant of titles of nobility but allows decorations such as the Congressional Medal of Honour and the Distinguished Service Cross. He stated that in Constitutions where orders and decorations as well as titles are intended to be prohibited, separate mention is usually made, as had been done in Article 73 and Article 109 of the Danzig and Weimar Constitutions respectively.

27. We may now refer to the constitutional provisions of certain other countries analogous to Article 18(1) of our Constitution :

1. Article 73 of the Danzig Constitution (at it then was) read :

"Titles - with the exception of academic degrees - shall not be awarded except when they denote an office or a profession.

Orders and Decorations may not be awarded by the free State.

No national of Danzig may accept titles or orders. :"

2. The Constitution of the United States of America, 1787.

Article 1, Section 9, Clause (8) : "No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without consent of the Congress, accept any present, emolument, office, or title of any kind whatever from any King, Prince, or foreign State."

3. The Constitution of Japan.

Article XIV : "Peers and Peerage shall not be recognised. No privilege shall accompany any award of honour, decoration or any distinction, nor shall any such award be valid beyond the lifetime of the individual who holds or hereafter may receive it."

4. The Constitution of the Republic of Ireland, 1937.

Section 40. (2) : "1. Titles of nobility shall not be conferred by the State.

2. No title of nobility or of honour may be accepted by any citizen except with the prior approval of the Government."

Similar provisions are to be found in :

(i) Article 3, Section 1, sub-section (9) of the Constitution of Philippines, 1935;

(ii) Article 78 of the Constitution of Iceland, 1944; and

(iii) Article 109 of the Weimar Constitution, 1919.

28. From the discussion in the preceding paragraphs, it is clear that in enacting Article 18(1), the framers of the Constitution sought to put an end to the practice followed by the British in respect of conferment of titles. They, therefore, prohibited titles of nobility and all other titles that carry suffixes or prefixes as they result in the creation of a distinct unequal class of citizens. However, the

framers did not intend that the State should not officially recognise merit or work of an extraordinary nature. They, however, mandated that the honours conferred by the State should not be used as suffixes or prefixes, i.e., as titles, by the recipients.

29. Awards of this nature are conferred by many countries around the world. Even countries such as the United States of America, whose Constitutions specifically bar the conferment of titles of nobility, follow the practice of regularly conferring civil awards. In the United States, the Presidential Medal of Freedom, instituted in 1957, honours Americans and others who make exceptional contributions to national security or interest, world peace, culture and so forth. In France, the Palmes Academiques is awarded for merit in teaching and for literature, science and other cultural activities. There are also other awards for social merit, public health, tourism, craftsmanship, postal merit, etc. The Canadian Government established the Order of Canada in 1967 and it is awarded for a wide variety of fields including agriculture, ballet, medicine, philanthropy, etc. The Order of Canada has three levels of membership - Companion, Officer and Member. The total number of living companions may not at any time exceed 150. No more than 15 Companions, 46 Officers and 92 Members may be appointed in any given year. The Order of Merit which is said to be the inspiration behind the National Awards, was instituted in 1902, and is awarded for outstanding service by British scientists, writers, or other distinguished civilians. It is limited to 24 members. It does not carry any title or rank.

30. The national Awards are not violative of the principles of equality as guaranteed by the provisions of the Constitution. The theory of equality does not mandate that merit should not be recognized. Article 51-A of the Constitution speaks of the fundamental duties of every citizen of India. In this context, we may refer to the various clauses of Article 51-A and specifically clause (j) which exhorts every citizen "to strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement". It is, therefore, necessary that there should be a system of awards and decorations to recognise excellence in the performance of these duties.

31. Hereditary titles of nobility conflict with the principle of equality insofar as they create a separate, identifiable class of people who are distinct from the rest of the society and have access to special privileges. Titles that are not hereditary but carry suffixes or prefixes have the same effect, though the degree may be lesser. While other Constitutions also prohibit the conferment of titles of nobility, ours may perhaps be unique in requiring that awards conferred by the State are not to be used as suffixes or prefixes. This difference is borne out of the peculiar problems that these titles had created in pre-independent India and the earnest desire of the framers to prevent the repetition of these circumstances in free, independent India.

32. It has been contended before us that over the years, the purpose for which these awards were instituted has been diluted and they are granted liberally to persons who are undeserving of them. The perversion of the system was the motivating factor behind the Bill introduced in Parliament by Acharya Kripalani to abolish these decorations. It is to be remembered that Acharya Kripalani was the Chairman of the Sub-Committee on Fundamental Rights where the present Article 18(1) was originally formulated. He was, therefore, fully aware of the exact import of Article 18(1). It is significant that in the debates in Parliament, the thrust of his attack was on the misuse of these decorations. However, it is axiomatic that the misuse of a concept does not change its inherent nature. The National Awards do not amount to 'titles' within the meaning of Article 18(1) and they should not be used as suffixes or prefixes. If this is done, the defaulter should forfeit the National Award conferred on him or her by following the procedure laid down in Regulation 10 of each of

the four notifications creating these National Awards.

