

(2005) 03 AP CK 0044
In the Andhra Pradesh High Court
Case No : Writ Petition No. 2466 of 2005

B. Sreeramulu

APPELLANT

Vs

Chief Executive Officer, Cantonment Board

RESPONDENT

Date of Decision : 16-03-2005

Acts Referred:

Constitution of India, 1950 — Article 21, 226

Citation : (2005) 3 ALD 214

Hon'ble Judges : Devinder Gupta, C.J.;B. Seshasayana Reddy, J

Bench : Division Bench

Advocate : Party in person, for the Appellant; Deepak Bhattacharjee, SC, for the Respondent

Final Decision : Dismissed

Judgement

B. Seshasayana Reddy, J.—Sri B. Sreeramulu, a legal practitioner has filed this writ petition, purportedly in Public Interest Litigation under Article 226 of the Constitution of India seeking the following relief:

"For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon"ble Court may be pleased to issue an appropriate writ, order or direction particularly a writ in the nature of mandamus directing the respondent to supply water to the petitioner and to all the residents of LALBAHADUR COLONY, TRIMULGHERRY, SECUNDERABAD-500015 at the rate of two thousand liters per family per day and pass such further or other order or orders as may be deemed fit and proper in the circumstances of the case."

2. The writ petitioner claims to be residing in the ground floor of the premises bearing Plot No. 20, LALBAHADUR COLONY, Trimulgherry, Secunderabad-500015. Two representations dated nil were said to be submitted in the public interest litigation cell of the High Court of A.P. on 8.2.2005. As could be seen from the said two representations, copies of which have been enclosed to the letter dated 8.2.2005, 25 families have been residing in the colony named as LALBAHADUR

COLONY, Trimulgherry, Secunderabad. The first representation was signed by nine individuals and the second representation was signed by four individuals. The signatories to the first representation are residents of Plot Nos. 5, 9, 21, 22, 25, 28, 32 and 33 (two persons). The signatures to the second representation are four individuals and they are residents of Plot Nos. 3, 16, 29 and 34. There seem to be a welfare Society for the residents of L.B. Colony styled as LAL BAHADUR COLONY WELFARE SOCIETY. One Sitaram Badal claims to be a Treasurer of the said Society till February, 2005. The writ petitioner addressed a letter dated 16.3.2004 to the respondent requesting for rectification of the valve located near Ganesh Provision Centre at the entrance of the colony. The text of the letter reads that his request was on behalf of the residents of LAL BAHADUR COLONY, TRIMULGHERRY, SECUNDERABAD and his status was as Counsel for them. We are cautiously referring the capacity in which the writ petitioner addressed the letter to the respondent since it gives a clue to know whether the writ petition is filed to espouse his personal grievance or in the public interest as a champion of public cause.

3. The writ petitioner addressed a letter dated 9.2.2005 to the respondent wherein he expressed difficulties faced personally by him and by the members of his family due to paucity of water and requested for immediate supply of water to him through a two inch pipeline. Ofcourse, he adds the necessity of water to the residents of LALBAHADUR COLONY at large. In order to know what was the grievance of the writ petitioner against the respondent, we deem it appropriate to refer to Paragraphs (5) and (6) of his letter dated 9.2.2005, which read as under: "5. Pending filing of a proper petition in the Court, I once again request you to supply water to me through a 2" pipe line immediately and till the pipe line is laid and connection is provided to me you may kindly direct the superintendent, water section to supply water to me at the rate of one thousand litres per day. I am prepared to deposit the expenses incurred by you towards purchase of water from the Hyderabad Metropolitan Water Works in advance if you are kind enough to intimate me at an early date and oblige.

6. At the cost of repetition I may state that my wife had donated one of her kidney to her youngest brother in the kidney transplant surgery performed on him on 22.11.2004 at MOOLJIBHAI UROLOGICAL HOSPITAL, NADIAD in Gujarat State and we are all passing through some hard times facing acute shortage of water in the locality. In the circumstances, I once again appeal to you through this letter to provide me water connection through 2" pipe line and pending provision of the said connection, I request you to kindly direct the superintendent, water section to supply @ one thousand litres per day to me or 6000 litres for every six days preferably on Saturday or Sunday as I would be at home at the premises of Plot No. 20, LALBAHADUR COLONY, TRIMULGHERRY, SECUNDERABAD for which act of kindness I shall ever remain grateful to you sir." Thereafter the writ petitioner filed the present writ petition on 11.2.2005. He filed his sworn affidavit in support of the writ petition. It is averred in the writ petition that he met the respondent on 16th March, 2004 and requested him to

see that water is supplied to the residents of the colony with a reasonable pressure whereupon the respondent was kind enough to direct him to the superintendent, water section, and he appraised him of the prevailing situation and requested him to do the needful in the matter. It is further averred that he has not received any reply to the said representation from the respondent which made him to file this writ petition. The writ petitioner filed a memo on 18-2-2005 detailing the questions that are required to be gone into the writ petition.

