
(2010) 04 MP CK 0088
In the Madhya Pradesh High Court
Case No : Writ Petition No. 8340 of 2009

Anand Trust

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 07-04-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 2 Rule 1, Order 2 Rule 2, Order 2 Rule 3, Order 33 Rule 8, Order 41 Rule 22
Constitution of India, 1950 — Article 145, 17, 2, 21, 226
Court Fees Act, 1870 — Section 35, 4
Criminal Procedure Code, 1973 (CrPC) — Section 482
Presidential and Vice-Presidential Elections Act, 1952 — Section 5B, 5C

Citation : (2010) 2 MPLJ 473

Hon'ble Judges : Viney Mittal, J;Prakash Shrivastava, J

Bench : Division Bench

Advocate : S.P. Anand, petitioner in person B.L. Pavecha, with Akshat Pahadiya, Amicus Curiae, Vivek Sharon, Assistant Solicitor General for Union of India and Anand Agrawal for Indore Municipal Corporation, for the Appellant; A.S. Kutumbale, Additional Advocate General with Ms. Rashmi Pandit, Deputy Government Advocate, Vivek Sharon, Assistant Solicitor General for Union of India and Anand Agrawal for Indore Municipal Corporation, for the Respondent

Judgement

Viney Mittal, J.

This order shall govern a common issue, which has arisen for consideration in a bunch of twenty five writ petitions filed by the petitioner, Shri S. P. Anand or Anand Trust, through its trustee Shri S. P. Anand. All the aforesaid writ petitions have been filed from time to time, indicated as Public Interest Litigations. The said writ petitions are WP No. 247 of 2000, WP No. 1051 of 2000, WP No. 881 of 2003, WP No. 971 of 2003, WP No. 1235 of 2004, WP No. 1908 of 2006, WP No. 1924 of 2006, WP No. 1925 of 2006, WP No. 1946 of 2006, WP No. 2637 of 2006, WP No. 2756 of 2006, WP No. 3826 of 2006, WP No. 5430 of 2006, WP No. 5630 of 2006, WP No. 173 of 2007, WP No. 2097 of 2007, WP No. 2648 of 2007, WP No. 2236 of 2009, WP No. 2937 of 2009, WP No. 2997 of 2009, WP

No. 3880 of 2009, WP No. 8340 of 2009, WP No. 8964 of 2009, WP No. 9428 of 2009 and WP No. 26 of 2010. For the sake of convenience, the main order is being passed in WP No. 8340 of 2009.

It would be pertinent to mention here that through this order, we shall deal only with a common legal issue arising in all these writ petitions, without touching the merits of the controversy in any of the petitions. However, separate orders would be passed in each of the writ petitions, for disposal, and therefore, at this stage, while passing the present order, we would not notice the facts at all, of any of the cases.

A communication dated November 16, 2009 was addressed by the Anand Trust through its trustee, Shri S. P. Anand, to the Principal Registrar of this Bench, accompanied by a copy of the Hindustan Times newspaper dated November 16, 2009. It was requested that either the said communication be treated as a Public Interest Litigation (PIL) or as an application in some of the earlier matters, being RP No. 266/2009 and RP No. 282/2009, which are yet pending before this Court.

The aforesaid letter was placed before the learned Principal Registrar, and as per the proposal put up by the office, he directed the registration of the aforesaid letter as a writ petition (PIL). However, the office also put the following objections on the said writ petition.

- (i) Court fee Rs. 250/- less on petition.
- (ii) Index not filed.
- (iii) Petition not in format of Public Interest Litigation as per the High Court Rules.
- (iv) Affidavit not filed in support of the petition.

The petitioner, rather than curing the said defects, insisted that his matter be listed before the Bench.

Thereafter, the writ petition was listed before a Division Bench on November 18, 2009. It was noticed by the Division Bench that an identical controversy was pending in WP No. 4673 of 2008 (Public Interest Litigation), in which certain directions had been issued on August 1, 2008. Therefore, it was deemed appropriate to request the learned Additional Advocate General to seek instructions in the matter from the Dean, Medical College, M. Y. Hospital. Certain other directions were also issued, in the meantime, with regard to the arrangement to be made by the State Government, so that all facilities/conveniences could be made available to the patients admitted to the M.Y. hospital (indoor and outdoor), so that the aforesaid patients would not suffer, on account of the doctors of the hospital being on strike. It may be specifically noticed that although the Division Bench, on November 18, 2009, issued the aforesaid directions, but at no stage, the objections/defects, pointed out by the office were ordered to be condoned, nor the petitioner, at any stage, was ever

exempted from paying the Court fee and from complying with the other requirements.

When the said writ petition came up before the Bench on December 21, 2009, an IA No. 11074/2009 was also filed on behalf of the petitioner-trust, in which, on the basis of various allegations in the said application, certain directions were sought from the Court to the State Government and to summon the Dean and Superintendent of Government College and M.H. Hospital with relevant record thereof, and that of the society named therein, and the Budget Proposals for 2008-2009 and 2009-10 on the next date, and directions were even sought to restrain them from collecting UNPERMITTED COLLECTIONS.

During the course of arguments, it was noticed by the Court that the writ petition had been only registered on the basis of a letter dated November 16, 2009, but no formal petition, containing any pleadings, accompanied by any documents, authenticated as under the Rules, affixed with the requisite Court fee, had been filed. On being pointed out the aforesaid deficiency to Shri S. P. Anand, trustee of the petitioner-trust, he maintained that since the writ petition is a Public Interest Litigation, therefore, no formal petition is required to be filed in such matters, nor the rules of the Court govern such petitions, in as much as, even a letter addressed to the Court, can be registered as a Public Interest Writ Petition.

On the basis of the aforesaid issue, having arisen before this Court, the following order was passed.

A letter dated November 16, 2009 was addressed by the Anand Trust, through its trustee Shri S. P. Anand, to the Principal Registrar of this Bench with a request that either the said letter be treated as a Public Interest Litigation (PIL) or as an application in some of the earlier matters, being RP No. 266 of 2009 and RP No. 282 of 2009, which are yet pending before this Court.

The aforesaid letter was placed before the learned Principal Registrar and as per the proposal put-up by the office, the Principal Registrar directed the registration of the aforesaid letter as a writ petition (PIL).

Thereafter, the present writ petition was put up before a Division Bench for hearing on November 18, 2009. It was noticed by the Division Bench that an identical controversy was pending in WP No. 4673 of 2003 (PIL), in which, certain directions had been issued on August 1, 2008. Therefore, it was deemed appropriate to request the learned Additional Advocate General to seek instructions in the matter from the Dean, Medical College, M.Y. Hospital. Certain other directions were issued in the meantime with regard to the arrangement to be made by the State Government so that all facilities/conveniences be made available to the patients admitted to the hospital (indoor and outdoor), so that the aforesaid patients would not suffer, on account of the doctors of the hospital being on strike.

Today, when the matter has been listed before this Court, an IA No. 11074/2009

has also been filed by the petitioner-trust, in which on the basis of various allegations in the said application, directions have been sought from the Court to the State Government "to file a detailed reply and Principal Secretary Medical Education be directed to appear in person together with Dean, and Superintendent of Government College and MY Hospital, with relevant record thereof and that of the Society named above and its Budget Proposals for 2008-2009 and 2009-10 at next date. And UNPERMITTED COLLECTIONS cited above be kindly directed to be stayed forthwith both from patients, students i.e. junior doctors, etc. etc."

After hearing Shri S. P. Anand, the trustee of the petitioner-trust, who appears in person and Shri A. S. Kutumbale, learned Additional Advocate General, appearing for the State, and on perusal of the record, we find that the present writ petition has been registered only on the basis of a letter dated November 16, 2009 written by Shri S. P. Anand to the Principal Registrar of this Court. No formal petition, containing any pleadings, accompanied by any documents, authenticated, as required under the Rules, has been filed by the petitioner-trust.

On being pointed out the aforesaid deficiency by the Court, Shri S. P. Anand, trustee of the petitioner-trust maintains that since the present petition is a Public Interest Litigation, therefore, even a letter addressed to the Court can be registered as a public interest writ petition and no formal petition is required to be filed in such matters, nor the rules of the Court govern such petitions.

