

Pushed Patriotism

Why in news?

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The Supreme Court ordered all cinema halls across the country should play the national anthem and that those present “must stand up in respect”

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What was the case about?

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- The order came on a writ petition by Shyam Narayan Chouksey in October.

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- The petition, which referred to the Prevention of Insults to National Honour Act of 1971, claimed that the “national anthem is sung in various circumstances which are not permissible and can never be countenanced in law.”

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- It also referred to Article 51 (A) of the Indian Constitution to contend that it was the duty of every person to show respect when the anthem was played.

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- However, the petition had not asked the court to direct the anthem to be played in movie halls. Instead, it had focused on the commercial exploitation of the anthem.

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- However the court ordered cinema halls to mandatorily play the national anthem before every screening even as all those present have to “stand up to show respect.”

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- Cinemas should also display the national flag on screen when the anthem is played.

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- All doors in a cinema hall should remain closed to prevent any kind of disturbance when the anthem is played.

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- The court banned the commercial exploitation of the national anthem and ordered there should not be dramatisation of the anthem or its inclusion as

part of any “variety show”.

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- The court ordered that the anthem or part of it should not be printed or displayed in places “disgraceful” to its status. It also banned the display, recitation or use of the abridged version of the anthem.

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- It said the order should come into effect in 10 days.

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- The five-page written order was meant to be an interim measure on Mr. Chouksey’s petition.

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- However did not elaborate why movie halls were particularly chosen as venues to instill nationalism.

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What was the court’s rationale behind the order?

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- The Bench said the protocol of showing respect to the anthem and flag was rooted in “our national identity, national integrity and constitutional patriotism.”

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- It also said that the playing of the anthem is to be seen as an opportunity for the public to express their “love for the motherland.”

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- The practice, according to the court, will “instil a feeling of committed patriotism and nationalism.”

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- Justice Misra observed in the order that “a time has come, the citizens of the country must realise that they live in a nation and are duty bound to show respect to the national anthem, which is a symbol of the constitutional patriotism and inherent national quality”.

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- He also said in court, “It is time people feel this is my country. This is my motherland... You are an Indian first. In other countries, you respect their restrictions. In India, you do not want any restrictions?”

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- The Bench said there was no space for the “perception of individual rights” in this issue.

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Why this judgment is irrational?

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1. **Against Fundamental rights**

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- What was the Bijoe Emmanuel vs State Of Kerala case about?

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- The three child-appellants, Bijoe, Binu Mol and Bindu Emmanuel, are the faithful of Jehovah's Witnesses. Daily during the morning assembly in their school when the National Anthem is sung, they stand respectfully but they do not sing. They do not sing because, according to them, it is against the tenets of their religious faith — not the words or the thoughts of the Anthem but the singing of it.

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- The gentleman, (an MLA), thought it was unpatriotic of the children not to sing the National Anthem. So, he put a question in the Assembly and a Commission was appointed. The Commission reported that the children are 'law-abiding' and that they showed no disrespect to the National Anthem.

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- But the Head Mistress expelled the children from the school from July 26, 1985. Finally the children filed a Writ Petition in the High Court seeking relief but their plea was rejected.

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- SC's view on High Court's order

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- There is no provisions of law which obliges anyone to sing the National Anthem nor do we think that it is disrespectful to the National Anthem if a person who stands up respectfully when the National Anthem is sung does not join the singing.

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- It is true Art. 51-A(a) of the Constitution enjoins a duty on every citizen of India "to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem".

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- Proper respect is shown to the National Anthem by standing up when the National Anthem is sung. It will not be right to say that disrespect is shown by not joining in the singing.

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- Article 25 is an article of faith in the Constitution, incorporated in recognition of the principle that the real test of a true democracy is the

ability of even an insignificant minority to find its identity under the country's Constitution.

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- SC's view on the question of tolerance

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- The Court was satisfied that the expulsion of the three children from the school is a violation of their Fundamental Right to freedom of conscience and freely to profess, practise and propagate religion.

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- "We, therefore, find that the Fundamental Rights of the appellants under Art. 19(1)(a) and 25(1) have been infringed and they are entitled to be protected. We allow the appeal, set aside the judgment of the High Court and direct the respondent authorities to re-admit the children into the school... We only wish to add: our tradition teaches tolerance; our philosophy preaches tolerance; our constitution practises tolerance; let us not dilute it."

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2. **Against Safety**

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- What was the Uphaar case judgment?

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- 57 people died in a stampede after they were locked inside the Uphaar theatre hall and fire broke out.

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- The SC in its judgment said that while the theatres were entitled to regulate entry and exit, under no circumstances should doors, which also double up as emergency exits be bolted or locked.

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- Rule 10 (8) of the Delhi Cinematographic Rules mandates that all exit doors for public to the open air shall be available for exit during the whole time the public is in the building and shall not be locked or bolted.

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- Therefore the order that "all doors in a cinema hall should remain closed to prevent any kind of disturbance" is against the safety of the public inside the halls.

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3. **Absurdity**

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- On the one hand the court banned the commercial exploitation of the national anthem and ordered there should not be dramatisation of the anthem or its inclusion as part of any “variety show” and on the other it does the same by making it mandatory to play it in theatres.

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4. **Ineffectiveness**

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- The enforced patriotism is simply transforming a private emotion into tokenistic public spectacle. One stand up not necessarily because you want to, but because if don't, they're likely to be labelled a traitor, or worse, screamed at or assaulted by self-styled nationalists.

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What is the way ahead?

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- Why it seems impossible for so many people to express patriotism in a non-aggressive manner. And there are many ways to prove our love for our country.
- One could contribute to flood relief or volunteer in a tsunami-stricken area or ensure the domestic help has enough cash till she gets used to plastic money — all of this is a form of loving, caring for, respecting the nation.
- Because a nation is its people. Love Indians, and you love India.

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