

(2011) 06 JH CK 0095

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 2785 of 2011

Chandra Shekhar Pandey

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 23-06-2011

Acts Referred:

Constitution of India, 1950 — Article 107, 118, 122, 166, 166(3)

Citation : (2011) 3 JCR 419

Hon'ble Judges : Prakash Tatia, Acting C.J.;Jaya Roy, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Prakash Tatia, A.C.J.

1. Heard learned Counsel for the parties as well as learned Mr. Sachin Kumar, Practicing Advocate in the Jharkhand High Court who has been allowed to become party Respondent in his personal capacity vide order dated 22.06.2011.

2. The Petitioner has challenged the notification dated 08.04.2011 issued by the Ministry of Law and Justice through its Legislative Department under the signature of the Secretary of the Ministry of Law and Justice by which the Government of India has constituted a Joint Drafting Committee to prepare a draft of Lokpal Bill. The petitioner, as citizen of India, has filed writ petition in his individual capacity though he is a practicing Advocate practicing in the Jharkhand High Court but has moved this writ petition in his personal capacity in purported public interest and it is submitted that the impugned notification dated 08.04.2011 has been issued in violation to the constitutional provision under Article 77 as it has not been issued in the name of the President of India and further by this notification which, according to the learned counsel for the petitioner, has been issued only because of the pressure generated by one person Mr. Anna Hazare and with the aid of several other persons by which the Government of India is succumbed down to the pressure generated by the team

of said individual and inspite of the fact that several proposals for Lokpal bill were taken up for consideration at the instances of even former Prime Ministers like in the year 1968 from office of the then Prime Minister Smt. Indira Gandhi and then in the year 1988 from the office of the then Prime Minister Sri Atal Bihari Bajpeyi. The Government of India not only issued the notification dated 08.04.2011 in violation to the constitutional provision of Constitution of India but also violated the basic principles of law by ignoring the rules framed by the Parliament itself as well as the procedure prescribed by Her Excellency the President of India under Article 77(3). Learned counsel for the petitioner drew our attention to the various provisions of the Constitution as well as the Rules of Business and Manual of the Parliamentary Procedures published by the Government of India to show that there is a set procedure for preparation of the legislation and the legislation can be by moving a bill :

- i) By Government as Government Bill;
- ii) A private bill which can be moved by the members of Parliament.
- iii) A bill by any citizen of India.

Learned counsel for the petitioner relied upon Rule 64 of Rule of Procedure and Conduct of Business in Lok Sabha as well as Rule 65, 67, 160 and 161 the Rules relating to the constitution of the Committee etc. and submitted that these Rules cover the entire field of preparation of the proposed legislation and the constitution read with these rules prescribed full procedure for enacting a law. It is submitted that the Parliament is the Supreme body in the Constitution of India with executive head, the President of India and by virtue of Article 77 the Government can do its own executive action only by expressing it in the name of the President of India and not otherwise. According to learned counsel for the petitioner, the Prime Minister and Ministers themselves are nobody in the Constitution of India to do any act as per their own wish, whim or decision unless it is a decision taken in accordance with law and rules and regulations framed thereunder and by following the procedure as given in the Constitution of India. Even the extent of the executive power of the Government of India is only within the scope of Article 73 of the Constitution of India and as per Article 74, Council of Ministers is to aid and advice the President of India and even the President of India, as per Clause 1 of Article 74 is required to act in accordance with the advice of the Council of Ministers. The Article 78 prescribes the duties of the Prime Minister in respect of the furnishing of information to the President which includes to communicate the President all decisions of the Council of Ministers relating to administrative affairs of the Union and even for proposals of legislation which is apparent from Sub Clause 1 of Article 78. The Article 107 under the heading of "Legislative procedure" provides provision as to introduction and passing of the bills excluding the money bills for which separate procedure has been prescribed under the same heading of "Legislative Procedure". The Article 118 empowers the Parliament to make rules for regulating special provisions for prescribing its own procedure and the conduct of

its business therefore the rules of business framed by the Parliament are in exercise of Parliament's rule making power under Article 118 and therefore these rules are only followed for preparing a law or even for preparing the proposal for law. Then Article 122 prohibits the courts' interference in any proceeding in the Parliament and therefore, according to learned counsel for the petitioner, this matter of illegally preparing of the draft bill for Lokpal is required to be challenged by the petitioner at this stage only as once the Lokpal Committee, framed under this impugned notification, submits its proposal and it is placed before the Parliament in accordance with law, then the courts shall not have jurisdiction to enquire into the proceedings of the Parliament meaning thereby to enquire into the proposal which may be submitted in purported exercise of power under the impugned notification dated 08.04.2011.

