

(2010) 09 AHC CK 0301
In the Allahabad High Court

Anupma Singh

APPELLANT

Vs

Central Bureau of Investigation and others

RESPONDENT

Date of Decision : 23-09-2010

Acts Referred:

Citation : (2010) 09 AHC CK 0301

Hon'ble Judges : Pradeep Kant, J and Shabihul Hasnain, J

Final Decision : Dismissed

Judgement

Pradeep Kant, J.—By order dated 25.2.2010 passed by a Division Bench of this Court consisting of Hon"ble Amitava Lala, ACJ and one of us (Shabihul Hasnain, J) this matter was directed to be heard by the present Bench. The said order reads as under:

" It has been contended before us that the matter was heard by Bench comprising Hon"ble Pradeep Kant, J. and one of us (Shabihul Hasnain, J).

Therefore, it is desirable that the matter may be placed before that Bench for the purpose of appropriate consideration along with Writ Petition No. 2795 (M/B) of 2009 and 2019 (M/B) of 2009 preferably in the week commencing from 8.3.2010."

2. We have heard Sri Mohd. Arif Khan, Senior Advocate for the applicant, Sri S.C.Misra, Senior Advocate, learned Advocate General U.P. and Sri D.K.Upadhyay for the opposite parties and Sri C.B.Pandey, Advocate.

3. This order disposes of C.M. Application No. 19884 of 2010, moved by the petitioner for withdrawal of the writ petition and also C.M. Application No. 27890 of 2010, moved by her for withdrawal of Vakalatnama of Mr. C.B.Pandey and Mr. Rohit Tripathi, Advocates, the orders on which were reserved, after conclusion of the arguments of learned counsel for the parties, on 23.8.2010.

4. Before dealing with the aforesaid applications, the Court expresses its concern over the manner in which the aforesaid two applications have been moved and

the allegations made against the lawyers, who were engaged by the petitioner herself.

5. It is a matter of common knowledge that writ petitions are filed by the aggrieved persons for enforcement of their individual rights and also by public spirited persons raising some public cause as public interest litigation. Such petitions are often withdrawn on the own discretion and wisdom of the petitioners, who approach the Court, but there is a difference in a writ petition which is filed as public interest litigation and the petition which is filed seeking remedies individually. The writ petition filed for redressal of individual grievance can be withdrawn by the petitioner without any scrutiny of the Court, whereas in public interest litigation, the writ petition cannot be withdrawn on the sweet will of the petitioner which withdrawal can only be permitted by the Court if it is satisfied that (i) the withdrawal is bona fide, and (ii) it is not under influence or pressure from those whose action, conduct or orders are the subjectmatter of adjudication i.e. the petition is being withdrawn either under the fear of being victimised or under pressure or because of some allurements, given by those whose conduct is under challenge.

6. Also if the Court is of the view that the grievance or issue, which the petitioner has brought before the Court, requires an answer or verdict from the Court, it can refuse withdrawal of the petition irrespective of the fact whether the petitioner is interested in pursuing it or not, even if the petitioner moves the application of his own independent discretion, without being swayed by any outward agency.

7. In the case of *S.P. Anand, Indore versus S.D. Deve Gowda and others*, 1996 (6) SCC 734, the Apex Court has observed that "in PIL cases, the petitioner is not entitled to withdraw his petition at his sweet will unless the court sees reason to permit withdrawal. In granting the permission, the court would be guided by considerations of public interest and would also ensure that it does not result in abuse of the process of law. Courts must guard against possibilities of such litigants settling the matters out of court to their advantage and then seeking withdrawal of the case."

8. Public interest litigation is a strong weapon in the armory of the common man, who sponsors the public cause or intends to contribute in the best governance of the State, on being satisfied that the rule of law is not being followed or that the constitutional mandates and statutory laws are being flagrantly violated by the persons who are in power and responsible for good governance of the State. Such a public spirited person can bring such a cause/grievance to the notice of the Court and if such a grievance is found to be genuine, and the same can be adjudicated within the parameters of judicial review, the Court entertains such public interest litigation.

9. The scope of the public interest litigation stands widely enlarged in view of the law developed by the Apex Court, in regard to various issues of public interest

including the conduct of persons, who are in power and position and are capable of influencing the State machinery to hide their actions which are in violation of constitutional provisions or violate such statutory laws which results in actions against public interest, or in violation of fundamental or statutory rights of individuals or a group of persons.