Although, it is not a matter of any dispute, as is well settled by now, that in the matters of public interest, even a communication/letter to the Court can be treated as a writ petition and in an appropriate case, even the facts coming to the notice of the Court itself may also invite the suo-motu attention of the Court for interference, by treating the controversy as a Public Interest Litigation, however, we take notice of the fact that Shri S. P. Anand, who is the author of the letter dated November 16, 2009 and who is the trustee of the petitioner-trust, and is representing the said trust in the proceedings before this Court in person, is a frequent public interest litigant, who approaches this Court in subjects of public importance and of diverse nature. It would not be out of place to also note that Shri S. P. Anand has been approaching this Court, as well as the Apex Court, by way of Public Interest Litigations for a sufficient number of years, by now. Consequently, it has to be held that, unlike any other layman, who is not conversant with the formal Rules or procedure of the Court, Shri Anand is well conversant with the practice, procedure and the Rules framed/followed by this Court.

As a matter of fact a public interest writ petition is recognised by this Court under the Rules of the Court known as the High Court of Madhya Pradesh Rules, 2008. In fact, the Rules have even recognised a situation, where a public interest writ petition can be registered on a letter itself. However, we find that Rules have been framed by this Court in order to effectively adjudicate the controversy, raised by a petitioner; to put the persons against whom the relief is claimed to

notice; and therefore, such persons are required to be impleaded as respondents; to appreciate the documents which are required to be appended as annexures by the person approaching the Court; and to award the requisite relief, if at all, on the basis of the prayer/s made by the person approaching the Court. However, an exception can always be made by the Court, when the person approaching the Court is either ignorant of the procedure/practice and the law, or is so helpless or destitute that on account of the said fact, is unable to approach the Court, and therefore, chooses to address a letter to the Court.

In the present case, however, as noticed above, Shri S. P. Anand, is a public interest litigant of a considerable standing well conversant with the procedure and rules of the Court. Thus, prima-facie we are of view that he is not entitled to the exemption, for not following the Rules, while filing a Public Interest Litigation, such as the present writ petition and not even implead the parties against whom the relief is sought.

At this stage, we also note the statement made by Shri A. S. Kutumbale, learned Additional Advocate General, that the junior doctors, who had resorted to strike, had already resumed their duty long time back.

Keeping in view the aforesaid fact, we find that since there is no urgency involved for hearing of the writ petition, as of now, since the public cause of action appears to have subsided for the moment, therefore, it would be appropriate for this Court to adjudicate the issue as to whether a public interest litigant is required to adhere to the Rules, while filing a Public Interest Litigation or not, even when no specific exemption is claimed by the writ petitioner, or granted by the Court, in the matter from following the Rules.

Thus, we deem it appropriate to admit the writ petition, on the said issue.

IA No. 11074/2009 to be heard with the main case at the time of final hearing.

Liberty to the petitioner to file an appropriate IA/fresh writ petition, as and when, a fresh cause of action arises in the matter.

The said writ petition came up for hearing before this Court on January 11, 2010. Realizing that the issue, as per the order dated December 21, 2009, being an issue of General Public Importance, was arising in various Public Interest Litigations before the Court, as to whether, the High Court Rules are required to be followed, while filing a Public Interest Litigation or not, therefore, it was deemed appropriate to adjudicate the aforesaid issue. Accordingly, the Court requested Shri B. L. Pavacha, Senior Advocate, to assist the Court as Amicus-Curiae. Shri Pavacha accepted the said request of the Court. Accordingly, we directed all the above said writ petitions to be listed for arguments on March 9, 2010.

All the aforesaid matters were accordingly listed on March 9, 2010.

We have heard Shri S. P. Anand, who has appeared in person for himself and for

Anand Trust, Shri B. L. Pavecha, learned senior counsel, who has appeared as Amicus-Curiae and Shri A. S. Kutumbale, learned Additional Advocate General appearing for the State, and with their assistance, have examined the legal position.

Shri S. P. Anand, the petitioner, at the outset, has objected to the appointment of Shri B. L. Pavecha, Senior Advocate, as Amicus-Curiae. It has been maintained by Shri Anand that since the issue noticed in the order dated December 21, 2009, stood concluded, by the settled law of the Supreme Court, and by various orders passed by this Court, therefore, there was absolutely no necessity of appointing an Amicus-Curiae in the matter. Shri Anand has referred to the following writ petitions filed by him or his trust.

(i) WP No. 2937 of 2009, in which vide order dated May 11, 2009, the defects were ordered to be condoned by a Division Bench.

(ii) WP No. 8340 of 2009, which was entertained by a Division Bench.

(iii) WP No. 2997 of 2009, in which although various objections/defects were raised and pointed out by the office, but a Division Bench appointed a monitoring committee.

(iv) WP No. 3880 of 2009, in which a Division Bench had ordered that no process fee was required for service on the respondents.

On the strength of the aforesaid orders passed by the Court in the said writ petitions, an argument is sought to be raised by Shri S. P. Anand, that since in the said writ petitions filed by the petitioner or his trust, the Division Benches had not insisted upon the compliance of the Rules, therefore, this should be taken as the settled view of this Court and as such, the objections raised by the office and the insistence on compliance of the Rules be overruled. It has been further argued by Shri Anand that in case, this Court was proposing to take a different view, then in order to maintain a judicial discipline, the matter should be referred to a Larger Bench. In this regard, Shri Anand has placed reliance upon a judgment of the Apex Court in the case of Jaisri Sahu Vs. Rajdewan Dubey and Others,

Shri Anand has argued that the rules framed by the High Court have been framed to serve the cause of justice, and as such cannot be treated to be an obstruction for a Public Interest Litigant. It has further been argued by the petitioner that the constitutional powers under Articles 226 and 32 of the Constitution of India, conferred upon the High Courts, as well as the Supreme Court, are not subservient to any Rules.

With regard to the question as to whether the Rules framed by the High Court are required to be followed, while filing a Regular Public Interest Litigation, the petitioner has argued that when even a letter can be treated as a Public Interest Litigation, and proceedings can be initiated on that basis, then it was not at all justified for the Court or its registry to insist upon the compliance of any Rules

and on payment of the Court fee etc.

Shri Anand has cited the following judgments.

1. Bandhua Mukti Morcha Vs. Union of India (UOI) and Others, 2. People's Union for Democratic Rights and Others Vs. Union of India (UOI) and Others, 3. M.C. Mehta and another Vs. Union of India and others,

According to the petitioner, a Public Interest Litigation is a part of the process of participative justice and "standing" in civil litigation of that pattern must have a liberal construction. It has further been argued by the petitioner that where there is a violation of a fundamental or other legal right of a person or class of persons, who by reason of poverty or disability or socially or economically disadvantaged position, cannot approach a Court of law for justice, it would be open to any public-spirited individual or social action group, to bring an action for vindication of the fundamental or other legal rights of such individual or class of individuals, and this can be done not only by filing a regular writ petition, but also by addressing a letter to the Court,

Shri B. L. Pavacha, learned senior counsel appearing as an Amicus-Curiae, has referred to the High Court Rules and Orders framed by High Court of Judicature, Nagpur, (hereinafter referred to as the Old Rules), applicable to this Court, which were governing the procedure in this Court, prior to the enforcement of The High Court of Madhya Pradesh Rules, 2008 (hereinafter called 2008 Rules), with effect from November 1, 2008. Our pointed attention has been drawn to Rule 1 of Part II of section 3 of the Old Rules.

The learned Amicus-Curiae has referred to an order dated July 5, 2005 passed by a Division Bench of this Court (comprising of Hon'ble Shri Justice R. V. Raveendran, the then Chief Justice and Hon'ble Shri Justice A. M. Sapre) in WPNo. 443 of 2005, S. P. Anand, Indore vs. Union of India and others. It has been pointed out that the said writ petition was infact a writ petition filed by the present petitioner himself, which also had not complied with the requirement of the Rules, and the registry had pointed out the following defects and called upon the petitioner to rectify the same.

- a) non-payment of Court fee of Rs. 100/-;
- b) non-deposit of security amount of Rs. 2,000/-;
- c) non-filing of index form;
- d) non-filing of affidavit; and,
- e) non-filing of full second set.

The petitioner maintained that he was not willing to cure the said defects and comply with the other requirements, and had rather insisted that in a Public Interest Litigation, what was important, was the substance and not the form and therefore, the objections raised by the office were to be overruled. The Division

Bench negated the pleas raised by the writ petitioner, and held that neither a Public Interest Litigant could be exempted from payment of the Court fee, nor was entitled to relaxation in regard to the procedural formalities. Our pointed attention has also been drawn by Shri Pavecha to another order dated August 17, 2006, passed by another Division Bench in the Writ Petition No. 443 of 2005, filed by the petitioner (and eight other writ petitions, being WP No. 1908 of 2006, WP No. 1235 of 2004, WP No. 2596 of 2006, WP No. 1946 of 2006, WP No. 1924 of 2006, WP No. 2637 of 2006, WP No. 2756 of 2006 and WP No. 1925 of 2006, which are also listed before us presently as well, filed by him), in which, on account of non-compliance of the earlier directions dated July 5, 2005 by the Division Bench, the matter was again put up before the Division Bench for consideration. At the time of hearing, yet again, the writ petitioner insisted that he was not liable to pay the Court fee nor was required to comply with the Rules. Vide order dated August 17, 2006, the Division Bench noticed that the earlier order dated July 5, 2005, had attained finality, having not been challenged by the petitioner, and would have binding effect upon the Court. Consequently, it was directed that the writ petitioner would not be entitled to file the petitions, without payment of Court fee and without following the Rules.

