

(2016) 07 P&H CK 0210
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 13991 of 2016 (O&M).

Anand Kant Bhatia - Petitioner @HASH State of Haryana and Others

Date of Decision : 26-07-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 PLR 386 : (2017) 1 SCT 189

Hon'ble Judges : S.S. Saron and Lisa Gill, JJ.

Bench : Division Bench

Advocate : P.S. Jammu, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

S.S. Saron, J. - CM No. 8479 of 2016

Civil Misc. application has been filed for placing on record Society Registration Certificate (Annexure P16) issued on 15.03.2000 at Chandigarh; the Memorandum of Association of National Anti Corruption Council (Annexure P17); and the details of members (Annexure P18) of the National Anti Corruption Council (Annexure P17); besides, it is prayed that filing of certified copies of Annexures P16 to P18 and filing of true typed copies of Annexures P17 and P18 attached with the CM application be dispensed with.

CM application is allowed and Annexures P16 to P18 are taken on record subject to just exceptions. Filing of certified copies of Annexures P16 to P18 and filing of true typed copies of Annexures P17 and P18 attached with the CM application are dispensed with.

CM application stands disposed of.

CWP No. 13991 of 2016

2. The writ petition has been filed by the petitioner Anand Kant Bhatia in the nature of public interest. The petitioner states that he is President of the National Anti Corruption Council ('Council' - for short) and also the Chairperson of Vigilance Committee (relating to Bhartiya Janta Party), Badhkhal Constituency,

Faridabad. He is a social worker and involved in various kinds of social activities in District Faridabad as well as in the State of Haryana. He claims to have revealed a number of such activities where corruption was involved. He is well aware about the corrupt activities of the officials of Municipal Corporation, Faridabad as well as misrepresentation by the private respondents. This fact was brought to the knowledge of the official respondents and resultantly, the sub division of plots that were earlier got validated were revoked by the Commissioner, Municipal Corporation, Faridabad (respondent No.3). The order of revocation of sub division of plots was challenged by the private respondents in the court of Commissioner, Gurgaon Division, Gurgaon (respondent No.2). The latter passed the order dated 04.09.2015 (Annexure P10) and subsequently the impugned order dated 03.05.2016 (Annexure P11) was passed by the State Government (respondent No.1).

3. On the last date of hearing, the petitioner was asked to submit the resolution book of the Council of which he is the State President and also the resolution appointing him as the Chairman of the Council, besides, complying with the other requirements as laid down by a Division Bench of this Court in the case of Ajaib Singh and another v. State of Punjab and others, CWP No. 15987 of 2013 decided on 26.07.2013. In fact, a mention of the said decision was raised as a ground of objection by the Registry of this Court at the time of examining the petition filed by the petitioner. However, in response to the said objection raised by the Registry, it was stated that the petition is maintainable and it be put up before the Bench as it is.

4. In Ajaib Singh's case (supra), it has inter alia been held by a Division Bench of this Court that a petitioner seeking to invoke the PIL jurisdiction of this Court is to specifically disclose his credentials and his direct or indirect personal motive or interest involved in the case, if any, by way of an affidavit. The expression "specifically disclose his credentials" it was observed must, naturally, imply that he has to set forth what he does for his living, what public interest he has been espousing, the work done by him in that behalf, the particulars of any matter preferred by him as PIL earlier on which the Court has passed orders, etc. It was further held that it could not imply merely writing a sentence that a person is residing in the State is public-spirited and is, thus, filing a PIL. A direction was issued to the Registry of this Court to ensure strict compliance with the Rules i.e. Public Interest Litigation Rules, 2010 ('PIL Rules' - for short) and that the Registry would return petitions with objection(s) unless, the said parameters were satisfied. It was held that in fact, there was a mandate on the Registry as per clause 7 of the PIL Rules to verify the antecedents of persons, Societies or Associations who invoke the jurisdiction of this Court on the cause of public interest and if they are not satisfied with the antecedents, to return the petition.

5. The petitioner, despite an objection being recorded by the Registry, mentioned that the writ petition is maintainable and it be put up before the Bench as it was. However, the parameters of maintaining a Public Interest Litigation and

credentials of the petitioner have not been specified.