33. The guidelines contained in the communique from the Ministry of Home Affairs towards the selection of probable recipients are extremely wide, imprecise, amenable to abuse and wholly unsatisfactory for the important objective that they seek to achieve. There are no limitations prescribed for the maximum number of awards that can be granted in a given year or the maximum number that is permissible in each category. The Prime Minister's Committee on Awards and Honours, 1948 had recommended certain limitations in terms of numbers but these have not been incorporated in the extant guidelines. As stated earlier, most countries have provided for such limitations in respect of their civil awards. That is for the obvious reason that the importance of the awards is not diluted. While in the grant of the Bharat Ratna award sufficient restraint has been shown, the same cannot be said of all other awards. The exercise of such restraint is absolutely necessary to safeguard the importance of the awards. That is why the need for necessarily granting awards every year also requires reconsideration. These and the fixing of other criteria, which will ensure that the recipients of these awards are subjected to feelings of respect rather than suspicion, need to be examined by a high-level Committee that may be appointed by the Prime Minister in consultation with the President of India. Even otherwise it is time that such a Committee looks into the working of the existing guidelines in view of the experience gained. We say no more as we have entrusted the task of setting up of the Committee to high-level functionaries. We may only say that the Committee may keep in view our anxiety that the number of Awards should not be so large as to dilute their value. We may point out that in some countries, including USA, the total number of awards to be given is restricted. With these observations we dispose of both the petitions - cases with no order as to costs.

34. Before we part with the case, we would like to record our appreciation for the assistance provided to us, at our request, by Mr. Santosh Hegde, Senior Counsel.

KULDIP SINGH, J.

(concurring) - I have read the opinion proposed by A. M. Ahmadi, C. J. I agree with the Chief Justice that Bharat Ratna and Padma awards are not 'titles' within Article 18 of the Constitution of India. These awards can be given to the citizens for exceptional and distinguished services rendered in art, literature, science and other fields. These awards are national in character and only those who have achieved distinction at national level can be considered for these awards. The question to be considered, however, is whether the purpose of instituting these awards is being achieved and these are being conferred on the deserving persons. The history and experience shows that, in the beginning, these awards were given to a limited number of persons but in the recent years there have been floodgates of awards for the persons who are well known, lesser known and even unknown. The Padma awards have been conferred on businessmen and industrialists who have multiplied their own wealth and have hardly helped the growth of national interest. Persons with little or no contribution in any field can be seen masquerading as Padma awardees. The existing procedure for selection of candidates is wholly vague and is open to abuse at the whims and fancies of the persons in authority. Conferment of Padma awards without any firm guidelines and foolproof method of selection is bound to breed nepotism, favouritism, patronage and even corruption.

36. During the British occupation, India has had a spate of title-hunters who brought degradation and much harm to healthy public life. The title-hunters have always been considered a menace to the safe growth of a society. Though the Padma awards are not titles but in case these awards are given at the whims of the authorities - without there being proper criteria and method of selection -

they are bound to do more harm to the society than the title-seekers did during the British regime.

37. While opposing the Bill titled "The Conferment of Decorations on Persons (Abolition) Bill, 1969" moved by Acharya J. B. Kripalani in Parliament, Mr. N. K. P. Salve in his speech (Parliamentary Debates, 27-11-1970) stated as under :

"SHRI N. K. P. SALVE : I am aware that the decorations have been bestowed indiscriminately on businessmen and others. In fact, one of my suggestions is that any decoration awarded to any person who is found guilty of any 'commercial offence' should be withdrawn. We should be extremely strict about the awarding of decorations. ... I am entirely in agreement with Shri Madhu Limaye that some of them have received these decorations without deserving them in the least if at all they deserved anything, it was something else. But they have received decorations. In fact, it is within my knowledge that some of them have put their decorations to commercial exploitation. In fact, a certain managing director of a company wrote a letter to me sometime ago. On his letterhead was written 'Ex-Rai Bahadur, Padma Vibhushan' so and so.... The criteria for awarding these decorations are not very clear. The Bharat Ratna is to be awarded for exceptional service towards the advancement of art, literature and science, whereas the Padma Vibhushan is to be awarded for exceptional and distinguished service. Bharat Ratna is for exceptional service and Padma Vibhushan is for exceptional and distinguished service. Exceptional and distinguished service must be given the number one decoration and not number two. So, there is a patent fallacy in this type of criteria which has been laid down. It seems some bureaucrat has written this without understanding all these anomalies in the matter. I do hope that they do some amount of rationalisation of this matter."

38. The above words were spoken in Parliament about quarter of a century back. There has been no application of mind at all by the successive Governments and the system of giving Padma awards is getting degenerated with the passage of time. It has already reached a point where political or narrow group interests are being rewarded by those in office for the time being.

39. The examination of initial deliberations regarding institution of these awards show that in the first meeting of the committee held on 27-2-1948 under the Chairmanship of Mr. B. N. Rau, it was recommended that an extremely high standard should be prescribed for these awards and total number of awards to be given in each category should be limited and fixed. It was recommended that awards should be made very sparingly and only on grounds of outstanding merit. They should not be made merely because there happen to be vacancies in a particular category. The Ministry of Home Affairs, Government of India, prepared a note dated 10-1-1953 for the consideration of the Cabinet. It was proposed to institute suitable awards for meritorious public services. The note clearly suggested that the number of recipients in various awards must be restricted. The report was considered by the Cabinet presided over by Shri Jawaharlal Nehru and was accepted with some minor modifications.

40. Therefore, to ensure that Padma awards are truly national in character and above party and political considerations, I suggest that a committee at national level be constituted by the Prime Minister of India in consultation with the President of India which may include, among others, the Speaker of the Lok Sabha, the Chief Justice of India or his nominee and the Leader of Opposition in the Lok Sabha. At the State level similar committees may be formed by the Chief Minister of the

State in consultation with the Governor. The committee may, among others, include Speaker of the Legislative Assembly, Chief Justice of the State or his nominee and the Leader of the Opposition.

41. The function of the State Committees may only be to recommend the names of the persons, who in their opinion are deserving of a particular award. The final decision shall have to be taken by the National Committee on Awards. No award should be conferred except on the recommendation of the National Committee. The recommendation must have the approval of the Prime Minister and the President of India.

42. The number of awards under each category must be curtailed to preserve their prestige and dignity. In any given year, the awards, all put together, may not exceed fifty.

43. The writ petitions are disposed of. No costs.