10. PIL can also be filed in a situation, where the conduct and actions of such persons, who are in office and manage the affairs of the State, are not questioned because of their influence and power they yield, though their actions otherwise may call for a scrutiny and if the same are found to be illegal or against the provisions of law, or may be that a criminal offence can be said to be made out against such a person, but the authority who is responsible for launching prosecution against him, fails to do so for no valid reason.

11. It need not be reiterated that a genuine public interest litigation, which raises an issue of public importance, cannot be thrown out at the threshold, but the Court has to be thoroughly vigilant in entertaining the same so that absolutely frivolous, uncalled for and malicious litigation is not allowed to prosper which normally is undertaken for settling personal scores. Also if the issue/cause raised does not make out any case for scrutiny by the Court, nor the determination of such issue will be in public interest, the petition though camouflaged as PIL needs be dismissed. The Apex Court in the case of *State of Uttaranchal versus Balwant Singh Chaufal and others*, reported in (2010) 3 SCC 402, has broadly laid down the guidelines for dealing with the PILs.

12. Once a public interest litigation is entertained and cognizance of the same is taken, normally it has to be taken to a logical end and a verdict is expected from the Court on the issues involved. In such a case, if an application for withdrawal of the writ petition is moved, that too at the stage of hearing, it is the bounden duty of the Court to see that the effect of withdrawal does not adversely affect the public cause and the application has not been moved, solely for taking away the jurisdiction of the Court to decide the issues which have been found genuine to be considered by the Court in public interest.

13. This is also necessary for the reason that a litigant, who comes from the general public, may not be having resources to face the brunt of the person politically and financially strong, against whom he has dared to come to the Court; therefore, the possibility of such person being overpowered by the mighty ones cannot be ruled out. The Court in an appropriate case may also have to give protection to such a person.

14. The stage at which the application for withdrawal is moved, is also significant and, therefore, the Court has to consider the genuineness of the prayer for withdrawal made on behalf of the petitioner i.e. whether the reasons given for withdrawal, if at all such reasons have been given, by any stretch of imagination, can be said to be probable. Of course if no reasons have been given, even then it would be the discretion of the Court whether to allow or not to allow the

withdrawal, taking into consideration the nature of the issue raised, the importance of such issue and the effect of the verdict upon the administration and of course on general public in case such issue is decided.

15. On the aforesaid background, we have to consider the two applications moved by the petitioner as aforesaid.

16. Smt. Anupma Singh has filed this writ petition being concerned with the dropping of criminal proceedings against the private opposite parties viz. Ms. Mayawati, presently the Chief Minister, State of Uttar Pradesh and Sri Naseemuddin Siddiqui, presently holding the office of Cabinet Minister in the Government of Uttar Pradesh, for allegedly committing offences under Sections 120B read with Sections 420, 467, 468 and 471 IPC in a case, commonly known as Taj Corridor Scam case. The proceedings had arisen on entertaining a public interest litigation (Writ Petition (C)No. 13381 of 1984, M.C.Mehta versus Union of India and others) by the Apex Court in the aforesaid matter, in which an order was passed on 27.11.2006 while disposing of an interlocutory application, directing that the entire material collected by CBI alongwith the report of the S.P be placed before the concerned court/Special Judge in terms of Section 173 (2) Cr.P.C, leaving it open to the court/Special Judge concerned to accept or reject the report of the S.P. The Apex Court observed as under:

"34. We, accordingly, direct CBI to place the evidence/material collected by the investigating team along with the report of the SP as required under Section 173(2) CrPC before the court/Special Judge concerned who will decide the matter in accordance with law. It is necessary to add that, in this case, we were concerned with ensuring proper and honest performance of duty by CBI and our above observations and reasons are confined only to that aspect of the case and they should not be understood as our opinion on the merits of accusation being investigated. We do not wish to express any opinion on the recommendations of the SP. It is made clear that none of the other opinions/recommendations including that of the Attorney General for India, CVC shall be forwarded to the court/ Special Judge concerned."

17. Apart from the writ petition filed by Smt. Anupma Singh on 24.2.2009, two more writ petitions, one bearing no. 2019 (M/B) of 2009 was filed by Kamlesh Verma on 21.2.2009 and another bearing no. 2795 (M/B) of 2009 was filed by Mohd. Kateel Ahmad on 19.3.2009, raising the same grievance and praying for launching the criminal proceedings against the private opposite parties, though the sanction for prosecution was specifically refused by the Governor.