3. Learned counsel for the petitioner, in addition to the above legal grounds, submitted that the members in the committee have been selected arbitrarily and that too merely because of the pressure generated by a few persons and that pressure was so strong upon the Government and Government succumbed to the pressure to prepare the bill in such short period of less than two months whereas the bills were in fact submitted in the Parliament for consideration of the representatives of the public, have not been considered in three decades and that is sufficient indication of the generation of pressure by the individuals upon the Government and Government succumbing to the pressure of individuals. It is also submitted that not only this but the Government succumbed to the extent that in place of giving representation to the members of the public, if they wished to give entry in the process of legislation to the public then merely selecting some persons from an agitating group and that too in the name of individual by describing them as "five nominees of Shri Anna Hazare (including himself)". It has been made clear that the persons nominated in the said committee are only persons or the nominees of one person and not the public representatives. Advancing his argument, learned counsel for the petitioner further submitted that the real representation of the public are the elected persons, elected by the public and for specific purpose to enact the laws for the public in the country and those representatives are the members of the Lok Sabha and each individual member has right to move a bill and propose a legislation and a law can be enacted by the decision taken by the Parliament therefore, by bypassing the process of enacting law as provided by Constitution of India, new process has been evolved by issuing the notification dated 08.04.2011. It is also submitted that, if such process is accepted by the Government, then there may be possibility that not only some antisocial elements but even a person, enemy of the country may also be nominated in such committee of making legislation. In substance, it is contended that by notification virtually legislative powers have been given to the committee and it may be difficult for the Government in not accepting the recommendation made by the committee. However, learned counsel for the petitioner was more emphatic in submitting that it is not a committee constituted to give suggestion

only but it is a committee constituted "to prepare the proposed legislation" as it is apparent from Clause 8 of the notification in question.

4. With the help of the Manual of the Parliamentary Procedures in the Government of India it has been pointed out that Chapter 9 deals with the subject of legislation and Clause 9.1 clearly provides that every proposal for legislation in Parliament will be initiated in the department to which the subject matter of the legislation relates and not only this but Clause 9.2 deals with "Pre drafting stage of a legislative proposal" and for that pre drafting stage also it has been provided under Sub Clause (a) of Clause 9.2 that the department concerned will formulate the legislative proposals in consultation with all the interests and authorities concerned, essentially from administrative and financial points of view and then it is required to be referred to the Ministry of Law and Justice for advice as to its feasibility from legal and constitutional points of view. Therefore, even the drafting of the proposal for legislation also could have been done by following this process. Learned counsel for the petitioner further submitted that once a procedure has been prescribed by law and in this case under the provisions of the Constitution, then all other mode for doing the same work stands excluded and this is in consonance with the public policy as well as in view of the various pronouncements of the Hon"ble Supreme Court declaring so.

5. Learned counsel for the Union of India, who was served with the copy of this writ petition on 19.05.2011, appeared before this Court and matter was taken up by this Court on 13.06.2011 and the counsel for the Union of India sought time to obtain instruction from the Union of India and it was made clear that the Union of India may submit the counter affidavit if it wishes to file otherwise the matter will be heard without the counter affidavit. When no reply was filed by the Union of India, the matter was heard on 20.06.2011 and 21.06.2011. On 21.06.2011 on the application submitted on behalf of the petitioner the committee concerned and the members of the committee were impleaded as party respondents in the petition and thereafter, on 22.06.2011, the applicant Mr. Sachin Kumar, Advocate, in his personal capacity, submitted application for being impleaded himself as party and requested for arguing the matter.