Our pointed attention has also been drawn, by the learned Amicus-Curiae, to a Full Bench judgment of this Court, also in the case of the petitioner himself; in WP No. 5806 of 2006, decided on July 31, 2008, S.P. Anand Vs. Registrar General, wherein on account of the insistence of the petitioner in not complying with the Rules, not paying the Court fee, and not depositing the security amount, the Full Bench adjudicated the entire matter. Taking note of the fact that under the Old Rules, there was no provision for requiring a writ petitioner to deposit the security amount, the said requirement imposed by a judicial pronouncement was held to be not binding; but with regard to the payment of the Court fee on the writ petitions and compliance with other Rules, the Full Bench also upheld and reiterated that, a Public Interest Litigant was required not only to affix the requisite Court fee, but was also required to comply with the other Rules.

It has also been pointed out by Shri Pavecha that a review petition, being MCC No. 640 of 2008, filed by the writ petitioner Shri S. P. Anand, was also dismissed by the Full Bench on April 18, 2009, upholding the earlier view taken by it. The said judgment of the Full Bench is reported as Satya Pal Anand Vs. Registrar General, High Court of M.P. and Another,

According to the learned Amicus-Curiae, the Rules framed by the High Court govern the filing of all writ petitions, including the Public Interest Litigations, and therefore, in case of non-compliance with the said Rules, the writ petition filed by a Public Interest Litigant should not be entertained and is liable to be rejected on that ground alone. Lastly, a strong reliance was placed by Shri Pavecha upon an order dated January 18, 2010, when certain directions were issued by the Supreme Court in the case of State of Uttaranchal vs. Balwant Singh Chauhan and others, Civil Appeal Nos. 1134-1135 of 2002, to all the High Courts in the

country, requiring the High Courts to frame Rules governing the Public Interest Litigations. Shri Pavecha has argued that the aforesaid directions, for framing of the Rules, governing Public Interest Litigation, clearly indicated that the rules framed by the High Court were required to be followed, even in the cases of Public Interest Litigations.

Shri A. S. Kutumbale, learned Additional Advocate General, appearing for the State, has also argued that as per the law laid down by the Full Bench, in the case of the petitioner Shri S. P. Anand itself, the requisite Court fee was required to be paid on a Public Interest Litigation, and other rules, requiring filing of affidavit and also filing the supporting documents etc. to a writ petition, were also required to be complied with. Shri Kutumbale has argued that filing of an affidavit was infact a necessary safe-guard to weed out a frivolous and vexatious litigation, disguised as a Public Interest Litigation, and would ensure that no false pleas/averments are raised by a petitioner in a Public Interest Litigation. According to Shri Kutumbale, since the matter stands, authoritatively, settled by the Full Bench of this Court, therefore, it was not open again to the present petitioner, who was the petitioner in the said Full Bench decision as well, to raise any arguments differently.

To the aforesaid arguments of the learned Amicus-Curiae and learned Additional Advocate General, Shri S. P. Anand, has also addressed arguments in reply. Besides repeating the contentions, which have already been noticed in the earlier portion of the order, it has been re-asserted by the petitioner that when a letter itself can be treated as a Public Interest Litigation, then it was not understandable as to how a Public Interest Litigant could be burdened with the payment of the Court fee or was required to comply with the Rules. Shri Anand has argued that the judgment of the Full Bench and the earlier two judgments of the Division Benches, vide orders dated July 5, 2005 and August 17, 2006, were in direct conflict with the law laid down by the Apex Court, and therefore, were per-incuriam and as such, were not to be treated as a binding law. In support of the aforesaid contention, a reliance has been placed upon a decision of the Supreme Court in the case of State of Rajasthan and Others Vs. Jagdish Narain Chaturvedi, , wherein it has been laid down that &per-incuriam judgment of the Court cannot have a binding effect. Shri Anand has also relied upon a judgment of the Apex Court in the case of Assistant Collector of Central Excise, Chandan Nagar, West Bengal Vs. Dunlop India Ltd. and Others, , to contend that a subordinate Court must yield to the wisdom of the order of a higher Court. On that basis, it has been argued that on account of the fact that in Bandhua Mukti Morcha and M. C Mehta and in various other cases, since the Supreme Court had laid down that a Public Interest Litigation could be entertained even on receipt of a letter/information, therefore, the law laid down by the two Division Benches and the Full Bench was not correct law and was in fact, liable to be treated as per-incuriam.

To be fair to the petitioner, it must be noticed that a strong reliance has also

been placed by him on the case of Sheela Barse Vs. Union of India (UOI) and Others, to contend that even the humblest citizen of the land, irrespective of his station in life, is entitled to present his case with dignity and is entitled to be heard with courtesy and sympathy. A reliance has also been placed on the case of S.P. Gupta Vs. President of India and Others, , (para 27 thereof), to contend that independence of the judiciary is a paramount feature of the Constitution of India and therefore, the Court must derive its inspiration from the Constitutional Charter and the Constitutional values.

We have duly considered the rival contentions raised by the petitioner, the learned senior counsel, appearing as an Amicus-Curiae and the learned Additional Advocate General.

At the outset, we must note that in order to adjudicate an issue involving technical intricacies, it is open to the Court to even seek assistance of any expert body. Similarly, when certain legal issues of General Public Importance arise before the Court, or when the Court even otherwise deems appropriate or requires, it may request the assistance of an Advocate to act as an Amicus-Curiae. The aforesaid prerogative, being exclusive of the Court alone, in our considered view, no one, not even the parties, can object to the appointment of an Amicus-Curiae. Thus we overrule the objection raised by the petitioner in this regard. As a matter of fact, having been assisted very ably by Shri B. L. Pavacha, Senior Advocate, in this regard, we place on record our sense of gratitude to him.

It would be relevant to extract Rule 1 of Chapter 2 of section 3 of the Old Rules, governing the procedure of filing of writ petitions in this Court, prior to the enforcement of 2008 Rules, with effect from November 1, 2008, as follows.

(a) A petition for a direction or order, or writ, including writ in the nature of Mandamus, Prohibition, Certiorari, Quo Warranto, etc. shall be filed in the form prescribed under this rule and shall, as far as possible, conform to the provisions of Order II, Rules 1, 2 and 3 of the CPC and Rules 2 and 3 of Chapter IV of the Rules of the High Court in the matter of affidavits to be filed in support thereof.

(b) The petition shall be accompanied by the order or decision, if any, complained of and an affidavit verifying the facts relied on. The petition shall be presented by the applicant in person or by the duly authorised legal practitioner. The petition along with its Annexures shall be presented in two complete sets in paper book form with page Nos. and Index on the first page.

(bb) It shall not be necessary to present a separate application to seek interim order or direction if the same is prayed for in the original petition.

(c) When a petitioner relies upon a document or documents in his possession or power, he shall file them along with his petition.

(d) When he relies on any other documents, which are not in his possession or power as evidence in support of his petition, he shall enter such documents in a list to be added or annexed to the petition.

It is clear from a perusal of the aforesaid rule that all writ petitions, for the purposes of issuance of writs of Mandamus, Prohibition, Certiorari, Quo Warranto, etc., were required to be filed in the prescribed pro forma, under the said Rules and were also required to conform, as far as possible, to the provisions of Order II, Rules 1, 2 and 3 of Civil Procedure Code, and Rules 2 and 3 of Chapter IV of the Rules of the High Court, in the matter of affidavits. The documents supporting the pleas were required to be appended. Therefore, it is apparent that even prior to the enforcement of 2008 Rules, a writ petition was to conform to the requirements of the Order II, Rules 1, 2 and 3 of Civil Procedure Code, and was required to be filed as per the prescribed proforma under the Old Rules. It would be wholly unnecessary to dilate that a writ petition filed by a Public Interest Litigant also is essentially a writ petition, though filed in public interest. The only relaxation, which is available to the Public Interest Litigant is that unlike an ordinary litigant, requirement of "standing" or "locus-standi" is not insisted.