18. In substance, besides other pleas, it is the case of the petitioner that for the offences under which prosecution of private opposite parties is to be carried out, does not require any sanction of the Governor either under Section 197 (1) Cr.P.C or Section 19 of the Prevention of Corruption Act and, therefore, directions be issued for their prosecution.

19. This Court, after substantial hearing of the submissions made on behalf of

the Union of India and the Central Bureau of Investigation as well as the State, felt satisfied about the genuineness of the grievance raised and, therefore, feeling the necessity of deciding the issues involved in the writ petition in public interest, admitted the writ petitions and issued notices to the private opposite parties. They were given full opportunity to file counter affidavits and it was made clear that the satisfaction recorded in the aforesaid order was only prima facie and pleas which may be raised by the private opposite parties will be considered in accordance with law.

20. The writ petitions were admitted on 18.9.2009 and the notices were also ordered to be issued to private opposite parties on that very date.

21. The application for withdrawal of this writ petition has been filed on 22.2.2010 i.e. after one year from the date of filing of the writ petition and after five months from the date when notices were issued to the private opposite parties. The reason for withdrawal given in the affidavit accompanying the application is that after the Apex Court had refused to entertain the SLP against the order passed by this Court on 18.9.2009 issuing notices to private opposite parties, a short counter affidavit has been filed by the opposite parties raising the objection about the maintainability of the petition saying that in view of the judgment dated 10.10.2007 passed in the case of M.C.Mehta in respect of Taj Corridor matter while dismissing the IA of Amicus Curiae Shri Krishan Mahajan, the Hon'ble Supreme Court had observed that the order of the Governor or the consequential order of the learned Special Judge could only be challenged before the superior courts in hierarchy and since a criminal revision no. 143 of 2009 has already been filed by Umakant and another, which is pending in this Court, as such the present writ petition would not be maintainable.

22. It was also mentioned in the said short counter affidavit that two writ petitions in the form of PIL were directly filed in the Supreme Court, namely, Writ Petition (C) No. 434 of 2007, Rohitash Singh Nagar versus Union of India and others and Writ Petition No. 29 of 2009, Satish Kumar versus Union of India and others, which were dismissed. This also persuaded the petitioner to withdraw the writ petition.

23. The affidavit accompanying the application for withdrawal further clarified that on reconsideration of the facts, the judgments and orders referred to in the short counter affidavit filed by the opposite parties alongwith the legal effect of the judgment and order dated 10.10.2007 passed in M.C. Mehta's case and the fact that a criminal revision is already pending about the same subjectmatter apart from the facts stated by the Union of India on oath in its counter affidavit filed on 18.2.2010 wherein it is stated that no influence was exercised on the Governor to decline sanction and that the order refusing sanction was passed independently by the Governor, the petitioner does not want to press the petition.

24. We need not enter into the merits of the contents of the short counter affidavit, as we are of the opinion that the petitioner could not be the judge with

respect to the probable outcome of the present writ petition, more so when all the pleas yet remain to be considered in the writ petition. There is no plea in the writ petition that the Governor was influenced while refusing sanction. Such allegation in the application for withdrawal thus was totally uncalled for and beyond context.

25. The matters in issue are yet to be decided by the Court, taking into consideration the pleas raised in accordance with law.

26. Apart from the fact that the contents of the affidavit filed by the petitioner lack credence and cannot be said to be the outcome of the petitioner's own wisdom and discretion, the circumstances, the manner and the time in which the said applications have been moved, would decide whether these are bona fide applications or they have been moved on some extraneous consideration or under influence of the private opposite parties or may be the persons who for reasons best known to them, desire that the issues against the private opposite parties may not be scanned and judicially examined.

27. This we observe only for the reason that a person, who comes to the Court raising a grievance against the persons, who are occupying the influential position and are having control and power in administration, is not threatened or victimised by such persons from coming to Court and thereafter pursuing it before the Court. If this situation is allowed, it will be an end of rule of law and the people, namely, the citizens of the country, would have no choice but to live in the tyranny of powerful as they would be afraid of coming to the Court to seek justice.

28. During the pendency of this petition, the services of the petitioner were terminated by the management of the Institution, where she was in employment as Librarian since the year 2004, and the petitioner approached this Court, for seeking protection from victimisation, specifically saying that it was only because of the pressure exercised by the private opposite parties that her services have been terminated.