6. We have heard the arguments of learned counsel for the Union of India who argued without filing counter affidavit and we have also heard learned Mr. Sachin Kumar, Advocate of this Court. The counsel for the Union of India and Mr. Sachin Kumar, learned Advocate seriously opposed the writ petition and learned counsel for the Union of India Mr. Mokhtar Khan submitted that there is no actionable cause to the writ petitioner as this is only a decision of the Government of India to take suggestion from members of the public. However, learned counsel for the Union of India is unable to show under which Act or under which provision of law or with the help of which constitutional provision this notification was issued. Learned counsel for the Union of India submitted that the writ petition of the petitioner is liable to be dismissed because of the reason that it is administrative

decision of the Union of India as well as has been issued by exercising executive power only for the purpose of obtaining a draft proposal for legislation in public interest.

7. Mr. Sachin Kumar, learned Advocate submitted that in a case of Bejoy Lakshmi Cotton Mills Ltd. Vs. State of West Bengal and Others, while dealing with the provisions of Article 166, which is in respect to the executive action of the State Government, whereby also it has been provided that all executive actions of the Government of a State shall be expressed to be taken in the name of Governor which is analogous provision to Article 77 of the Constitution of India, the Hon"ble Supreme Court after taking into account the Rules of Business framed under Article 166(3) held that the orders passed by the Minister in charge by means of standing orders is empowered to give such directions as it thinks fit for the disposal of case in the department and therefore, the notification issued not in the name of the Governor, as provided under Sub Clause 1 of Article 166, is not violated as well as Hon"ble Supreme Court held that the provision under Sub Clause 1 of Article 166 is not mandatory. Learned Mr. Sachin Kumar relied upon another judgment of the Hon"ble Supreme Court delivered in the case of Republican Party of India v. Union of India and Ors. reported in (2000) 9 SCC 535 and submitted that a petition was filed to challenge the resolution of the Government setting up commission for reviewing and recommending possible changes in the Constitution of India and by brief order the Hon"ble Supreme Court held that setting up of a Commission to review the Constitution of India and to make suitable recommendation for any possible change, there is no application of Article 77 and dismissed the petition.

8. Learned Mr. Sachin Kumar also submitted that three writ petitions have been filed before the Hon"ble Supreme Court and those were listed before the Supreme Court in the month of April, 2011 itself and one of the writ petitions has been filed by none else than the present Advocate of the petitioner in his own personal capacity and Hon"ble Supreme Court did not issue notice and did not pass any interim order and observed that because of misjoinder of causes of action, the writ petition filed by the learned counsel himself in his personal capacity before the Supreme Court is liable to be dismissed (if not amended) and those petitions are pending before the Hon"ble Supreme Court. It is submitted that when Hon"ble Supreme Court did not exercise its jurisdiction in the matter then this Court may not entertain this writ petition for the relief which has not been granted by the Hon"ble Supreme Court.

9. Learned Mr. Sachin Kumar also submitted that there is no violation of Article 14 in the matter of selection of the persons and the Government of India has power and jurisdiction to take help of anybody even in the process of preparing a draft legislation and other disputed questions of fact and allegations levelled against them are not relevant and this Court may not examine those issues.

10. We have considered the submissions of the learned counsel for the parties and perused the relevant provisions of law.