The aforesaid issue had come up before a Division Bench of this Court in the case of WP No. 443 of 2005, filed by the petitioner Shri S. P. Anand himself, when an order was passed on July 5, 2005. The following questions were noticed for adjudication by the Division Bench.

(i) Whether no Court fee is payable in respect of a writ petition filed by way of PIL, under Article 226 of Constitution of India? Alternatively, whether, payment of Court fee on a PIL can be exempted?

(ii) Whether requiring a petitioner in a PIL to pay a security deposit violates the fundamental right, of the petitioner?

(iii) Whether the requirements relating to indexing; pagination and filing of second set etc. should not be raised, or alternatively have to be waived in a PIL?

Determining the aforesaid (i) question, the Division Bench made the following observations.

Re. Question (i) (Court fee on PIL.)

Section 4 of the Court Fees Act, 1870 provides that "no document of any of the kinds specified in the first or second Schedule to this Act annexed as chargeable with fees shall be filed, or shall be received.....by any of the said High Courts in any case coming before such Court in the exercise of its extraordinary Original Civil Jurisdiction.....unless in respect of such document, there be paid a fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document.

1 Article 1(e)(ii) of Second Schedule to the Court Fees Act, 1870, requires payment of Court fee of Rs. 100/- in regard to any petition presented to the High Court, under Article 226 of the Constitution.

2 Section 35 of the Court Fees Act, 1870 relating to power to reduce or remit

fees reads as follows :

The appropriate Government may, from time to time by notification in the Official Gazette, reduce or remit, in the whole or in any part of the territories under its administration, all or any of the fees mentioned in the first and second schedules to the said Act and may in the like manner cancel or vary such order.

We find that the State Government has issued a Notification on 1-4- 1983 in exercise of power u/s 35, remitting in the whole the Court Fee mentioned in Articles 1A and 2 of First Schedule and Articles 5, 17 and 21 of Second Schedule, payable on plaints by the following categories of persons whose annual income from all sources does not exceed Rs. 6,000 : (i) members of Scheduled Tribes, (ii) members of Scheduled Castes, (iii) minors, (iv) women, (v) artisan, (vi) unskilled labourer, (vii) landless labourer and (viii) person belonging to the weaker section of the society. Writ petitions are not exempted from Court fee u/s 35.

3 There is no provision in the Court Fees Act exempting writ petitions in general or PIL, in particular, from Court fee. Nor there is any provision in the said Act enabling this Court or the Sub-ordinate Courts to exempt the payment-of Court Fee, payable under the Act.

4 The petitioner does not claim to be an indigent person entitled to the benefit of Order 33, Rule 8 of Civil Procedure Code.

In view of the mandatory requirement of section 4 read with Article 1(e)(ii) of II Schedule of the Court Fees Act, for payment of Court fee of Rs. 100/- on petitions under Article 226 of the Constitution, and in the absence of a provision enabling the Court to exempt any class of persons or class of cases from payment of Court fee, the question of exempting the petitioner from paying Court fee in regard to writ petition (Public Interest Litigation) does not arise. The petitioner has to pay the Court fee.

The petitioner submitted that no Court fee is payable on a petition filed in public interest under Article 226 of the Constitution of India, having regard to decision of the Supreme Court in *Bandhua Mukti Morcha Vs. Union of India (UOI) and Others*, . He relies on the following observations :

The Constitution makers therefore advisedly provided in clause (1) of Article 32 that the Supreme Court may be moved by any appropriate proceeding, "appropriate" not in terms of any particular form, but "appropriate" with reference to the purpose of the proceedings. That is the reason why it was held by this Court in the Judges Appointment and Transfer Case that where a member of the public acting bona fide moves the Court for enforcement of a fundamental right on behalf of person or disability or socially or economically disadvantaged position cannot approach the Court for relief, such member of the public may move the Court even by just writing a letter, because it would not be right or fair to expect a person acting pro bono publico to incur expenses out of his own

pocket for going to a lawyer and preparing a regular writ petition for being filed in Court for enforcement of the fundamental right of the poor and deprived sections of the community and in such a case, a letter addressed by him can legitimately be regarded as an "appropriate proceeding". "We may point out that what we have said above in regard to the exercise of jurisdiction by the Supreme Court under Article 32 must apply equally in relation to the exercise of jurisdiction by the High Court under Article 226, for the latter jurisdiction is also a new constitutional jurisdiction and it is conferred in the same wide terms as the jurisdiction under Article 32 and the same powers can and must therefore be exercised by the High Courts while exercising jurisdiction under Article 226. In fact, the jurisdiction of the High Courts under Article 226 is much wider, because the High Courts are required to exercise this jurisdiction not only for enforcement of a fundamental right but also for enforcement of any legal right and there are many rights conferred on the poor and the disadvantaged which are the creation of statute and they need to be enforced as urgently and vigorously as fundamental rights.

It is no doubt true that the Supreme Court has held that a letter addressed to the High Court, can be regarded as an application invoking the writ jurisdiction of the High Court. It is also true that when a letter is treated as an application for exercise of the jurisdiction under Article 226, no Court fee is required to be paid on the letter petition. But, there is a basic difference between such a letter and a regular writ petition filed under Article 226 of the Constitution. When a letter is received, the same is examined on the administrative side and it is purely within the discretion of the Chief Justice or the designated Judge either to act on them or file the letter as no action being necessary. There is no need for a hearing before ordering the letter to be filed. If it is decided to file the letter, there is no need to list the letter before the Court for judicial consideration (that is preliminary hearing). The letter itself is not a writ petition. Only when the Chief Justice or his designate, on the basis of information contained in the letter considers it a fit case for examination, it is taken up suo-motu, and is registered as a writ proceedings under Article 226. It is in these circumstances, no Court fee is required to be paid on letter petitions.

On the other hand, when a petition drafted in the form of a regular writ petition under Article 226, is filed before the High Court, the relevant rules require the matter to be listed for judicial consideration (preliminary hearing) before the Court. There is no question of such petition being examined on the administrative side and being closed without hearing the petitioner, which is possible in the case of a letter. A person filing a writ petition is entitled to be heard as a matter of right, whereby a person sending a letter has no such right.

All that, the Supreme Court has observed in Bandhua Mukti Morcha's case is that the High Court may be moved by a letter, to exercise its writ jurisdiction. It nowhere lays down a proposition that when a regular writ petition is filed by someone as a Public Interest Litigation, it should be exempted from payment of

Court fee or exempted from complying with other procedural requirements. If the petitioner wants to move this Court without paying Court fee or without complying with the High Court Rules relating to writ proceedings, it is open to him to send a letter giving the very same information. It will then be considered appropriately. Alternatively, it is open to the petitioner to give a representation to the State Government for issuance of appropriate Notification u/s 35 of the Court Fees Act for exempting writ petitions in Public Interest Litigation (PIL) from payment of Court fee. Be that as it may. The decision in *Bandhua Mukti Morcha*'s case (*supra*) is, therefore, of no assistance to the petitioner to avoid payment of Court fee on the writ petition.

The petitioner next relied on the decision of the Supreme Court in *Dharti Pakar Madan Lai Agrawal vs. K. R. Narayanan*, AIR 1984 SC 802 to contend that in appropriate cases, Court fee can be exempted. That was a petition under Article 32 of the Constitution challenging the constitutional validity of section 5B and 5C of the Presidential and Vice Presidential Elections Act, 1952. Along with the petition, the petitioner therein had filed an application seeking exemption from payment of Court fee. Having perused the said application, the said application was allowed. There is no discussion or statement of principle relating to Court fee payable on PIL. In fact it becomes clear from the decision that there is no automatic exemption from payment of Court fee, but an application has to be filed for exemption. Presumably the Supreme Court Rules provide for such exemption. Secondly, the Court Fees Act, 1870 obviously does not apply to petitions under Article 32 filed before the Supreme Court. Therefore, the fact that the Supreme Court gave exemption from paying Court fee on a petition under Article 32 of the Constitution does not help the petitioner to contend that there should be an exemption from paying Court fee in regard to a petition under Article 226, ignoring the mandatory requirements of section 4 of the Court Fees Act, 1870.

(Emphasis Supplied)

With regard to question No. (iii) as to whether the requirements of complying with the other Rules etc. were to be followed by a Public Interest Litigant, the Division Bench answered the said question with the following observations.