29. While considering the said pleas, the Court, necessarily, will not presume that the petitioner has been victimised by the private opposite parties or has been pressurized for withdrawal of the writ petition, more so when time and again Sri S.C.Misra, learned Senior Advocate appearing for the private opposite parties and Sri D.K.Upadhyay, learned Chief Standing Counsel have assured the Court that they are not interested in seeing that the services of the petitioner are terminated and they have no role in the action which has been taken against the petitioner and that they do not have any objection if the services of the petitioner are restored.

30. An application for withdrawal of power of Advocate Mr. C.B.Pandey and Mr. Rohit Tripathi has also been filed by the petitioner on 17.3.2009 alongwith an affidavit, stating therein that that they were engaged by her for filing the writ petition but they had refused to file the application for withdrawal and had also

refused to issue no objection certificate for engaging another counsel. In this application duly supported by her affidavit, the petitioner has made very serious allegations against Mr. C.B.Pandey and Mr. Rohit Tripathi, Advocates which allegation, if proved, may amount to misconduct on their part, therefore, opportunity, as asked for, was afforded to the aforesaid Advocates to file their reply, which has been filed refuting the allegations made by the petitioner specifically.

31. The allegations made against the counsel in the affidavit accompanying this application for withdrawal of Vakalatnama are not only unpleasantly worded but strangely enough, in her zeal to establish her own bona fide in moving the application, the petitioner has not hesitated in making absolutely false and frivolous allegations deliberately and consciously against the counsel.

32. In the affidavit accompanying this application, which has been moved by Sri S.M.Royekwar, Advocate, the assertion is that Mr. C.B.Pandey, who is national President of Naitik Party, appointed the petitioner as State President (Women Wing) of the said party, after the party was formed and, therefore, Sri Pandey, to attain his political aims and goals got this writ petition filed through her. It was also stated that Sri Pandey approached the petitioner and told that he has no faith in Kamlesh Varma on whose behalf he had filed the earlier PIL in the same matter and, therefore, he wanted to file a second petition through her.

33. The aforesaid statement made by the petitioner, which otherwise also seems to be unbelievable for the reason, hereinafter given, has specifically been denied by Mr. C.B.Pandey and Mr. Rohit Tripathi, Advocates, in their reply.

34. It is pertinent to note that this writ petition (by Smt. Anupma Singh) was filed on 24.2.2009 whereas the writ petition by Kamlesh Verma was filed on 21.2.2009. Therefore, the plea of the petitioner that Sri C.B.Pandey approached her for filing a fresh writ petition saying that he was not confident about Kamlesh Varma that he would pursue the writ petition, appears to be a frivolous plea, as nothing would have turned upon, within such a short span of three days so as to infer and impress upon the petitioner for filing a fresh PIL on the ground that Kamlesh Verma would not pursue his writ petition.

35. The statement on oath by the petitioner establishes that she was appointed President of the Women Wing of the Party, of which Mr. C.B.Pandey was the President, therefore, it was not very strange that while filing the writ petition, she took the assistance of the President of her own party. It thus cannot be presumed that engagement of Mr. C.B.Pandey as her counsel was not her own independent act and the filing of the petition was not her own independent decision.

36. The next serious charge, which has been made against Mr. C.B.Pandey, is that he got various blank water mark papers signed by the petitioner so that the writ petition and other incidental affidavits/applications may be filed as and when required without each time calling her to sign, which the petitioner gave, having

full faith and confidence in her lawyer, Sri C.B.Pandey, but after the Lok Sabha elections were over, Mr. C.B.Pandey started taking full political mileage out of the pendency of the PIL which was beyond comprehension of the petitioner. Since taking of undue political mileage on the part of Mr. Pandey started appearing in the newspapers/media mostly for all wrong reasons and that in turn started taking toll on the professional as well as personal/family life and mental peace of the petitioner, she started feeling pressure from all corners including family and profession as all connected with the petitioner were in some way or the other failed to live up to the ever rising politicking around the matter involved therein, and then the petitioner requested Mr. Pandey to withdraw the PIL filed in her name, to which Mr. Pandey refused. Further allegation is that instead of acting upon the said request of the petitioner for withdrawal, Mr. C.B.Pandey kept on moving applications one after the other, using the blank signed papers in the Court without taking the petitioner in confidence.

37. It is very important to note, that before filing the present application for withdrawal, the petitioner did move an application under the heading "Application for issuing appropriate directions" on 19.1.2010, stating on oath that after giving extensive hearing to the parties in the present matter, this Court was pleased to issue notice to the private opposite parties, a Special Leave Petition was filed by one of the private opposite parties before the Hon"ble Supreme Court. The Apex Court, however, dismissed the SLP but the private opposite parties, instead of contesting the case and filing their replies, have started using their official position and influence as Chief Minister/Cabinet Minister, in coercing and compelling the petitioner to withdraw the writ petition or instruct her counsel not to pursue the matter in the Court.

