HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 487/2022

Dharmender Kumar Sharma

----Petitioner

Versus

1. Union Of India, Through Secretary, Ministry Of Information And Broadcasting, Dr. Rajendra Prasad Road, Shastri Bhawan, New Delhi.
2. You Tube Llc, Google India Private Limited, Unitech Signature Tower-Ii, Tower-B, Sector-15, Part-Ii, Village Silokhera, Gurugram-122001.
3. Adhyatma Vigyan Satsang Kendra, Through Secretary/ Manager/ Officer-In-Charge, Near Hotel Lariya, Choupasani, P.o No. 41, Jodhpur.

----Respondents

For Petitioner(s) : Mr. Ashish Davessar
For Respondent(s) :

HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL
Order

07/03/2022

This writ petition has been filed with the following prayers:

> "It is, therefore, most humbly and respectfully prayed that this Hon'ble Court may in the facts and circumstances of the case mentioned supra, be pleased to:
>
> A. Issue an appropriate Writ, Order(s) or Direction(s) of like nature to set aside the action of removal of videos of petitioner on his You Tube channel and subsequent termination of his You Tube channel by respondent No.2 and further direct respondent no.2 to restore the You Tube channel of petitioner which was maintained on You Tube portal with the name and style of "*Gurudev Siyag Sidh Yoga Free*" and allow him to operate the said channel.

> B. Pass any other order(s) which this Hon'ble Court may deem fit and proper in the interest of justice, equity and fair play."

Learned counsel for the petitioner, when confronted with maintainability of the writ petition against the respondent No.2, a private entity as no relief has been claimed against the respondent No.1, relying upon a Constitution Bench judgment of the Hon'ble Apex Court of India in case of **Ajay Hasia Vs. Khalid Mujib Sehravardi & Ors.: AIR 1981 Supreme Court 487,** contended that since the State has deep and pervasive control over the affairs of the respondent No.2 and also for the reason that the respondent No.2 discharges the public function which is closely related to the Government function, it is amenable to the writ jurisdiction. He submitted that Hon'ble High Court of Delhi has, vide its order dated 11.01.2022, issued notice in **Writ Petition No.553/2022, Aarti Tikoo Vs. Union of India & Anr.** involving identical controversy. Learned counsel further submitted that since his YouTube account has been terminated by the respondent No.2 without issuing any show cause notice or affording any opportunity of hearing, the writ petition deserves to be allowed.

Heard. Considered.

A perusal of the prayer clause reveals that entire relief has been claimed against the respondent No.2, a limited liability company. Although, it has been submitted that it is amenable to the writ jurisdiction on account of the State having its deep and pervasive control over its affairs and also for the reason that it discharges the functions of public importance which are closely

related to the Government functions; but, the writ petition is bereft of any such averment. The only averment in this regard is contained in Para 17 of the writ petition which reads as under:

> "That respondents are a state, hence squarely amenable to the writ jurisdiction of this Hon'ble Court. It is also evident from that facts mentioned supra that respondent no.2 follows an arbitrary and inconsistent application of content moderation policy. Rather, it seems it has established a parallel regime of speech regulation along with the state. Hence, respondent no.2 discharges the functions of a *'state'* considering the public nature of the functions it performs."

However, there is not a whisper of averment in the entire writ petition as to true nature of functions being discharged by the respondent No.2 or the same being of public importance.

In absence of any factual foundation to substantiate the submission that the respondent No.1 has deep and pervasive control over the affairs of the respondent No.2 or it discharges the public functions which are akin to the Government functions, this Court is not persuaded to accept the submission made by learned counsel for the petitioner.

Insofar as order of the Hon'ble Delhi High Court in case of **Aarti Tikoo** (supra) is concerned, it does not reveal facts of the case or as to who are the parties and what was the controversy involved therein. In view thereof, the order aforesaid is of no assistance to the petitioner.

Therefore, the writ petition is dismissed being not maintainable against a private entity.

(MAHENDAR KUMAR GOYAL),J

PRAGATI/53