Re: Question (iii) (Removing defects in petition)

The Rules do not make any relaxation in regard to procedural requirement either in regard to Public Interest Litigation or petitions filed by parties appearing in person. The requirements relating to filing an index sheet showing the documents filed, pagination of the petition, filing of legible copies, filing of second set etc. are all procedural requirements provided for in the Rules intended to smoothen the process of hearing and avoid wastage of valuable Court time. If the papers are not filed properly, lot of Court time is wasted at the time of hearing. It has to be realised that saving of Court time is itself in public interest, so that it can be used for disposing other cases. Therefore, there is

nothing wrong in requiring the petitioner to comply with the office objections. Before parting, we may refer to the observation of the Supreme Court in the very decision cited by the petitioner (in Prem Chand Garg) as to the need to comply with the Rules :

Rules framed under Article 145 which govern the practice and procedure in respect of the petitions under Article 32 with the object of aiding and facilitating the orderly course of their presentation and further progress until then decision, cannot be said to contravene Article 32. All proceedings in Court must be orderly and must follow the well recognised pattern usually adopted for a fair and satisfactory hearing; petitioner under Article 32 are no exception in that behalf.

The said observations equally apply to proceedings under Article 226. The third question is also therefore answered in the negative. (Emphasis supplied)

Ultimately, after answering the aforesaid questions, the Division Bench directed the petitioner to pay the Court fee, and rectify the other defects pointed out by the office, within six weeks of the order. The petitioner chose not to comply with the aforesaid directions of the Division Bench and insisted, yet again, that neither he was required to pay the Court fee nor could be asked to comply with the Rules. Thus, the aforesaid WP No. 443 of 2005, and eight more writ petitions (which are also being governed by the present order, once again), came to be listed before another Division Bench. Yet another order was passed on August 17, 2006. The following observations made by the Division Bench in the order dated August 17, 2006 may be extracted.

19. The order dated 5-7-2005 passed by this Court in WP No. 443/05 has attained finality as it has not been challenged by the petitioner. This order is having binding effect on this Court. In view of this, this Court cannot be persuaded to consider that the petitioner is entitled to file the petition without payment of Court fees or without depositing the amount of security.

In the aforesaid proceedings before the Division Bench, the petitioner insisted that in a Public Interest Litigation, the Registrar of this Court has no right to put any objections and stall hearing till the objections are removed, because the matters are of great importance and therefore, it is necessary to bring them to the knowledge of the Court, immediately. It was maintained by the petitioner that the act of the Registrar, is not only illegal, but also amounts to contempt of the Court, for which, he should be punished suitably, under the provisions of Contempt of Courts Act.

The aforesaid contention of the petitioner was also negated by the Division Bench. Noticing that the Rules were required to be followed, the Division Bench observed as follows.

22. In view of this, it cannot be said that by putting objections, illegality has been committed by the Registrar of this Court. In WP No. 443/2005, this Court, while passing order dated 5-7-2005, has observed that if at all there is any

contempt, then, it is by the petitioner, who ignores the order of this Court and tries to threaten the officer performing their duties with contempt action. In spite of this observation petitioner has not complied with bare formalities, but again praying for drawing contempt proceedings.

(Emphasis Supplied)

It is apparent from the record of these cases that the petitioner remained recalcitrant and rather adopted an obstinate attitude, by not complying with the repeated directions issued by two Division Benches. He again persisted with his pleas that neither the Court fee was required to be paid by him nor he was bound to follow the Rules. Additionally, it was maintained by him that the requirement of security deposit had been imposed upon a Public Interest Litigant only through a judicial pronouncement, which could not have been done.

After the aforesaid issue was raised by him, yet again, through an order dated April 15, 2008, a Division Bench, headed by the then Chief Justice, Hon'ble Shri Justice A. K. Patnaik, referred the aforesaid issues to a Full Bench. The Full Bench delivered the judgment on July 31, 2008, in WP No. 5806 of 2006, S. P. Anand vs. The Registrar General, M. P. High Court, Jabalpur. The judgment is also reported as S.P. Anand Vs. Registrar General,

The Full Bench declared that the requirement of security deposit, as per the judicial pronouncement was not justified, and infact, the Division Bench, while ordering the said requirement, was not having any jurisdiction to pass such an order. However, with regard to the requirement of payment of Court fee on a Public Interest Litigation and the adherence to the Rules by a Public Interest Litigant, the Full Bench has also affirmed the view of the Division Bench taken vide order dated July 5, 2005 in WP No. 443 of 2005. It has been held that a Public Interest Litigation, filed by a writ petitioner under Article 226 of the Constitution of India, was required to comply with the Rules and was also required to be affixed with the requisite Court fee. The following observations made by the Full Bench would be beneficial to be extracted.

Question No. 4 referred to us is whether Court fee is payable or not on a PIL. The contention of the petitioner on this question is that if a letter without Court fees can be entertained as a PIL as per the judgment of the Supreme Court in Bandhua Mukti Morcha (supra), then no Court fee should be payable on a PIL. The relevant portion of the judgment of the Supreme Court in Bandhua Mukti Morcha on which the petitioner relies upon is quoted hereunder :

The Constitution makers therefore advisedly provided in clause (1) of Article 32 that the Supreme Court may be moved by any appropriate proceeding, "appropriate" not in terms of any particular form, but "appropriate" with reference to the purpose of the proceedings. That is the reason why it was held by this Court in the Judges Appointment and Transfer Case that where a member of the public acting bona fide moves the Court for enforcement of a fundamental right on behalf of person or disability or socially or economically disadvantaged

position cannot approach the Court for relief, such member of the public may move the Court even by just writing a letter, because it would not be right or fair to expect a person acting pro bono publico to incur expenses out of his own pocket for going to a lawyer and preparing a regular writ petition for being filed in Court for enforcement of the fundamental right of the poor and deprived sections of the community and in such a case, a letter addressed by him can legitimately be regarded as an "appropriate proceeding". "We may point out that what we have said above in regard to the exercise of jurisdiction by the Supreme Court under Article 32 must apply equally in relation to the exercise of jurisdiction by the High Court under Article 226, for the latter jurisdiction is also a new constitutional jurisdiction and it is conferred in the same wide terms as the jurisdiction under Article 32 and the same powers can and must therefore be exercised by the High Courts while exercising jurisdiction under Article 226. In fact, the jurisdiction of the High Courts under Article 226 is much wider, because the High Courts are required to exercise this jurisdiction not only for enforcement of a fundamental right but also for enforcement of any legal right and there are many rights conferred on the poor and the disadvantaged which are the creation of statute and they need to be enforced as urgently and vigorously as fundamental rights.

A Division Bench of this Court comprised of R. V. Raveendran, J., the then Chief Justice of this Court and A. M. Sapre, J., however has considered this contention in its order dated 5-7-2005 in WP No. (443 of 2005 and has held that there is no provision in the Court Fees Act, 1870 exempting writ petitions in general or PILs in particular from Court fees nor is there any provision in the Act enabling this Court or a subordinate Court to exempt payment of Court fees payable on writ petitions or PILs and power is only vested u/s 35 of the Court Fees Act in the appropriate Government to reduce or remit all or any of the fees mentioned in the First and Second Schedules to the Court Fees Act but the State Government of Madhya Pradesh has not passed any orders u/s 35 of the Court Fees Act exempting a petitioner from payment of Court fees in a PIL. The Division Bench has further held that the aforesaid decision of the Supreme Court in *Bandhua Mukti Morcha vs. Union of India and others* (supra) applies to a letter addressed to the High Court and not to regular writ petitions filed under Art. 226 of the Constitution. The Division Bench has explained that when a letter is received, the same is examined on the administrative side and it is purely within the discretion of the Chief Justice or any other Judge, either to act or file the letter as no action is deemed necessary and in such a case, the letter itself is not a writ petition, and only when the Chief Justice or his designate, on the basis of the letter considers it a fit case for examination, it is taken up suo motu for registration as writ petition under Art. 226 of the Constitution and it is in these circumstances that no Court fee is required to be paid on the letter petition. We agree with these conclusions of the Division Bench in the order dated 5-7-2005 in WP No. 443 of 2005 and we accordingly hold that Court fees are payable on a PIL filed as a writ petition under Art. 226 of the Constitution, except where the Chief Justice

or a Judge designate directs on the basis of information received in a letter or any other document and considers that it is a fit case for registering a case under Art. 226 of the Constitution even though no Court fee is paid on such letter or document.

The last question is whether a PIL can be entertained only on the basis of information published in the newspapers. Normally, a PIL cannot be entertained solely on the basis of information published in the newspapers but if the Chief Justice or a Judge designate finds that a particular information published in the Newspapers reveals gross violation of a fundamental right guaranteed under Part-III of the Constitution of a person who does not have ready access to the Court for some incapacity or the other, particularly, the right to life and liberty granted under Art. 21 of the Constitution, and the Chief Justice or a Judge designate has reason to believe the information to be true, a PIL can be entertained only on the basis of such information published in the newspapers for the same reasons as have been given by the Supreme Court in *Bandhua Mukti Morcha* (supra) for entertaining a letter petition.