38. It was further stated that in order to coerce or force the petitioner to do the aforementioned act, since last few days, the petitioner and her husband have been personally targeted. The facts and events in support of the aforesaid allegations were also mentioned in the said affidavit.

39. For putting pressure upon the petitioner to withdraw the writ petition, on 18.1.2010 the petitioner's husband Sri Anuj Kumar, who has a business of drug supplies, was threatened by Sr. K.G.Gupta, Inspector in the Drug Department of the State of U.P. that he is heading for a big trouble in connection with certain contraband items/drugs, if the petition is not withdrawn. The management of the institution, namely, Spring Dale College, in which the petitioner was a staff, for the last two months was also insisting upon the petitioner for withdrawal of the writ petition. The prayer, therefore, was that the Court may give protection and direct the authorities not to harass the petitioner and her husband.

40. Soon thereafter, a supplementary affidavit was filed on 28.1.2010 by the petitioner, in which it was reiterated that after the issuance of the notices to the private opposite parties, the petitioner was being threatened by the management of the institution, who had issued a letter on 22.1.2010 to the petitioner making baseless allegations with respect to her professional behaviour. The institution is

unaided, yet on account of the condition imposed vide letter dated 14.9.1982, there is permanent representation of the Government in the managing committee of the institution, because of which it was exercising its influence on the management of the institution to coerce the petitioner to disassociate herself from the present litigation.

41. A second supplementary affidavit was filed on 4.2.2010 by the petitioner reiterating and reaffirming the fact that she was being threatened at the behest of the private opposite parties, who are holding important and powerful position, to withdraw the writ petition and in the meantime, her services were terminated by the management on 2.2.2010. It was specifically mentioned in the affidavit that the petitioner's services were terminated at the behest of the private opposite parties in order to scuttle her attempt to sincerely pursue this case and the management of the petitioner's institution had succumbed to the pressure and influence of the Government agencies at the instance of the private opposite parties.

42. This Court on 4.2.2010 issued notice to the Manager, Spring Dale College, Indira Nagar, Lucknow to show cause as to why abruptly the services of the petitioner have been terminated and also why directions be not issued for reinstating her into service, as it is the specific case of the petitioner that it is a biased and coercive action taken by the Manager because the petitioner has filed the present writ petition, a fact, which she had already brought to the notice of the Court, by filing an application. The Court further observed that in the meantime, it will be open for the Manager to reinstate the petitioner into service of his own. Sri Jyotindra Misra, learned Advocate General and Sri D.K.Upadhyay, learned Chief Standing Counsel again stated that the State has no role to play in the matter of termination of service, and they have never required the termination of petitioner's services. They further stated that they have no objection if the services of the petitioner are restored.

43. On 18.2.2010, Smt. Anupma Singh appeared before the Court in person and stated that the Manager was asking her to withdraw the writ petition for the last couple of months when this Court issued notice to the private opposite parties and now her services have been terminated.

44. Though the private opposite parties have not filed any objection to the allegations made in these applications supported by the affidavits of the petitioner but orally denied the role of private opposite parties, in the matter of termination of services of the petitioner by the College.

45. Sri S.C.Misra, Senior Advocate appearing for Ms. Mayawati stated that the State or its functionaries were not in any way interested to see that the services of the petitioner stand terminated, otherwise it would be a case where any person, who has come to the Court, would be deprived of her right of getting her grievance redressed.

46. The Court, therefore, passed an interim order that the services of the

petitioner shall be restored forthwith, subject to further orders and also required the appearance of the Director/Manager of the institution in person on the next date i.e. 5.3.2010.

47. The President of Spring Dale School also filed an affidavit on 18.3.2010, saying that the manager Mrs. Krishna Sood attended the Court in person on 12.3.2010, but since she was suffering from severe ailments, she could not attend the Court on 18.3.2010.

48. Mrs. Krishna Sood also filed an affidavit on 8.3.2010 stating therein that she never pressurized or required the petitioner to withdraw the present writ petition and that the action of termination of petitioner's services has been taken because of her own conduct.