11. The Article 77(1) is unambiguous in its language and it provides that all executive action of the Government of India shall be expressed to be taken in the name of the President of India. A similar matter came up before the Hon''ble Supreme Court as back in the year 1974 for consideration of the Special Bench of the Hon''ble Supreme Court consisting of seven Hon''ble Judges in the case of Samsher Singh Vs. State of Punjab and Another, wherein Article 53(1), Article 77 and Rules of Business of the Parliament all were considered and it has been held in paragraph 31 that the Rules of Business and allocation of business among the Ministers are relatable to the provisions contained in Article 53 in the case of President and Article 154 in the case of Governor that the executive power shall be exercised by the President or the Governor directly or through the officers subordinate. The provision contained in Article 74 in the case of President and Article 163 in the case of the Governor that there shall be a council of ministers to aid and advice the President or the Governor, as the case may be, are sources of the Rules of Business. These provisions are for the discharge of the executive powers and functions of the Government in the name of the President or the Governor. Where functions entrusted to a Minister are performed by an official employed in the Minister''s department there is in law, no delegation because constitutionally the Act or decision of the official is that of the Minister. The official is merely the machinery for the discharge of the functions entrusted to a Minister. In paragraph 30 it has been held that Rule of Business and allocation among the Ministers of the said business all indicate that the decision of any Minister or officer under the Rules of Business made under these two Articles, viz. Article 77(3) in the case of the President and Article 166(3) in the case of the Governor of the State is the decision of the President or the Governor respectively. Then in paragraph 33 again it has been laid down that executive power of the Union is vested in the President and the President is the formal or constitutional head of the executive and thereafter, it has been made explicitly clear that the real executive powers are vested in the Ministers of the Cabinet. There is a council of Ministers with the Prime Minister as the head to aid and advise the President in the exercise of his powers. In paragraph 35 Hon''ble Supreme Court held, that the essence of the Cabinet system of the Government responsible to the legislature is that an individual Minister is responsible for every action taken or omitted to be taken in his Ministry. In every administration, decisions are taken by the civil servants. The Minister lays down the policies. The council of Ministers settle the major policies. When a civil servant takes a decision, he does not do it as a delegate of his Minister. He does it on behalf of the Government. The officers are the limbs of the Government and not its delegates. Where functions are entrusted to a Minister and these are performed by an official employed in the Minister''s department, there is in law no delegation because constitutionally the act or decision of the official is that of the Minister. Hon''ble Supreme Court then held that even in such hierarchy, the decision in the name of the President or in the name of the Governor as the case may be, is a decision of the Government and not of the President/Governor unless it is required to be taken by the President or the Governor himself and

therefore, in para 88 held that the action of the Government is challenged as not the order of the President or Governor but the order of the Government concerned. Hon"ble Supreme Court held that in the scheme of the Constitution every executive order of the Union Government is required to be in the name of the President of India.

12. Same view was taken by the Hon"ble Supreme Court in the recent judgment delivered in the case of Shanti Sports Club and Another Vs. Union of India (UOI) and Others, after considering the number of earlier judgments, in Shanti Sports Club case, where some office notes were shown to justify action of the Government recorded by the office of the Government at different levels and the Hon"ble Supreme Court held that even the decision of the Minister do not become the decision of the Government unless the same is sanctified and acted upon by issuing an order in the name of the President or the Governor as the case may be, authenticated in the manner provided in Article 77 and Article 166(2) and as communicated to the affected person. In substance, this judgment also lays down that a finality of an order is required to be authenticated in the manner provided under Article 77 in the case of the Government of India.

13. We are unable to subscribe to the argument advanced by Mr. Sachin Kumar that by virtue of operation of the Rules of Business the order can be treated to be an order passed by the President of India and even if it is not in the name of President of India, it is not violatory to Article 77. In a case, when the order of Government is required under Article 77 then in view of the Special Bench decision referred above is required to be in the name of the President of India, irrespective of fact personal satisfaction of the President of India, which is applied in some cases, is required or not.

14. If we examine the notification in the light of the above provision then it is clear that the notification is not in the name of President of India then we are required to look into another aspect also that whether the notification dated 08.04.2011 is in violation to the procedure prescribed by any provision made under the Constitution or any Act, bylaws or decision taken by the Parliament itself in the matter which is covered under notification dated 08.04.2011. No doubt that the notification dated 08.04.2011 is not in the name of the President of India as required under Article 77 of the Constitution of India because of the reason that even learned counsel for the Union of India admitted that this is a notification issued by the Ministry of Law and Justice through Legislative Department though, under the purported power given by the Rules of Business of 1961, but this is executive action of the Government of India. One of the submissions of the learned counsel for the petitioner was that there are three types of the bills one Government Bill, another Private Bill which can be submitted by a Member of Parliament. In the Rules of Procedure and Conduct of Business in Lok Sabha, it has been defined that "Member in Charge of the Bill" means the member who has introduced the Bill and any Minister in the case of a "Government Bill". "Private Bill" can be introduced by the Member of Parliament

as "Private Member" means a member other than a Minister.