6. The Supreme Court in *Bhartiya Homoeopathy College v. Students Council of Homeopathy Medical College and others*, (1998) 2 SCC 449, as regards the maintainability of a public interest litigation by the Students Council in the said case regarding a dispute with the Vice Chancellor of the University, observed that such Union is to disclose:-

- (i) whether it was authorised to file the present litigation;
- (ii) and if so, by whom;
- (iii) whether it has sufficient funds to indulge in this litigation; and
- (iv) the basis of alleging any harm to the public interest to cause damage to others.

However, such organisations, without disclosing any material regarding their nature, functions and fundings, should not be allowed to litigate in the name of public interest which can cause a lot of damage to others.

7. The petitioner had taken time to submit resolution appointing him Chairperson of the State council, besides, the other requirements as laid down in *Ajaib Singh's* case (*supra*). However, nothing substantial has been brought on record to show that the petitioner has the credentials to invoke public interest jurisdiction of this Court. The material, that has been placed on record, is a Society Registration Certificate that was issued on 15.03.2000 at Chandigarh under the Societies Registration Act, 1860, the Memorandum of Association of the Council and the details of the members of the Council; however, nothing has been shown as to whether the Society that has been registered has funds to indulge in such litigations, is having regular meetings and also the minutes of the meeting that were recorded.

8. A perusal of the Memorandum of Association (Annexure P17) of the Council shows that in Para 7 it is mentioned that for furtherance of all or any of the objects of the Institution, its Chairman on behalf of Institution shall have authority in consultation of the trustees,

- (i) To solicit, obtain or except subscription, donation, loan, grants, gifts, bequests and trusts from any person, firm, bank, local authorities of corporate bodies, or any institution within India or outside and/or of the Union, State Government.
- (ii) To acquire by gift, purchase, exchange, lease, on higher or otherwise howsoever, any land, buildings, easements and any property movable and/or immovable and for any estate or interest for the furtherance of all or any of the objects of the Institution.
- (iii) To borrow from the financial institution and to mortgage/hypothecate its immovable/immovable properties as security to the said Institution.
- (iv) To build, construct and maintain houses, structures or buildings and alter,

extend, improve, repair, enlarge or modify the same including any existing building and to provide and equip the same with light, water, drainage, furniture, fittings, instruments, apparatus and appliances and all other necessities for the use to which such buildings are to be put up or held.

(v) To sell, manage, transfer, exchange, mortgage, demise, lease or let out, dispose of or otherwise deal with the properties whatever movable or immovable belonging to the Institution.

(vi) To borrow and raise money with or without security or mortgage, hypothecate or pledge over all or any of the immovable properties belonging to the Institution or in any other manner whatsoever.

(vii) To open and operate accounts in banks or to deal with banks in any manner whatsoever required, for furtherance of objects of the Institution. (viii) To open and conduct branches and to undertake such activities for furtherance to allow any object of the Institution.

(ix) To undertake re-loaning of the amount borrow from the Financial Institution(s) to individual artisans as per pattern scheme of the said Institution for the development of mankind and animal welfare.

It is further provided that the profits of the Institution shall be utilised in furtherance of the objects of the Institution and shall not be distributed amongst the members. However, nothing has been placed on record to show the accounts of the Council, the name of the Bank where the funds are retained and how they are expended or utilized.

9. Mr. P.S. Jammu, Advocate for the petitioner has then submitted that, in fact, the writ petition has been filed by the petitioner in his personal capacity and not as a Chairman of the Council. If that is so, the antecedents and credentials of the petitioner are completely lacking. He has filed the petition by claiming himself to be the President of the Council and Chairperson of the Vigilance Committee, (relating to Bhartiya Janta Party, Badhkhal Constituency, Faridabad); besides, a social worker and involved in various kinds of social activities in District Faridabad as well as the State of Haryana. The petitioner in order to show his antecedents for filing the PIL made a claim that he is Chairperson of the Council and this is the foremost social activity or contribution shown to public cause. The same in fact, on the basis of documents and material placed on record, is not shown to be so. Even otherwise, no substantial social activities that have been undertaken by him have been shown.

10. In Ajaib Singh's case (Supra) a Division Bench of this Court held that the expression "specifically disclose his credentials" must, naturally, imply that he has to set forth what he does for his living, what public interest he has been espousing, the work done by him in that behalf, the particulars of any matter preferred by him as PIL earlier on which the Court has passed orders, etc. Besides, it could not imply merely writing a sentence that a person is residing in

the State is public-spirited and is, thus, filing a PIL. Therefore, we hold that the petitioner has no locus standi to file the petition.