4. Dr. T. Arockinathan, Executive Officer, Secunderabad Cantonment Board has filed the counter-affidavit on 21-2-2005. The sum and substance of the counter-affidavit is that LALBAHADUR COLONY of TRIMULGHERRY is located on a higher gradient as compared to the neighbouring colonies resulting in low pressure and that to overcome the said problem a separate connection has been provided to LALBAHADUR COLONY of TRIMULGHERRY through bore well dug in the adjacent weaker sections colony which came to be dried in the month of January, 2005. Therefore, the only source of supply of water to LALBAHADUR COLONY of TRIMULGHERRY is through Society pipe lines and the water is being released once in three days to all the colonies of the cantonment situated within its jurisdiction. It is further stated that the Cantonment Board is fully dependent on the supply by Hyderabad Metro Water Supply and Sewerage Board and that water is purchased from Hyderabad Metro Water Supply and Sewerage Board by the Cantonment Board. As per the agreement, the respondent-Board has to receive 37.00 lakhs gallons of water every week, but the water actually received is less than 27.00 lakhs gallons. In view of the above circumstances, the respondent-Board is constrained to regulate the water supply by supplying once in three days. It is further stated that the water flow to LALBAHADUR COLONY is under low pressure due to its geographical location. The Board is supplying free of cost water at the rate of three tankers of 8000 litres capacity each per week and the said supply would be continued till the alternate arrangement is made. There is possibility of entire supply of water being taken over by Hyderabad Metro Water Supply and Sewerage Board by Cantonment Board with effect from April, 2005. The ground water level in the locality has substantially gone down and the borewell became dry since January, 2005. The writ petitioner submitted application on 9.2.2005 for two inch pipe line connection to his residence. The same was refused as domestic connection can be given only for half inch pipe line.

5. The writ petitioner filed additional affidavit on 15.2.2005 stating that the respondent-Board is giving discriminatory treatment in supply of water to their colony as compared to the residents of other localities such as KAANTA BASTHI. Certain instances have been stated in the additional affidavit with regard to the supply of water tanker to Mr. Uma Shankar, an employee of the respondent-Board etc. He has also filed another additional affidavit on 24.2.2005 explaining the benefits he derived by practicing "DHARMAS IN OUR DAILY ROUTINE" by reading the book titled NATURAL LIFE STYLE written by Dr. Mantena Satyanarayana Raju. He placed on record two affidavits of the residents of

LALBAHADUR COLONY along with his own additional affidavit dated 1.3.2005. The deponents of the affidavits are Smt. Geeta Devi and Seetaram Badal.

6. Arguments were heard in this case on 3-3-2005. Subsequently, the writ petitioner has filed additional affidavit on 9.3.2005 after duly serving copy of it to the respondent. It is stated in the affidavit that he came to know that on 6.3.2005 water is being supplied daily from 8 a.m. to 5 or 6 p.m. to the owners and occupiers of the premises which is at a distance of half-a-kilometre from his residence and the said owners and occupiers of the premises, after drawing the required quantity within three or four hours are letting water into a well.

7. Heard both the parties at length.

8. The writ petitioner appearing in person vehemently argued that the respondent-Board is giving discriminatory treatment in supply of water to the residents of LALBAHADUR COLONY when compared to the residents of other localities such as KANTA BASTHI. He also submits that it is fundamental right of the residents of LALBAHADUR COLONY to secure sufficient water for their day-to-day consumption and since the respondent-Board has failed to supply the required water, it amounts to infraction of fundamental right which the Court needs to be taken into account and issue necessary direction to the respondent-Board to supply water atleast @ 820.90 liters per day alternately 5,746.30 liters per week to each of the residents of the colony.

9. Learned Standing Counsel for the respondent-Board submits that every effort has been made by them to regulate water supply and in that process three tankers of 8000 liters each were being supplied to the residents of the colony in question and therefore there was no discriminatory treatment given to the residents of LALBAHADUR COLONY when compared to the residents of other colonies. He also submits that the writ petition is devoid of merits since the writ petitioner mainly espoused his grievance against the respondent-Board for not providing two-inch pipeline water supply to his house and thus the petition is liable to be dismissed in limini.