(Emphasis Supplied)

It is also relevant to notice that the writ petitioner Satya Pal Anand filed a review petition, being MCC No. 640 for review of the order of the Full Bench. The aforesaid review petition was also dismissed by the Full Bench on April 18, 2009, with the following observations.

5. We have perused the decisions cited by the petitioner and in none of the decisions the Supreme Court has held that no Court fee is payable on a PIL, although it has been held that a letter addressed by poor or disadvantaged person or by social activist group on their behalf can maintain as a Public Interest Litigation on the directions of the Chief Justice. No provision of Act, Rule or any other law has been brought to the notice of this Court by the petitioner enabling the High Court to dispense with Court fees on a regular writ petition under Art. 226 of the Constitution filed as a PIL. Hence, in our opinion, the view taken by the Full Bench in the order dated 31-7-2008 that Court fees are payable on a PIL filed as a writ petition under Art. 226 of the Constitution except where the Chief Justice or a Judge designate directs on the basis of information received in a letter or any other document and considers that it is a fit case for registering a case even though no Court fee is paid on such letter or document is correct

(Emphasis Supplied)

The judgment in the review petition is also reported as *Satya Pal Anand Vs. Registrar General, High Court of M.P. and Another*,

High Court of Madhya Pradesh Rules, 2008 (referred to as 2008 Rules) have been framed by the High Court and adopted with effect from November 1, 2008.

Clause 15 of Rule 4 of Chapter I of Rules, 2008, defines Public Interest Litigation

as under.

(15) "Public Interest Litigation" connotes litigation undertaken for the purpose of redressing public injury or grievance, enforcing public duty or vindicating public interest but shall not include a matter involving individual, personal or private grievances.

Clause 19 of aforesaid Rule 4 defines Regular Public Interest Litigation as follows.

(19) "Regular Public Interest Litigation" means a writ petition purported to have been filed in public interest, following relevant provisions of law and rules, in the presentation centre of the High Court.

Chapter X of 2008 Rules, deals with preparation of cases. Rule 1 of Chapter X provides for computer sheet to accompany the main case. Rule 2 provides for preparation of memorandum of appeal, petition, application etc.

It would be absolutely relevant to extract Rules 1 to 5 of Chapter X of 2008 Rules as under.

Preparation of Cases.

Computer-Sheet

Every main case shall be accompanied by the "computer sheet" in Form No. 3, on ledger paper, duly filled by the appellant, applicant or petitioner or by his advocate, containing following information -

- (1) Class of Case,
- (2) Case Number (to be filled by the Registry),
- (3) Whether cognizable by a Division Bench or a Single Bench (to be filled by the Registry),
- (4) Name of the first party on either side,
- (5) Date of filing,
- (6) Date of Registration (to be filled by the Registry),
- (7) Subject Matter,
- (8) Provision of law,
- (9) Subject Category Code, (As per Annexure A)
- (10) Name and State Bar Council Enrolment Number of the main advocate,
- (11) Name & State Bar Council Enrolment Number of other advocate (s) signing vakalatnama,
- (12) Particulars of the lower Court, Authority or Tribunal etc., i.e.
 - (a) name,

(b) designation,

(c) case, file/order number,

(d) date of impugned judgment/order,

(13) Whether the appellant, applicant or petitioner is desirous of getting the matter settled through any of the alternative modes of dispute resolution,

(14) Caveat notice, whether received.

(15) Name and signature of the advocate filing main case.

Preparation of Memorandum of Appeal, Petition, Application etc.

Every -

(1) memorandum of appeal including a writ appeal,

(2) Memorandum of objection under Order XLI Rule 22 of the Code of Civil Procedure, 1908,

(3) application, interlocutory or otherwise,

(4) petition including a writ petition,

(5) return, reply or rejoinder,

(6) list of document or

(7) affidavit;

in a civil or criminal matter, including a copy thereof where it is required to be served upon the other party under the Rules, shall be -

(a) written in English or Hindi-preferably in English.

(b) neatly typed or printed on one side of a ledger paper of foolscap size, leaving a margin of not less than 5 centimeters on the top and left and 2.5 centimeters on right and bottom,

(c) signed and dated by the applicant, appellant, petitioner or opposite party or by his advocate and where the petitioner is illiterate, bear his thumb mark attested by the signature of at least one literate person, giving his name and address below his signature.

(1) Every -

(a) memorandum of appeal civil or criminal,

(b) memorandum of objection under Order XLI Rule 22 of the Code of Civil Procedure, 1908,

(c) a writ or revision (civil or criminal) petition,

(d) an application u/s 482 of the Code of Criminal Procedure, 1973,

(e) return or rejoinder in a writ petition, - shall be in paper-book form, enclosed in cover with page numbers and index in Form No. 4; and shall be filed in two identical sets in a Division Bench case.

(2) Every application interlocutory or otherwise, relating to a criminal matter shall be accompanied by -

(a) three extra copies, certified to be true by the party supplying them or his advocate, in a Division Bench case or in an application for bail or stay of proceedings in a case pending before a Court of Session; and

(b) two extra copies in every other case.

(c) Every memorandum of appeal, petition or application in a civil or criminal main case shall be accompanied by one copy of cause title for office use.

Every memorandum of appeal, petition or application, interlocutory or otherwise shall be headed "In the High Court of Madhya Pradesh, Principal Seat at Jabalpur/ Bench at Indore/Bench at Gwalior", as the case may be.

Immediately below the heading, the class of case, the cause title and provision (s) of law under which the main case is filed, shall be mentioned in that order.

Rule 23 of Chapter X of 2008 Rules provides for procedure to be adopted for filing a writ petition, under Article 226 of the Constitution of India, and is extracted below.

(1) Petition for a direction, order or writ including writs in the nature of mandamus, prohibition, quo-warranto and certiorari, or any of them, shall, as far as possible, be filed in the Format No. 7 and shall, as far as possible, conform to the provisions of Order 2, Rules 1, 2 and 3 of the Code of Civil Procedure, 1908.

(2) Such petition shall -

(a) be accompanied by original or certified copy or true copy of order or decision, if any, complained of;

(b) be supported by an affidavit verifying the facts relied on,

(3) It shall not be necessary to present a separate application to seek interim order or direction if the same is prayed for in the original petition.

(4) When a petitioner relies upon document (s) in his possession or power, he shall file those documents along with his petition. Where such document is hand written or is not fairly legible, it shall be accompanied by true, typed or printed copy thereof.

(5) Every page of a document, annexed to any petition, return, rejoinder or affidavit, shall be attested by the filing advocate or by the party swearing the affidavit as true copy of the original and full name of the signatory to the attestation shall be given under the signature.

(6) Where the petitioner relies on any other documents, which are not in his possession or power as evidence in support of his petition, he shall enter such documents in a list to be annexed to the petition.

Rule 25 of Chapter 10 of 2003 Rules provides that where the petition is against the State Government, Central Government, any local or other authority or any of their officers, the petitioner shall serve a copy of the petition, together with annexures and the application for interim relief, if any, in advance to the Advocate General's office or on the Central Government Standing Counsel or such other Standing Counsel of the Authority as may have been authorised.

Rules 27, 28 and 29 of Chapter 10 provide additional requirements for Regular Public Interest Litigation as under.

Regular Public Interest Litigation.

A writ petition filed in public interest, shall as far as possible be in Format No. 8 and disclose -

- (1) Petitioner's social public standing/professional status and public spirited antecedents;
- (2) facts constituting the cause;
- (3) nature of injury caused; and
- (4) nature and extent of the personal interest of the petitioner involved in the cause, if any.

A writ petition filed in public interest shall be supported by prima facie proof on an affidavit of the petitioner on substantive averments/allegations as far as practicable.

A writ petition filed in public interest shall contain a statement/declaration of the petitioner that to his knowledge, issue raised was not dealt with or decided and that a similar or identical petition was not filed earlier by the petitioner or by any other person and in case such an issue was dealt with or a similar or identical petition was filed earlier, its status or the result thereof.

