

ITEM NOS.1+3

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition (Criminal) No. 225/2018

MANOHAR LAL SHARMA

Petitioner

VERSUS

NARENDRA DAMODARDAS MODI & ORS.

Respondents

(FOR ADMISSION and IA No.127230/2018-CLARIFICATION/DIRECTION and IA No.127221/2018-APPROPRIATE ORDERS/DIRECTIONS)

WITH

W.P.(C) No. 1205/2018 (PIL-W)

(FOR ADMISSION)

W.P.(Cr1) No. 297/2018

(FOR ADMISSION)

W.P.(Cr1.) No. 298/2018 (PIL-W)

(FOR ADMISSION and IA No.156477/2018-PERMISSION TO APPEAR AND ARGUE IN PERSON and IA No.156478/2018-APPROPRIATE ORDERS/DIRECTIONS)

Date : 31-10-2018 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE UDAY UMESH LALIT

HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner

W.P.(Cr1.) 225/2018

Petitioner-in-person

Ms. Suman, Adv.

W.P.(C) 1205/2018

Dr. J.P. Dhanda, AOR

Ms. Raj Rani Dhanda, Adv.

Mr. Vineet Dhanda, Adv.

Mr. N.A. Usmani, Adv.

Mr. Gopi Chand, Adv.

W.P.(Cr1.) 297/2018

Mr. Dheeraj Kumar Singh, Adv.

Mr. Mrinal Kumar, Adv.

Mr. Alok Shukla, Adv.

W.P.(Cr1.) 298/2018

Mr. Prashant Bhushan, Adv.

Mr. Arun Shourie, Adv.

For Respondents

Mr. K.K. Venugopal, AG

Mr. Tushar Mehta, SG

Mr. R. Balasubramanian, Adv.
Ms. Aarti Sharma, Adv.
Ms. Shraddha Deshmukh, Adv.
Mr. A.K. Sharma, Adv.
Mr. B.V. Balram Das, Adv.

UPON hearing the counsel the Court made the following
O R D E R

After we had passed the order dated in W.P.(Cr1.) No. 225/2018 and W.P.(C) No. 1205/2018, two more public interest litigations have been filed on the same issue i.e. W.P.(Cr1.) Nos. 297/2018 and 298/2018. Having perused the same, we would like to observe that in none of the public interest litigations before us, the suitability of the equipment (fighter jets) and its utility to the Indian Air Force has been questioned. What has been questioned is the bona fides of the decision making process and the price/cost of the equipment at which the same is to be procured. On 10.10.2018, we had passed the following order:-

“Permission to argue in person is granted in Writ Petition (Cr1.) No. 225/2018.

We have heard the petitioner-in-person and the learned counsels for the parties. We are of the view that the following order would be appropriate at this stage.

We make it clear that we are not issuing any notice at this stage on either of the writ petitions filed under Article 32 of the Constitution. However, we would like to be apprised by the Government of India of the details of the steps in the decision making process leading to the award of the order for the defence equipment in question i.e. Rafale Jet-Fighters (36 in number).

We also make it clear that while requiring the Government of India to act in the above terms we have not taken into account any of the averments made in the writ petitions which appear to be inadequate and deficient. Our above order is only for the purpose of satisfying ourselves in the matter.

We also make it clear that the steps in the decision making process that we would like to be apprised of would not cover the issue of pricing or the question of technical suitability of the equipment for purposes of the requirement of the Indian Air Force.

The requisite information sought for will be placed before the Court in three separate sealed covers on or before 29th October, 2018 which shall be filed with the learned Secretary General of this Court and not in the Registry.

List the matters on 31st October, 2018."

Pursuant to the said order, a note giving the "details of the steps in the decision making process leading to the award of 36 Rafale Jet-Fighters/Fighter Aircrafts", has been submitted to the Court in a sealed cover.

We have perused the same.

At this stage, we would not like to record any finding or views with regard to the contents of the said report. Rather, we are of the opinion that such of the core information conveyed to the Court in the aforesaid confidential report which can legitimately be brought into the public domain be made available to the learned counsels for the petitioners in all the cases, as well as, the petitioners-in-person. Alongwith the said facts, further details that could legitimately come in the public domain with regard to the induction of the Indian offset partner (if any) be also furnished to the learned counsels for the parties, as well as, the petitioners in person. Such of the details in this regard which may be considered to be strategic and confidential may, at this stage, be placed before the Court and may not be furnished to the learned counsels for the parties or the petitioners-in-person. The Court would also like to be apprised of the details with regard to the pricing/cost, particularly, the

advantage thereof, if any, which again will be submitted to the Court in a sealed cover.

The necessary information/particulars be communicated to the learned counsels for the parties and the petitioners-in-person, and the rest of the details in terms of the present order be submitted to the Court in a sealed cover in the next ten days. The parties may file their response to the information that would be conveyed.

Let the matter be listed on 14.11.2018.

(Deepak Guglani)
Court Master

(Asha Soni)
Assistant Registrar