

HINDUSTANI ANDOLAN & ORS.

v.

STATE OF PUNJAB & ORS.

November 24, 1983

[Y.V. CHANDRACHUD, C.J., AMARENDRA NATH SEN AND
M.P. THAKKAR, JJ.]

Writ jurisdiction of Court—Court cannot issue a general writ of mandamus that whenever a criminal is suspected to have taken shelter in a place of worship, the police must enter that place.

HELD : It is the executive which has to take a policy decision as regards the steps to be taken in a given situation, after taking into account the demands of the prevailing situation. It is not that the police should be silent spectators to wanton destruction of life; but the Court cannot commend that the police must enter places of worship forcibly. [902 H; 903 A]

ORIGINAL JURISDICTION : Writ Petition (Cr.) No. 2989 of 1983.

(Under article 32 of the Constitution)

R.L. Panjwani, Manoj Saxena and R.D. Upadhaya for the petitioners.

The Order of the Court was delivered by

CHANDRACHUD, C.J., The question raised in this petition is whether the Government can ask the police not to enter a place of worship, even if criminals are reported to be hiding or harboured therein. It is impossible and undesirable for any Court to issue a general writ of Mandamus to the effect that whenever a criminal is suspected to have taken shelter in a place of worship, the police must enter that place, regardless of the overall situation of law and order. Speaking generally, Courts cannot enforce law and order by issuing general directions without reference to specific instances. The Government has to assess, in the context of the prevailing conditions, the impact of the steps taken to enforce law and order. And, it is the executive which has to take a policy decision as regards the steps to be taken in a given situation, after

taking into account the demands of the prevailing situation. We do not commend or suggest that the police should be silent spectators to wanton destruction of life but we cannot, as men of some little experience of law and life, commend that the police must enter places of worship forcibly. While enforcing law and order, the executive cannot be oblivious of the possibility that while solving one problem of law and order, others more acute than the one sought to be solved may arise. That is always a valid and relevant consideration.

With these observations, we dismiss this petition filed by two public-spirited organisations through their courageous convenor and secretary respectively.

H.L.C.

Petition dismissed.