11. Even otherwise, on merit, the dispute is between the Municipal Corporation and the allottees of the plots (respondents No.6 to 14). Residential plot measuring 4586 sq. yard was allotted on lease-hold basis to the Indian Hardware Industries Ltd. (respondent No.15) for a residential colony. Thereafter, according to the learned counsel for the petitioner, the Indian Hardware Industries Ltd. (respondent No.15), purchased this site vide sale deed No. 14714 dated 21.01.2014 from the Rehabilitation Department of the State. On the same day, the Indian Hardware Industries Ltd. sold this very land to respondents No.6 to 14 vide sale-deed No.14737 dated 21.01.2014.

12. After selling the said piece of land measuring 4586 sq. yards, the Indian Hardware Industries Ltd. (respondent No.15) applied for inclusion of the share of land of Indian Hardware Residential Colony, Hardware chowk, situated at NIT, Faridabad in the site plan. The Tehsildar Sales (respondent No.5) vide letter dated 17.02.2014 (Annexure P1) forwarded the request of the allottee to the Commissioner, Municipal Corporation, Faridabad (respondent No.3) and asked for inclusion of the share of land of the Indian Hardware Residential Colony i.e. 4586 sq. yard situated at NIT Faridabad in the site plan of the Municipal Corporation and after its inclusion, the Department of Rehabilitation was asked to be informed accordingly.

13. The Commissioner, Municipal Corporation, Faridabad (respondent No.3) vide letter dated 26.08.2014 (Annexure P2) informed the Tehsildar Sales (respondent No.5) that incorporation of residential plot of M/s Indian Hardware Residential Colony measuring 4586 sq. yards has been allowed. On the basis of said incorporation of the residential plot, the Indian Hardware Industries Ltd. (respondent No.15) applied for sub division of the plot in favour of respondents No.6 to 14 on 27.08.2014 (Annexure P3). After processing the application (Annexure P3), the Commissioner, Municipal Corporation, Faridabad (respondent No.3) on 22.09.2014 (Annexure P4) directed the Indian Hardware Industries Ltd. to fulfil some statutory requirements regarding charges and to attach the necessary documents with the application for sub division of the plots. The Indian Hardware Industries Ltd. (respondent No.15) deposited a sum of Rs. 10,91,870/- on 22.09.2014 towards sub division charges including service and development charges, besides, license fee for sub division of the plot. The Commissioner, Municipal Corporation, Faridabad (respondent No.3) vide letter dated 07.10.2014 (Annexure P5) allowed sub division of the plot of the land owned by the Indian Hardware Residential Colony.

14. According to the petitioner, the said land had already been sold by the Indian Hardware Industries Ltd. (respondent No.15) to respondents No.6 to 14. Therefore, the Indian Hardware Industries Ltd. had no interest or concern with the land in question. Further, after the sub division of the plot was got done by the Indian Hardware Industries Ltd., respondents No.6 to 14 came in the picture

and they applied for sanction of the site plan from 14.10.2014 to 02.12.2014. The said site plan was sanctioned by respondent No.3. Subsequently, it was revealed that while sanctioning incorporation, sub division of plots and sanctioning of site plans, the Municipal Corporation, Faridabad officials had not followed the procedure and had sanctioned the incorporation/sub division of the plot and site plan in connivance with respondents No.6 to 14 after taking a huge bribe. The petitioner applied for information under the Right to Information Act, 2005 and then it was revealed that the respondent No.15 had purchased one piece of plot measuring 4586 sq. yards vide sale-deed No.14714 dated 21.01.2014 from the Rehabilitation Department and on the same day sold the same very plot to nine different persons i.e., respondents No.6 to 14 vide sale-deed No.14737 dated 21.01.2014 whereas, the Indian Hardware Industries Ltd. (respondent No.15) had no legal right to apply for the incorporation as well as sub division of the plots.