Thus, it is apparent that as per the requirements of 2008 Rules also a regular Public Interest Litigation, which none the less remains essentially a writ petition filed under Article 226 of the Constitution of India, is not only required, mandatorily to meet all the requirements of Rules 1, 2 and 3 of Chapter X with regard to annexing of a computer-sheet, preparation of memorandum of petition and other requirements, and has to meet with all the requirements contained in Rule 23 of Chapter X and also supply an advance copy to the opposite side, as per Rule 25, besides additionally adhering to the requirements of Rules 27 to 29. In our considered view, the aforesaid additional requirements, required in a regular Public Interest Litigation, have been included, for a Public Interest Litigant to indicate his social public standing/professional status and his

antecedents; facts constituting the cause; nature of injury caused; and nature and extent of the personal interest of the petitioner. Rule 28 mandates a Public Interest Litigant to file an affidavit in support of the averments in the petition. A declaration, as per Rule 29, is required to be given to the Court. We further find that a Public Interest Litigation is required to be filed, as far as possible, in Format No. 8, whereas, ordinarily, a writ petition filed on a personal cause is required to be filed in Format No. 7, as per Rule 23.

A comparison of the two formats, i.e. Formats No. 7 and 8, clearly reflects that all the details which are required to be indicated by a writ petitioner in Format No. 7, are indeed required to be indicated by him as per Format No. 8, as well. However, in addition to that, a Public Interest Litigant is required to give certain additional particulars and additional information. Therefore, it would be apparent that while filing a petition in Format No. 8, the Public Interest Litigant, approaching the Court, would automatically be required to give all such details, as are necessary under Rule 23 and also such additional information, as is required under Rules 27 to 29.

Once two Division Bench Judgments and the law laid down by the Full Bench are operative and govern the field of the Public Interest Litigation, then it is not understandable, as to how and on what basis, the petitioner, who has filed a large number of writ petitions, as Regular Public Interest Litigations, claims exemption from such Rules and also claims exemption from payment of Court fee. The stance adopted by the petitioner, to say the least, is not only unreasonable, but indicates almost his defiance of the repeated pronouncements made by this Court, in Division Benches and even by the Full Bench.

As noticed above, the petitioner relies upon certain instances in his writ petitions, when the Court had not insisted upon the curing of defaults; not required him to pay process fee; and in one case (WP No. 2937 of 2009), vide order dated May 11, 2009, had even condoned the defaults. However, in our considered view, the aforesaid instances cannot be treated to be the judgments of the Court, to be treated as any binding precedents. On the other hand, we have the binding precedents of this Court on the issue, when on two occasions, vide orders dated July 5, 2005 and dated August 17, 2006, two Division Benches of this Court had rejected the identical contentions raised by the petitioner, as have been raised before us, and had directed that not only he was mandatorily required to affix the Court fee on the petitions, as per law, but was also required to adhere to and comply with the Rules. The persistent pleas of the petitioner were even rejected by the Full Bench, vide judgment dated July 31, 2008. It was categorically held that the Court fee was payable on a Public Interest Litigation, as well. The view taken by the Division Bench, through order dated July 5, 2005, was specifically affirmed. Even a review petition filed by the petitioner was dismissed by the Full Bench on April 18, 2009. It was again reiterated that the Court fee was payable on a Public Interest Litigation. The aforesaid judgments of the two Division Benches and the authoritative pronouncement, on the two occasions, by the Full

Bench, absolutely cover the controversy and are in fact binding upon us.

We have also noticed the arguments raised by Shri S. P. Anand, the petitioner, that the aforesaid decisions of the Division Benches and the Full Bench, are to be treated as per-incuriam, being in-contravention of the law laid down by the Supreme Court. Relying upon the judgments in Bandhua Mukti Morcha 's case (supra) and M. C. Mehta 's case (supra). It has been argued that the law laid down by the aforesaid judgments of the Division Bench and the Full Bench was not correct. However, we find that the reliance placed by the petitioner on the aforesaid judgments had been duly taken note of by the Division Benches, as well as the Full Bench, but had not been accepted. Thus, we must reject the suggestion raised by the petitioner that the aforesaid two judgments of the Division Benches dated July 5, 2005 and August 17, 2006, and the judgment of the Full Bench dated July 31, 2008, are to be treated as per-incuriam. As a matter of fact, we find that the said judgments are fully binding on us, and as such no further comments are required on that issue.

It would also be relevant to notice a plea raised by the petitioner that when a letter addressed by a person or a social organization can be treated as a Public Interest Litigation, and in that situation, no Court fee is payable, then it cannot be justified at all that in a writ petition by a Public Interest Litigant, the Court fee should be payable.

However, we do not find any merit in the said argument of the petitioner, as well. As a matter of fact, the said question has also been answered in detail by the Division Bench in its order dated July 5, 2005 (relying upon Bandhua Mukti Morcha's case (supra) (para 7 of the order extracted above). It has already been noticed by the Court that there is a basic difference between a regular writ petition, filed under Article 226 of the Constitution of India, and a letter addressed to the Court. When a letter is received, the same is examined on the administrative side, and it is purely within the discretion of the Chief Justice or the designated Judge, either to act on them or file the same as no action being necessary. There is no need for hearing before ordering the letter to be filed. If, it is decided to file the letter, there is no need to list the letter before the Court for judicial consideration (i.e. preliminary hearing). The letter itself is not a writ petition. Only when the Chief Justice or his designated Judge, on the basis of an information contained in the letter, considers as a fit case for examination, it is taken up suo motu and is registered as a writ petition under Article 226 of the Constitution of India. It is in those circumstances that no Court fee is paid on letter petition. The said view was also affirmed by the Full Bench.

In these circumstances, it must follow that in a situation when a letter is addressed by a person, or on his behalf, or class of persons, or by a social organization, or a public spirited person acting on their cause, then the said letter by itself, is not to be treated as a writ petition, and the registry of the Court shall not, under any circumstances, itself register the same as a writ petition. The said letter is required to be placed on the administrative side,

before the Chief Justice or his designated Judge, who may take a purely administrative decision to treat the said letter as a writ petition. If such a decision is taken by the Chief Justice or his designated Judge for that purpose, in that situation, the writ petition would be registered as a writ petition, in exercise of the suo motu powers of the Court and shall be obviously titled as "Court on its Motion versus.....". In the said writ petition, when the Court chooses to exercise its suo motu powers, the author of the letter would have absolutely no inherent entitlement for audience before the Court, as a matter of right, though, the Court, in the facts and circumstances of a given case, may seek his assistance or may appoint an Amicus-Curiae, to assist the Court. At the time, when a decision is to be taken by the Chief Justice or his designated Judge, no hearing/audience is required to be provided to the author of the letter, the matter being purely in the discretion, on the administrative side. Obviously, if the Court chooses to exercise its suo motu powers upon such a letter, telegram or even any other information and directs the registration of a writ petition, then of course, no Court fee would be payable on such a writ petition, nor the compliance of other Rules would be required. However, in the case of a Regular Public Interest Litigation, which is specifically provided for under the Rules, a Public Interest Litigant, though acting in a public spirited cause or pro bono publico, is none the less a litigant/petitioner before the Court. He is thus obviously, governed by the Rules applicable to the writ petitions and is also under the obligation to affix the requisite Court fee and comply with all the mandatory provisions of the Rules viz-a-viz pleadings; impleadment of the parties; to put the persons against, whom the relief is claimed to notice; to append the relevant documents duly authenticated; and to make a specific prayer for the requisite relief. In addition, in a Regular Public Interest Litigation, the writ petitioner is required to describe his antecedents and provide authenticated documents etc. All pleadings must be supported by an affidavit, sworn by the writ petitioner. In case of non-compliance of any of the requirements, the writ petition filed by a petitioner, even as a Public Interest Litigation, cannot be treated to be duly filed.

At this stage, it would be relevant to notice the directions issued by the Supreme Court in the case of Balwant Singh Chaufal's case (supra), through order dated January 18, 2010 as follows.

In order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions :-

- (1) The Courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.
- (2) Instead of every individual judge devising his own procedure for dealing with the Public Interest Litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PEL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy of the

Rules prepared by the High Court is sent to the Secretary General of this Court immediately thereafter.

(3) The Courts should prima facie verify the credentials of the petitioner before entertaining a PIL.

(4) The Court should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

(5) The Court should be fully satisfied that substantial public interest is involved before entertaining the petition,

(6) The Court should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.

(7) The Courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The Court should also ensure that there is no personal gain, private motive or oblique motive behind filing the Public Interest Litigation.

(8) The Court should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations.