49. The petitioner was thereafter reinstated into service but she herself tendered her resignation immediately thereafter, though it remained unexplained, that why a person (petitioner) who had been throughout making a complaint against such pressure tactics being adopted by the management and the State functionaries, on being reinstated into service, in pursuance of the directives issued by this Court, would submit the resignation, and would leave the job. Her conduct does not appear to be normal.

50. In support of the application for issuing appropriate direction dated 19.1.2010, two supplementary affidavits were filed by the petitioner viz. one dated 28.1.2010 and the other dated 4.2.2010 and the averments made therein, do not create any doubt nor make it a secret anymore that the petitioner, in her full consciousness and for the specified reasons given therein, moved the aforesaid application raising a grievance that the management of the institution was threatening her to disassociate herself from the petition and that there was also a threat extended by the Drug Inspector of serious consequences to her husband, who was doing drug supply business. Not only this, she personally appeared before this Court on 18.2.2010 and affirmed that she was under serious threat by the management of the institution and the State functionaries for withdrawal of the writ petition.

51. The allegations made in the affidavit accompanying the application for withdrawal of power of Mr. C.B.Pandey and Mr. Rohit Tripathi, Advocates that the petitioner had signed certain blank watermark papers reposing confidence in her counsel and the counsel went on moving applications one after the other without taking her into confidence, is again an absolute lie which cannot be accepted. This averment has been made only for wriggling out from the averments made in the aforesaid application and the supplementary affidavits filed by the petitioner. The aforesaid application and the supplementary affidavits were filed under her signatures and full knowledge of their contents to the petitioner, which is evident by the fact that not only she appeared before the Court on 18.2.2010 and corroborated the allegations made in the said application and the supplementary affidavits, but she also annexed certain documents with the affidavits (which we

will discuss in the following paras), which could not have been procured by the counsel unless they were handed over to him by the petitioner herself.

52. In the supplementary affidavit filed on 28.1.2010 in support of her application for issuing appropriate directions, she annexed a photocopy of the memo issued to her by the Director of the institute Mrs. Krishna Sood on 22.1.2010 mentioning several issues concerning the petitioner with the request to take notice of them with utmost gravity and quickly redress her behaviour at the earliest. She was also required to submit her version within a week. This document, which was dated 22.1.2010, could not have been filed by the petitioner's counsel alongwith the supplementary affidavit, which was sworn in on 27.1.2010 unless the same was provided by her to the counsel. Likewise, the document dated 14.9.1982 showing permanent representation of the Government in the managing committee of the institution annexed with the said supplementary affidavit could not have been procured by the petitioner's counsel unless it was handed over to him by her.

53. Further, with the second supplementary affidavit, the petitioner has annexed the termination order dated 2.2.2010 which again could not have been procured by the petitioner's counsel unless it was handed over to him by her. Even the photocopy of the cheque which was issued to her alongwith the termination order dated 2.2.2010 has also been filed with the said affidavit.

54. Thus, it proves beyond doubt that till the time of filing these affidavits and raising the grievance of coercion by the management of the institution and the Government Authorities, may be the District Inspector of Schools or the Drug Inspector, the petitioner consciously, deliberately, freely and of her own discretion, gave the aforesaid documents to her counsel and not only got the affidavits prepared but also allowed him to file the same after duly verifying and signing the same and understanding the contents thereof.

55. This is fortified also by the fact that on 18.2.2010, when the petitioner appeared before the Court, she did not raise any such grievance that these supplementary affidavits and application filed by the petitioner's counsel were without her authority and knowledge; rather she emphasized and laid stress upon the contents thereof that she was being threatened to withdraw the writ petition.

56. The petitioner has also asserted that her counsel Sri C.B.Pandey was asking for Rs.5,00,000/ which was shown to be due as his fee, whereas no such fees was due, of which clarification has been given in the affidavit on behalf of Sri Pandey that it was by mistake that instead of Rs.50,000/, Rs. 5,00,000/ had been mentioned. Thus, it was only a typographical error, which cannot be taken note of. That apart, the aforesaid allegation also casts doubt upon the theory of the petitioner that Sri C.B.Pandey had approached her for filing the present writ petition for his own political gains. In case Sri Pandey had approached the petitioner to file this petition for his own political gains, there was no question of

charging any fee from her nor the petitioner would have paid any fee.

57. In support of his plea that the petitioner is under the influence of private opposite parties and may be because of some allurements given by them to her, she is withdrawing the writ petition, Sri C.B.Pandey made a reference to the averments made in his affidavit dated 5.4.2010, wherein a reference has been made to Writ Petition No. 4491 (M/B) of 2007 in re: Om Prakash Yadav and others versus State of U.P. and others.