15. This irregularity/fraud was brought to the notice of the officials of the Municipal Corporation, Faridabad. Thereafter, the Commissioner, Municipal Corporation, Faridabad (respondent No.3) ordered a departmental enquiry and suspended two officials i.e., SDO A.E. Building and J.E. A.E. Building and subsequently, issued a show cause notice to the Indian Hardware Industries Ltd. (respondent No.15) on 19.12.2014 (Annexure P6). In response to the show cause notice (Annexure P6), Smt. Suman Verma (respondent No.6) filed reply vide letter dated 22.12.2014. Shri Pushpender Verma (respondent No.7) also filed separate reply to the show cause notice stating that the sale deed in favour of respondents No.6 to 14 was very much in the knowledge of Tehsildar Sales (respondent No.5) at the time of incorporation on 17.02.2014, besides, the authorities of the Municipal Corporation, Faridabad were also aware about the transfer of plots and that is why they guided respondents No.6 to 14 to apply through original owner only i.e. the Indian Hardware Industries Ltd. (respondent No.15).

16. The Commissioner, Municipal Corporation, Faridabad (respondent No.3), however, by order dated 07.05.2015 (Annexure P9) revoked the permission of sub division of the plot granted to respondent No.15.

17. The respondents No.6 to 14 aggrieved against the order of revocation of the site plan dated 20.02.2015, filed an appeal before the Commissioner, Gurgaon Division, Gurgaon (respondent No.2). The appeal was filed on 01.04.2015 whereas, the order of revocation of sub division of plot was passed subsequently vide order dated 07.05.2015 (Annexure P9). The Commissioner, Gurgaon Division, Gurgaon (respondent No.2) vide order dated 04.09.2015 (Annexure P10) was of the considered opinion that revocation of building plans of sub divided plot No.3, 4, 5 and 6 as ordered by the Commissioner, Municipal Corporation, Faridabad vide letter dated 20.2.2015 was wrong and therefore set aside. However, with regard to the additional prayer of the applicant for directing the Municipal Corporation, Faridabad Authorities to sanction the building

plans/maps already submitted for sub divided plots No.7 and 8, it was held that since the prayer was not covered within the scope of the appeal/application, the Commissioner, Municipal Corporation, Faridabad shall decide the fate of the sanction of building plans pertaining to sub divided plots No.7 and 8 as per the rules and it was ordered accordingly.

18. The Commissioner, Municipal Corporation, Faridabad (respondent No.3) filed a revision petition against the order dated 4.9.2015 (Annexure P10) passed by the Commissioner, Gurgaon Division, Gurgaon (respondent No.2), which came up for hearing before the State Government/Principal Secretary to Government of Haryana, Urban Local Bodies Department, Chandigarh (respondent No.1). The petitioner being a social activist approached the Principal Secretary (respondent No.1) and filed an application for making him a necessary party in the revision petition so that the correct position could be brought to the knowledge of respondent No.1. However, the Principal Secretary (respondent No.1) declined to make him a necessary party in the revision petition. Therefore, according to the petitioner, he was not provided an opportunity of hearing and the Principal Secretary (respondent No.1) passed the impugned order dated 03.05.2015 (Annexure P11) by which the order passed by the Commissioner, Gurgaon Division, Gurgaon (respondent No.2) has been upheld.

19. The petitioner has not placed any material or document on record to show that the sub division of the plots is impermissible. In any case, the Municipal Corporation, Faridabad has been pursuing the case by filing a revision petition against the order dated 4.9.2015 (Annexure P10) passed by the Commissioner, Gurgaon Division, Gurgaon (respondent No.2) before the State Government/the Principal Secretary Government of Haryana, Urban Local Bodies Department, Chandigarh (respondent No.1). In case, it is aggrieved against the order dated 4.9.2015 (Annexure P10) it would seek further remedy in accordance with law. However, the petitioner cannot be said to be aggrieved by the order dated 3.5.2016 (Annexure P11) passed by the State Government (respondent No.1). It may also be noticed that the appeal before the Commissioner, Gurgaon Division, Gurgaon (respondent No.2) is against the order of revocation of site plan dated 20.2.2015 which has not been placed on record and it is represented that the order dated 7.5.2015 (Annexure P9) was assailed. Therefore, there are incomplete particulars and pleadings in the writ petition. Besides, as already noticed he has no locus standi in the inter-se dispute between the allottees of the plot and the Municipal Corporation, Faridabad.

20. In the circumstances, we find no merit in the petition and the same is, accordingly, dismissed.