It is thus apparent that the Apex Court has required, in order to preserve the purity and sanctity of the PIL, that the High Courts in the country should frame rules/procedure for dealing with the Public Interest Litigation. Obviously, the aforesaid rules, to be framed by a High Court, are meant for adherence and compliance. Since the Madhya Pradesh High Court has already enforced some of the Rules dealing with the Public Interest Litigation, therefore, obviously, the said Rules are required to be mandatorily followed, without there being any exception

In these circumstances, we have no hesitation in holding that a Regular Public Interest Litigation is required to be filed by a writ petitioner in Format No. 8, and as per the requirements of Chapter X of 2008 Rules. As per the provisions of the Court Fees Act, he is required to pay the requisite Court fee on the main writ petition, as well as on the various applications filed along with the same.

It would also be relevant for us to extract certain observations made by another Full Bench in the case of the petitioner himself in S.P. Anand Vs. Hon''ble Mr. S.K. Jha, Chief Justice, . It was observed by the Full Bench as under.

12. The petitioner has filed quite a large number of "Public Interest Writ Petitions" at the Indore Bench. In those petitions, as in this petition, he did not pay Court-fee and did not seek exemption from payment of Court-fee. The Registry of Indore Bench should have returned and not registered the writ petition. The petition is full of averments which are not relevant to the challenge against the Notification issued by the former Chief Justice. Some of the averments are couched in undignified and inappropriate language. It would have been sufficient

to implead the Registrar of the High Court as the respondent in the petition. If petitioner felt that it was necessary to implead the Chief Justice, he could have done so by designation. The Chief Justice has been impleaded by name. The petition is absolutely frivolous and vexatious and has resulted in considerable wastage of judicial time. We deem it necessary to direct petitioner to pay costs.

(Emphasis Supplied)

We must also take note of the fact that in various writ petitions or the interlocutory applications, in the present writ-petitions, filed by the petitioner, the language used by him is again undignified and inappropriate against the Registrar/Principal Registrar and contains even certain insinuations against the Judges of the Court. Merely on the basis of objections raised by the registry, with regard to non-compliance of Rules and non-payment of Court fee, he has sought initiation of contempt proceedings against the Principal Registrar of this Bench.

The question of locus-standi, and the status of a Public Interest Litigant, was elaborately discussed by the Apex Court in the case of Sheela Barse Vs. Union of India (UOI) and Others, Sheela Barse had filed a petition in Supreme Court as a Public Interest Litigation with regard to the violations of the Constitutional and Statutory rights of Children in this Country. Various directions were issued by the Supreme Court from time to time. However, the petitioner, Sheela Barse, upset at the prolonged procedures and perceived indignities in the proceedings, moved an application for withdrawal of the writ petition, claiming to be the dominus litus. The Court dismissed the said application emphasizing that the status of a Public Interest Litigant was in fact that of an informant.

The Court dealt with the insinuations of the writ-petitioner by observing that:-

It is true that the parties who seek justice at the hands of the Court are neither its subordinates or subsidiaries. But the notion of an equal participation, in its practical application, presents difficulties and cannot be stretched to the point where the Court could share the responsibility, and the powers that go with it of regulating the proceedings of the Court with any of the parties before it. In the existing system, the parties who seek recourse to Courts have to submit themselves to the jurisdiction and discipline of the Court. Their conduct, in relation to the proceedings, is liable to be regulated by the Court. This is not a matter of expression or assertion of any superiority but is merely a necessity and a functional imperative.

The second ground on which withdrawal is sought is, therefore, wholly insubstantial and proceeds on what appear to be certain subjective susceptibilities of the applicant which, to the extent they are irreconcilable with the discipline of the Court, cannot be countenanced.

The third ground is that the proceedings are brought as a "voluntary action" and that applicant is entitled to sustain her right to be the "petitioner-in-person" in a Public Interest Litigation and that the proceedings cannot be proceeded with

after delinking her from the proceedings. This again proceeds on certain fallacies as to the rights of a person who brings a Public Interest Litigation. Any recognition of any such vested right in the persons who initiate such proceedings is to introduce a new and potentially harmful element in the judicial administration of this form of public law remedy. That apart, what is implicit in the assertion of the applicant is the appropriation to herself of the right and wisdom to determine the course the proceedings are to or should take and its pattern. This cannot be recognised. In the present proceedings the Court has already gone through and has initiated an elaborate exercise as indicated in the orders excerpted earlier. The petition cannot be permitted to be abandoned at this stage. Only a private litigant can abandon his claim.

(Emphasis Supplied)

Thus, through the aforesaid observations, a clear message was given by the Apex Court that the function of a Public Interest Litigant is primarily to make the Court cognizant of certain facts that require consideration and that the result thereof, cannot be taken as personal to him.

At this stage, certain observations made by the Apex Court, in the case of the petitioner himself, reported as S.P. Anand Vs. H.D. Deve Gowda and others, , may also be relevant to notice.

18. Before we part, we cannot help mentioning that on issues of constitutional law, litigants who can lay no claim to have expert knowledge in that field should refrain from filing petitions, which if we may say so, are often drafted in a casual and cavalier fashion giving an extempore appearance not having had even a second look. This is the impression that one gets on reading the present petition. It is of utmost importance that those who invoke this Court's jurisdiction seeking a waiver of the locus standi rule must exercise restraint in moving the Court by not plunging in areas wherein they are not well-versed. Such a litigant must not succumb to spasmodic sentiments and behave like a knight-errant roaming at will in pursuit of issues providing publicity. He must remember that as a person seeking to espouse a public cause, he owes it to the public as well as to the Court that he does not rush to Court without undertaking a research, even if he is qualified or competent to raise the issue. Besides, it must be remembered that a good cause can be lost if petitions are filed on half-baked information without proper research or by persons who are not qualified and competent to raise such issues as the rejection of such a petition may affect third party rights. Lastly, it must also be borne in mind that no one has a right to the waiver of the locus standi rule and the Court should permit it only when it is satisfied that the carriage of proceedings is in the competent hands of a person who is genuinely concerned in public interest and is not moved by other extraneous considerations. So also the Court must be careful to ensure that the process of the Court is not sought to be abused by a person who desires to persist with his point of view, almost carrying it to the point of obstinacy, by filing a series of petitions refusing to accept the Court's earlier decisions as concluding the point.

We say this because when we drew the attention of the petitioner to earlier decisions of this Court, he brushed them aside, without so much as showing willingness to deal with them and without giving them a second look, as having become stale and irrelevant by passage of time and challenged their correctness on the specious plea that they needed reconsideration. Except for saying that they needed reconsideration he had no answer to the correctness of the decisions. Such a casual approach to considered decisions of this Court even by a person well-versed in law would not be countenanced. Instead, as pointed out earlier, he referred to decisions having no bearing on the question, like the decisions on cow slaughter cases, freedom of speech and expression, uniform civil code, etc.; we need say no more except to point out that indiscriminate use of this important lever of Public Interest Litigation would blunt the lever itself

(Emphasis Supplied)

In view of the above detailed discussion and also as per the observations of the Full Bench, as extracted above, we have no hesitation in holding that a Regular Public Interest Litigation, filed by a writ petitioner, would be required to be filed in accordance with the Rules, in proper Format No. 8, duly accompanied by an affidavit, and also meeting with other mandatory requirements. We also hold that any such Public Interest Litigation filed by a writ petitioner, or any interim application (IA etc.) filed by him in the main writ petition, would also be required to be filed, in accordance with the High Court Rules, and would be required to be affixed with the requisite Court fee. As directed by the Full Bench in the case of S.P. Anand Vs. Hon'ble Mr. S.K. Jha, Chief Justice, (the observations whereof have been extracted above), we further direct that in case, a Regular Public, Interest Litigation, or any application therein, is not filed by a writ petitioner, in accordance with the Rules, or is not affixed with requisite Court fee, then the registry should itself return the same and not register it as a writ petition. However, we clarify that in case, a letter/telegram etc. is received in the name of the Court from a person or a social organization, then the same shall not automatically be registered as a writ petition, but shall be forwarded before Hon'ble the Chief Justice or the designated Judge in that regard, on the administrative side. It is only after a decision is taken by Hon'ble the Chief Justice or the designated Judge, to treat such a communication as a writ petition, then in that situation, the said communication shall be registered as a writ petition, in exercise of the Suo Motu powers of the Court and shall be titled as "Court on its own Motion versus....." Apparently, in such a situation, the author of the letter would have no control over the proceedings in the writ petition, nor shall have a right of audience/hearing, and shall not be indicated as the petitioner.

A copy of this order be placed on each of the writ petitions, as noticed in the opening paras of this order, and shall also be placed in all the pending cases, filed by the petitioner Anand Trust or by Shri S. P. Anand.

Now, we shall proceed to pass separate orders in each of the writ petitions, as

per the record and circumstances of every case.

C.c. as per rules.