58. We summoned the record of said writ petition, which was perused by us as well as learned counsel for the parties concerned.

59. Sri C.B.Pandey submitted that this is an earlier instance, where such a pressure was put upon the petitioner of that writ petition for withdrawing the writ petition. He submitted that the petitioner of that writ petition Sri Om Prakash Yadav, was arrested during the pendency of the writ petition, which was a PIL against the proposed demolition of Ambedkar Sports Complex, for making him to withdraw the writ petition. The said grievance was brought to the notice of the High Court by one Virendra Kumar Yadav, who sent two letters dated 15/16.7.2007, one to the Registrar and the other to the Senior Judge of this Court and when the writ petition was withdrawn at the time of hearing of the Transfer Petition (T.P.) filed in the Supreme Court, the Sports Complex was demolished.

60. He also submitted that the said Om Prakash Yadav, on withdrawal of the writ petition, was made the Chairman of some Corporation and was conferred the status of minister.

61. Argument, therefore, is that the petitioner, in the present case, also appears to have been given some allurements of like nature and that is why she has moved for withdrawal of the writ petition and has also tendered her resignation from service, even after reinstatement. He further submitted that the two applications made by the petitioner are not bona fide and have been moved with a view to settle the matter out of Court to her advantage. His submission is that for this deliberate and mischievous act, the petitioner should be punished with exemplary costs.

62. Though we had summoned the record of the said writ petition, but we do not intend to scrutinize the reasons for withdrawal of the said petition, and the consequence of such withdrawal, nor do we take notice of the complaints made by Virendra Kumar Yadav to the Registrar of this Court and the Senior Judge regarding the alleged arrest of Om Prakash Yadav and thereafter, the alleged appointment of Om Prakash Yadav as Chairman of some Corporation.

63. We do not take notice of the aforesaid facts in the present writ petition for the reason, that firstly, the present private opposite parties were not impleaded as parties in the said writ petition and secondly, the pleas raised therein do not seem to be relevant for the disposal of present applications.

64. However, while considering the plea of withdrawal of the writ petition, the dictum of the case of Sheela Barse versus Union of India and others, reported in (1988)4 SCC 226, has to be kept in mind, wherein the Court making the following observations, held that the petition cannot be permitted to be abandoned at this stage. Only a private litigant can abandon his claims.

"36. 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 claims."

65. The petitioner, after filing this petition and affidavits as aforesaid, may be because of her own sweet will or because of the threat by any person or for any other reason whatsoever, might have moved the application for withdrawal of the writ petition, but she cannot be allowed to play with the august function of the Court by whimsical change in her attitude towards litigation which she has willfully and voluntarily brought before the Court.

66. The D.I.O.S Sri Ganesh Kumar and the Drug Inspector Sri K.G.Gupta have filed their own affidavits denying their intervention though they were never required by the Court to file any affidavit. They were also not parties to the writ petition. Copies of the applications and affidavits filed by the petitioner were not served upon them, even then they chose to defend themselves. It remains undisclosed, who supplied the copies of the aforesaid applications/affidavits and who asked them to file the affidavits. Their anxiety to counter the pleas raised by the petitioner is thus not only unexplainable, but also creates doubt on their versions in their affidavits.

67. Sri D.K.Upadhyay, learned Chief Standing Counsel has argued that since there is no intervention of the State in the functioning and management of Spring Dale College, therefore, it cannot be said that the private opposite parties have exercised influence upon the petitioner to withdraw the writ petition. Sri S.C.Misra, learned Senior Advocate appearing for the private opposite parties has strongly denied the fact of exercise of any influence or threat extended to the petitioner for withdrawal of the petition by the private opposite parties.

68. In view of the denial made by Sri S.C.Misra, Senior Advocate, Sri Jyotindra

Mishra, Advocate General and Sri D.K.Upadhyay, Chief Standing Counsel, we refrain ourselves from advertng to the plea that the private opposite parties exercised their influence upon the petitioner to withdraw the writ petition.

69. However, considering the documents on record, the evidence filed by the petitioner and her conduct when she appeared before the Court, it admits of no ambiguity that the prayer for withdrawal of the writ petition is not bona fide. The petitioner, who has taken such an incoherent stand, that too by maligning the image of the counsel whom she had engaged, cannot be allowed to withdraw the writ petition and cannot be left scot free for her irresponsible attitude in making such applications levelling serious allegations against her counsel.

