

Sonia Gandhi central to \$100 million libel suit

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Gandhi: Unite and Serve Vs Sonia Gandhi: Divide and Rule', 200-odd protestors who included several known Vishwa Hindu Parishad of America and OFBJP activists including Kataria, raised slogans against Gandhi, who they alleged was out to destroy Hinduism and India.

"These kind of personal attacks were actually tantamount to hitting someone below the belt. Totally unnecessary," said INOC President Dr Surinder Malhotra. "Personally, I may not like the political ideology of people like Advaniji [BJP leader L K Advani] or Atalji [former prime minister Atal Bihari Vajpayee], but I would not stoop to this level to attack them, especially in a foreign land."

Dr Malhotra denied that the Congress party headquarters in India had asked him to file the suit. "I could not keep quiet; I am morally responsible to save the honor of our party president," he said. "The party in India has nothing to do with this lawsuit."

The INOC suit alleged that the *NYT* advertisement contained 'intentionally false statements' about the plaintiff's professional activities and reputation, and was communicated by means of the mass media to New York and to a worldwide audience.

"These actions have caused the plaintiff significant personal, professional and pecuniary harms, particularly in terms of its ability to raise funds in support of its activities," the complaint said. The lawsuit claimed that INOC has lost in excess of \$100,000 in revenue as the direct result of negative reactions by potential contributors.

The lawsuit notes that no authors explicitly identified themselves as being responsible for the content of the advertisement; that the web site for the Forum does not give any legal status for any specific organization; that the Web site does not give an

address for its operations; and that it provides only minimal contact information like the last names of a few persons, including the three defendants, and their phone numbers.

"To the extent, therefore, that a so-called corporate veil exists regarding such entities as Forum for Gandhi Heritage, Forum for Saving Gandhi Heritage or A Forum for Persevering Gandhi Heritage, it can and should be pierced in order to reach the responsible malefactors," the lawsuit said. "In fact, however, there is no legal entity known as Forum for Gandhi Heritage."

Kataria denied knowledge of the lawsuit. "Nobody has told me anything about it nor have I got any [copy of the complaint]," he told *India Abroad*. "You are the first person telling me about this. We will see [when it comes]."

The INOC's lawyer Sheldon Karasik, who won a libel lawsuit for then Israeli defense minister Ariel Sharon against *Time* magazine in 1984, said notices had been served on the defendants, and that he had "really no way of knowing" when the case would come up for hearing.

Karasik would not be drawn into comment on the merits

of the case and its possible outcome.

Last year Diane McNulty, a spokesperson for *The New York Times*, had told *India Abroad* the newspaper accepted the advertisement from the Forum for Gandhi Heritage as it does from a wide variety of groups and individuals who wish to comment on controversial issues. She said the *Times* believed it should keep its advertising columns open to those who wish to express a point of view.

"In doing so, we expect opinion advertisers to avoid inaccurate or misleading statements of purported fact," McNulty said, when asked whether the *Times* checks advertisements for derogatory or calumnious content. She said the *Times* does not take a position one way or the other with regard to an advertiser's arguments or conclusions.

"The advertisement from the Forum for Gandhi Heritage was scrutinized, and complied with all of our rules regarding opinion advertising, including that the name of the sponsor and a means of contacting them were in the ad. This enables others to communicate directly with the sponsor should they seek to express

agreement or disagreement with the advertised message," McNulty had then said.

She said it was possible the advertisement contained debatable assertions. "With opinion advertisements, that is more the rule than the exception," she said.

Karasik said there is no easy answer as to whether the *Times* is liable in the defamation case. "The short answer is that potentially there is [liability], but we feel the parties who bear directly more responsibility are those who placed the advertisements. So, we chose to sue them."

There is, Karasik said when McNulty's remarks were read out to him, always a line. "The question is always whether an advertisement crosses the line. It can be against somebody and yet may not cross the line. That is really the point. Certainly, you know, we are not saying it should not be a political discourse, but we are saying that there are lines that ought not to be crossed. The law does not allow for it."

Bharat Barai threatens counter in Sonia libel suit

Indiana-based cancer specialist Dr Bharat Barai, who was named as one of the defendants in the \$100 million suit filed by the Indian National Overseas Congress for alleged defamation of Congress party president Sonia Gandhi, has threatened to file a counter defamation suit.

In a letter to the INOC's attorney Sheldon Karasik, Dr Barai has challenged the allegation that he designed, prepared and paid for an advertisement in *The New York Times* that the INOC lawsuit has alleged is defamatory.

Noting that he has been served with a copy of the suit, Dr Barai in his letter said he had nothing to do, directly or indirectly, with the preparation of the advertisement in question; that he had not paid for it; and that he has had no communication with *The New York Times*, directly or indirectly, about this or any other advertisement.

"Please do your homework first before filing this kind of frivolous, false lawsuit," Dr Barai told Karasik in his letter April 7. "Please look at the advertisement itself. It shows nowhere my name. A lawyer has an obligation to do a reasonable job verifying the authenticity of the alleged complaint before filing a lawsuit."

"These kinds of frivolous lawsuits impose unnecessary financial and psychological burden on me and takes my time to reply to this frivolous, false lawsuit. I reserve my right to file a complaint against you before appropriate disciplinary organizations, as well as against Indian Overseas National Congress."

"I demand you withdraw the frivolous, false complaint right away with a letter of apology from your client as well as your law firm. You/your client must retract the stories from any news media and any other entity to who you/your client have given this false story, along with an apology for maligning my name," Dr Barai said in his letter to Karasik.

Dr Barai's name does not in fact figure in the list of contacts given in the *NYT* advertisement. Karasik could not be reached for comment at press time.

In a personal message that he shared with *India Abroad*, Dr Barai, who at press time was traveling to India, said he has never planned or financed 'any such derogatory ad' against anybody in his life. Describing such acts as being beneath his dignity, he said he has good relations with several Congress party leaders.

— Suman Guha Mozumder