

SUPREME COURT OF INDIA

Dr. Subramanian Swamy

Vs.

Rama Krishna Hegde

Contempt Petition (Crl.) Nos. 11 and 12 of 1990 and 9 of 1999

(S.C.Agrawal, S.P.Kurdukar and S.S.M.Quadri JJ.)

25.08.1998

ORDER

1. These contempt matters relate to comments made by the alleged contemnors against Shri Justice Kuldip Singh after he had submitted his report as Chairman of the Enquiry Commission set up by the Central Government. In Contempt Petition No. 9 of 1990 an objection has been raised by Shri D.D. Thakur, the learned Senior Counsel appearing for the alleged contemner that the petition is not maintainable since consent of the Attorney General for India or the Solicitor General for India was not obtained as required by Section 15 of the Contempt of Courts Act, 1971. A question arises as to whether in the absence of the consent of the Attorney General or the Solicitor General suo motu proceedings can be initiated against the alleged contemner. Shri D.D. Thakur has, however, submitted that since the alleged contempt arose more than one year back, Section 20 of the Contempt of Courts Act, 1971 would operate as a bar against the initiation of suo motu proceedings for contempt against the alleged contemner.

2. In Contempt Petitions Nos. 11 and 12 of 1990 there is the opinion of the Attorney General expressing the view that when a Supreme Court Judge is appointed as a Commissioner in a commission of enquiry he does not carry with him all the powers and jurisdiction of the Supreme Court and the functions discharged by him are statutory functions independent of the jurisdiction vested in the Supreme Court and, therefore, the alleged contempt of a sitting Judge of the Supreme Court in relation to the statutory functions discharged by him as a commissioner cannot in law be regarded as a contempt of the Supreme Court itself,

3. The learned counsel for the alleged contemnors have urged that truth can be pleaded as a defence in contempt proceedings and that the decision of this Court in *Perspective Publications (P) Ltd. v. State of Maharashtra*, 1971CriLJ268 needs reconsideration. In our opinion, the questions that arise for consideration in these matters are of general public importance which are required to be considered by a Constitution Bench. We, therefore, direct that the matters be placed before a Constitution Bench.