70. The petitioner filed the writ petition of her own will and then pursued it not only upto the stage when it was admitted and notices were issued to the private opposite parties but also thereafter sought protection from the Court against the alleged threat extended to her by the management of the institution for facing termination, which threat might have been denied by the management in their counter affidavit and by the D.I.O.S and the Drug Inspector by filing their affidavit but did prove true when her services were terminated. The petitioner, who was confirmed on 28.7.2008 considering her over all performance, suddenly became a staff, who was found guilty of serious charges, on account of which her services were terminated, apparently is beyond comprehension, in the facts and circumstances of the present case.

71. The fact also remains that her services were restored, but it remains unexplained that after restoration of her services under the orders of the Court, whether she willingly submitted her resignation, and if so, then why?

72. This Court considering the bona fide of the petitioner in her assertion about threat being extended to her for withdrawal of writ petition, passed orders for restoration of her services, which restoration was in fact done, but the petitioner thereafter tendered her resignation, and even after submission of her resignation, the Court by an interim order directed that her resignation be not accepted, but if the petitioner wants to lose her job for any reason whatsoever, this Court would not issue any further direction for protecting her services in the institution.

73. We though do not disbelieve the statement made by Sri S.C.Misra, Senior and responsible Advocate appearing for private opposite parties to infer to the contrary, particularly when he has time and again assured, that the private opposite parties are not interested in seeing the petitioner out of service and that they have not put any pressure upon anyone, but the facts and circumstances aforesaid do not allow us to absolutely rule out the possibility of pressure being put upon the petitioner by the management of the institution to withdraw the writ petition either of its own or for any other reason. The petitioner also herself has stated in the affidavit filed in support of the application for withdrawal of Vakalatnama that she started feeling pressure from all corners including family

and profession, though by giving reasons for the same.

74. This persuades us further to observe, that, if the petitioner genuinely of her own, wished for withdrawal of the writ petition, she could have done so, without charging her counsel, for serious misconduct, leaving it for the Court, whether withdrawal of the writ petition be allowed or not. But her conduct to the contrary, cannot be appreciated.

75. We, as a result of our discussion held above, taking into consideration the conduct of the petitioner and of course the fact that the issues raised in the present writ petition have already been taken note of, cognizance of which has been taken by the Court while admitting the writ petition and framing the questions for consideration, against which SLP filed by one of the private opposite parties, has also been dismissed, coupled with the fact that two writ petitions are tagged with this petition raising almost similar questions for consideration, hold that there would be no occasion for allowing this writ petition to be dismissed as withdrawn.

76. The application for withdrawal of the writ petition is rejected, and as submitted by Sri C.B.Pandey and Sri Rohit Tripathi, Advocates, they are allowed to withdraw their power, which stands withdrawn.

77. Considering the conduct of the petitioner and the manner in which she moved the application for withdrawal by making allegations against her counsel which we have found to be absolutely false and frivolous, coupled with the fact that the petitioner right from the day one when the writ petition was filed, continued to pursue the writ petition even on the date when it was admitted and notices were issued to the private opposite parties and thereafter also till 18.2.2010 when she appeared in Court and that she moved the application for withdrawal at the stage when the petition has become ripe for final hearing and so much precious time of the Court has been consumed in deciding these applications, we impose costs of Rs.20,000/ upon the petitioner. The costs shall be deposited in the Registry of this Court within one month which shall be remitted to the account of Mediation Centre of the High Court at Lucknow.

78. List the writ petition for hearing in the next month before the regular Bench.

23.9.2010

LN/

Hon''ble Pradeep Kant,J.

Hon''ble Shabihul Hasnain,J.

At the time of delivery of the orders on the two applications, Sri Mohd. Arif Khan, Senior Advocate, appearing for the petitioner, made an oral request for further hearing in the matter.

Sri Mohd. Arif Khan argued the matter on several dates and lastly, after hearing

the learned counsel for the parties, the orders were reserved on 23.8.2010. The matter was listed for pronouncement of the orders on 14.9.2010, but the Bench could not be constituted on that date. Today, the case is listed for pronouncement of orders. During all this period, no such request was made by Sri Mohd. Arif Khan either by moving an application or orally. It is only at the time of pronouncement of the orders today that such a request is being made. We cannot accept such a prayer as no party has a right to keep on arguing the matter for indefinite and unusually long period, particularly when full opportunity has already been availed by all the parties including the petitioner to place their arguments, and thereafter, the orders were reserved.

The prayer is rejected.