15. Learned counsel for the petitioner relied upon Rule 161 of the Rules of Procedures and Conduct of Business in Lok Sabha and submitted that apart from above two Bills, the Government Bill and the Private Bill, a Bill in the form of and petition may be submitted by any citizen of India. However, we are of the considered opinion that Bill and Petition are two separate matters and any petition as provided under Chapter XII of the above Rules of Procedures and Conduct of Business in Lok Sabha do not deal with any Bill and it deals with any petition which may be presented or submitted before the House with the consent of the Speaker on Bill not is a Bill. The complete procedure has been given in these Rules that how such petitions shall be dealt with and it is clear from Rule 306 that a committee constituted on petition obviously as referred in Rule 161 cannot have a Minister as a member in the committee and if, a member of the committee is subsequently appointed as Minister then he ceased to be the member of the committee. We need not to refer detailed procedure how and at what level any petition submitted to the Speaker under Rule 160 will be dealt with but it is suffice to state that from Rule 160 it is very clear that a petition can be on a Bill and is not a Bill. It is more clear from Schedule I whereunder form has been given for the petition. It clearly reveals that content of petition can be, that petition is either, in support of Bill or to oppose the Bill and the language of form which is relevant and quoted: "that the Bill be or be not proceeded". Therefore, we do not find any substance in the argument of the learned counsel for the petitioner that an individual citizen can submit a Bill in the Parliament and therefore, that right has been given by this Notification to certain individuals either to present the Bill on behalf of the public/citizens of India or it will be a Government Bill.

16. So far the proposal given by this committee may turn to be a Government Bill, learned counsel for the petitioner submitted that since the committee itself has been constituted by the Government of India under purported jurisdiction of legislative power which is apparent from the notification which contains specific line that the committee has been constituted to prepare the proposed legislation as is clear from Clause 8 of the notification, therefore, the power which is vesting in the Government of India particularly which is a secret in view of the reason that no Minister or Member in the affairs of the Government can disclose the information to the public with respect to the proposed decision of the Cabinet, stand disclosed in violation to secrecy and such power to propose legislation has been given to committee constituted by the notification impugned.

17. We have considered the above submission of the learned counsel for the petitioner referred above and to apply all those provisions including the effect of noncompliance of Article 77(1) in issuing the notification dated 08.04.2011 then shall be Shri Shanti Bhushan and the Convener of the Joint the bare heading of the notification reveals that it is a resolution and this resolution is of the Government of India and for preparing a draft of Lokpal Bill which is clear from

the first line of the notification. The second line of the notification, we quote that complete line "1(42)/2004LegI the Government of India hereby constitutes a Joint Drafting Committee to prepare a draft of the Lokpal bill", because draft is preliminary form of any writing, which can be revised or even may not be accepted at all, resulting into leading nowhere. Therefore what is purported to be done under this notification is to prepare a draft of the Lokpal Bill and not the proposed legislation itself as proposed Legislation is taken, it is presented as Bill in Parliament may be as Government Bill or a Private Bill. Clause 8 though says that a Joint Drafting Committee shall commence its work forthwith to prepare the proposed legislation even then it is a proposal for legislation and not for drafting of the legislation itself which can be in the form of Bill, which is final form of proposed Legislation. And if we read the operative part of the notification with Clause 8 then it shall be a draft of the Lokpal Bill. Except in Clause 8, in Clauses 5, 6 and 7 it has been clearly mentioned that the Chairperson of the Joint Drafting Committee shall be Shri Pranab Mukherjee, the CoChairperson of the Joint Drafting Committee shall be Dr. M.Veerappa Moily, therefore it is a drafting committee of a proposed legislation and in Clause 9 of the Notification it has been provided that the Joint Drafting Committee shall complete its work latest by 30th June, 2011. In view of the above reasons, it is not a legislative body nor a body preparing the legislation itself or it supposed to give a proposal for legislation in terms which is covered under Clause 9.2 given in the manual of Parliamentary Procedures in Government of India, which stage will come after receipt of proposal from the Committee. The legislative proposal is a proposal which takes a final shape after consultation with the interested parties and authorities concerned as it is clear from Rule 9.2(a) and Rule 9.2 says that predrafting stage legislative proposal will fall into four stages :

- (i) complete details of the legislative proposals;
- (ii) the entire background material (placed on the file for reference);
- (iii) all other details relevant to the proposed Bill; and
- (iv) Draft Note for the Cabinet.