10. The sacrosanct jurisdiction of Public Interest Litigation should be invoked very sparingly and in favour of vigilant litigant and not for the persons who invoke this jurisdiction for the sake of publicity or for the purpose of serving their private ends. While PIL initially was invoked in cases connected with the relief to the people and the weaker sections of the society and in areas where there was violation of human rights under Article 21, but with the passage of time, petitions have been entertained in other spheres also.

11. PIL is not a pill or a panacea for all wrongs. It was essentially meant to protect basic human rights of the weak and the disadvantaged and was a procedure, which was innovated where a public-spirited person files a petition in effect on behalf of such persons who on account of poverty, helplessness or economic and social disabilities could not approach the Court for relief. There has been in recent times, increasingly instances of abuse of PIL. Therefore, there is a

need to re-emphasize the parameters within which PIL, can be resorted to by petitioner and entertained by Court.

12. The Supreme Court in *Dattaraj Nathuji Thaware Vs. State of Maharashtra and Others*, , has observed as under:

"Public Interest Litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta."

13. In *R and M Trust v. Koramangala Residents Vigilance Group* 2005 AIR SCW 736, the Supreme Court observed as follows:

"Public Interest Litigation is no doubt a very useful handle for redressing the grievances of the people but unfortunately lately it has been abused by some interested persons and it has brought very bad name. Courts should be very very slow in entertaining petitions involving public interest in a very rare cases where public at large stand to suffer. This jurisdiction is meant for the purpose of coming to the rescue of the down trodden and not for the purpose of serving private ends."

14. The writ petitioner is not a signatory to the two representations submitted by the residents of LALBAHADUR COLONY. His frequent meetings with the authorities of the respondent-Board was predominantly to secure two inch water connection to his residential portion. We deem it appropriate to refer the relevant portion of the letter dated 9.2.2005 submitted by the writ petitioner to the respondent-Board and it reads:

"I am a resident of Lalbahadur Colony, Trimulgherry, Secunderabad-500015 for the last about 8 years and 8 months. When I met you on 16th March, 2004 I informed you that water supply in the locality is very poor rather nil and requested you to kindly direct your officials to rectify the same. You were kind enough to observe that you would look into it. However, you were pleased to direct me to the superintendent, water section whereupon after informing him about the acute shortage of water in the colony due to drying of borewells we were hard pressed to depend on the water to be supplied by the Cantonment Board and requested him to provide me with a separate water connection with 2" pipe he told me that immediately it was not possible and that I should see him once the monsoon sets in. Accordingly, I met him in June, 2004. He asked me to see him again in July, 2004. I met him again in July, 2004. He asked me to meet him again after one month. I met him and he asked me to see him again in the month of September, 2004. I met him. He said that it was not possible to give an immediate connection. Like that I met him a number of times. But for reasons

best known to him, he could not provide a connection to me. I am staying in the ground floor of premises in Plot No. 20, LALBAHADUR COLONY, TRMULGHERRY, SECUNDERABAD as a licensee."

On a thorough reading and re-reading of the letter dated 9.2.2005, we are in no doubt to conclude that the request of the writ petitioner to the respondent-Board was to provide 2" water connection to his residential portion. We are not for the moment dispelling the reasons set out by the writ petitioner in his representation dated 9.2.2005 to secure 2" water connection to his residential portion. The grievances explored by the writ petitioner in his representation dated 9.2.2005 are purely pertaining to him alone. The writ petition based on the said representation cannot be termed as a PIL. Since the writ petitioner is said to have submitted his representation seeking 2" water connection to his residential portion, it is obligatory on the part of the respondent-Board to consider the same and inform the writ petitioner the fate of his representation. If the writ petitioner is not satisfied with the reply and if he so chooses to work out the remedies through the process of law, he is at liberty to do so. This writ petition filed by the petitioner, in our considered view, cannot be termed as a Public Interest Litigation. As such we are not inclined to go into the merits of the contentions advanced by the writ petitioner on other aspects more particularly in view of the stand taken by the respondent-Board. For water supply the Board is wholly dependent on Hyderabad Metro Water Supply and Sewerage Board. It has taken up the matter with the later, who is likely to take over the entire water supply to the cantonment area shortly.

15. Accordingly, the writ petition is dismissed. However, liberty is reserved to the writ petitioner to work out his remedies in accordance with law after receipt of reply from the respondent-Board on the representation submitted by him on 9-2-2005 to the Board for supply of 2" water connection, in case he would still have grievance. The respondent-Board will consider and dispose of the representation of the petitioner dated 9-2-2005 and inform him of the outcome thereof within a period of two weeks from the date of receipt of a copy of this order, if not already informed.