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IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL WRIT JURISDICTION)

CIVIL WRIT NO.---2401 OF 2001.

Bharat Scouts and Guides \_\_\_\_\_Petitioner

Vs

Union of India  
Through the Secretary,  
Ministry of Youth Affairs & Sports  
Government of India  
C-Wing Shastri Bhavan New Delhi-110001. \_\_\_\_\_Respondent

Date of Order -20.11.2001

Present : Mr. V.P. Singh, Senior Advocate with  
Mr. Vikram Nandrajog for the petitioner.  
Mr. Jayant Bhushan for respondent No.1-UOI.  
Mr. R.P. Bansal, Senior Advocate with  
Mr. R.S. Tomar & Ms. Jaya Rakhecha  
for respondent No.2.

CASE NUMBER : CW.2041/01

Rule.  
CMs.3514/01 & 5765/01 in CW.2041/01

These are the miscellaneous applications for interim stay and vacation of interim order. The writ petition challenges the decision of the respondent No.1, Union of India through Secretary, Ministry of Youth Affairs & Sports, granting recognition to respondent No.2, Hindustan Scouts & Guides Association. On 29th of March, 2001, the operation of the impugned Order dated 7th of March, 2001 was stayed by the Court. Arguments have been advanced in respect of the continuance/variance of this interim

2.

stay. Various pleas have been raised by the learned Senior Counsel for the petitioner in support of the writ petition including the reliance on The Emblems & Names (Prevention of Improper Use) Act, 1950 (hereinafter referred to as the 'Act'). He has also referred to a judgement, passed by the learned Single Judge of this Court in Delhi State Girls & Boy Scouts Association Vs Govt. of NCT of Delhi & Others in CW.7787/99 on 27th of April, 2000 which was not varied by the Division Bench and according to him the petitioner in this writ petition is the same entity as the petitioner in CW.3787/99 as both the office bearers and the address of the two petitioners are identical. The learned Senior Counsel for the petitioner has also contended that in view of the aforesaid Act no other body bearing the words 'Scouts and Guides' can be granted recognition. A perusal of the said Act and its Schedule does not prima facie support the plea of the petition. Section 3 of the Act reads as under:

"Notwithstanding anything contained in any law for the time being in force, no person shall, except in such cases and under such conditions as may be prescribed by the Central Government, use, or continue to use, for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trade mark or design, any name or emblem specified in the Schedule or any colourable imitation thereof without the previous permission of the Central Government or of such officer of Government as may be authorised in this behalf by the Central Government."

Clause 20 of the Schedule reads as under:  
"The name of 'The Bharat Scouts and Guides' with its 'Emblem'."

While the user of the words 'Bharat Scouts and Guides' and its emblem is forbidden by Section 3 there does not prima facie appear to be any bar on the user of the words 'Scouts' and 'Guides'. If this plea was acceptable by the same analogy, operation of the Clause 14 of the Schedule, i.e., 'Tuberculosis Association of India' would forbid the user of the word 'Association' also. This plea cannot be accepted at this stage. Furthermore the emblem of the respondent No.2 is quite distinct from that of the petitioner and bears a totally different colour in background. Accordingly, it would not be appropriate to continue the operation of the interim order restraining the registration of respondent No.2, Hindustan Scouts & Guides Association.

In my view, considering the facts & circumstances of the case and in particular the fact that the recognition, granted in favour of respondent No.2 was based on the premise as discernible from Para No.2 of the Letter dated 31st May, 1999 (Annexure I to the writ petition), written by respondent No.1 to the petitioner, interim Order dated 29th of March, 2001, staying the operation of the impugned Order dated 7<sup>th</sup> of March, 2001 deserves to be varied.

3.

The para No.2 of Letter dated 31st May, 1999 reads as under:

"In support of the recognition, it has been stated that the Scouts and Guides activities have entered the domain of all schools as part of the co-curricular activities. Bharat Scouts and Guides Association is presently catering to the needs of Scouts activities in India by seeking assistance from Govt. of India. However, the ever increasing student population, having interest in Scouts activities has made it practically impossible for the Bharat Scouts and Guides Organisation to do justice. A State level body in Delhi affiliated to the Hindustan Scouts and Guides Association has thus been formally constituted on 27.9.98."

Accordingly, the interim Order dated 29<sup>th</sup> March, 2001, staying the operation of the impugned Order dated 7th of March, 2001 is vacated. However, it is made clear that during the pendency of the writ petition, the financial grants made available to the petitioner by the respondent No.1, Union of India shall not be varied to its detriment without permission from the Court. Liberty is granted to respondent No.1 to approach the Court in case there are changed circumstances, warranting the variation.

Both the applications are accordingly disposed of.  
Dasti to the parties.

ak November 20, 2001 MUKUL MUDGAL J.