18. That predrafting stage for Government Bill, obviously can and can come when a proposal reaches in the hands of the competent persons in the case of Government Bill to the Ministry who can also submit a draft note for a Committee as is clear from Clause IV above, therefore under this resolution only an effort is made to prepare a draft of the Lokpal Bill at the stage which is prior to operation of Chapter 9 of Parliamentary Procedure in the Government of India (supra).

19. Then question arises and it goes to the root of the matter that, whether any actionable cause accrued to the petitioner as a citizen of India to challenge the notification dated 08.04.2011 for which learned counsel for the petitioner vehemently submitted that, the Government is required to act according to the provisions of the Constitution as well as the Rules and bylaws framed by the Government itself under purported power of the constitutional provisions and in

this case, if they are not acting in consonance with the constitutional provisions then any citizen can challenge the action of the Government. It is also submitted that unless this notification is challenged at this stage, there will be no other stage to challenge this illegal action of the Government of India and if this proposal is accepted by the Government of India and presented to the floor of the Houses of the Parliament then thereafter, decision can be taken only by the Parliament and not by the Court about the validity of constitution of the Committee which will deprive the petitioner from his legal right to challenge the action of the respondents.

20. The arguments on the face of it appears to be quite attractive and persuasive but if we look deep into the issue then we have to find out what is the actionable cause. An action which causes no harm to anybody or which affects nobody's right then merely because the provisions of law has not been followed whether one can assail the said action of the Government? In the Constitution of India, the power to legislate has been given to the legislative body constituted under the provisions of the Constitution of India and they are supreme and large body of members constituting the Parliament who is only responsible to frame the law, enact the law and none else. Any suggestion and proposal till it takes a colour of law cannot affect anybody in any manner. In the present case, if a draft is prepared by this committee and is submitted before the Government of India rather before the Minister concerned and the Minister concerned if rejects the proposal nothing survives and even if it is accepted by the Minister and then by the Cabinet and is presented before the floor of the Parliament then also that bill is required to be considered by the Parliament and we cannot suppose that the views which have been expressed by a committee constituted will be accepted by the Parliament as it is treating them binding simply because a committee constituted by Government has given the draft legislation. Thinking of so is undermining the authority and wisdom of the Members of Parliament. Consideration of the views given by any person, anybody and through any source in democratic process of enacting the law is one of the well known and well accepted mode and Governments are suppose to be sensitive and required to lend their ears to the voice of the public and then take a decision. So far as the contention of the counsel for the petitioner that the Government has succumbed to the pressure of a person or a group of persons is concerned, we are unable to accept this contention on the ground that according to the petitioner himself, the proposal for preparing the Lokpal Bill was originally initiated as back in the year 1968 and then it was pursued by various Prime Ministers of this country and when it could not take a shape of law, a public agitation resulted into issuance of this notification and in a case where efforts are being made for making provisions to curb the corruption by taking help and suggestions of even a few persons and giving them opportunity to present their views firstly for consideration of Ministry, then of Cabinet then to decide the matter then we are of the view that this is in consonance with the democratic system. Much has been said about the members of the committee but looking to the larger issue of public interest in the

matter of making efforts for curbing corruption, personal views of persons in very many subjects may be different and that itself may not be a ground to question the working of the committee to give suggestions only without giving them authority to frame the rules or law. At the cost of repetition we observe that ultimate decision will be of the representatives of the public who have been elected and have been sent by the citizens of India in the Parliament. Therefore, a draft of Lokpal bill is created, it will be only a proposal to prepare a draft for legislation and itself is not even a proposal for legislation as it is clear from Rule 9.2 of the Manual of Parliamentary Procedures in Government of India prescribed by the Government of India by the Ministry of Parliamentary Affairs which clearly says that the department concerned will formulate "legislative proposal" and how the legislative proposal is to be formulated is given in Chapter IX of the above manual and we are unable to accept that draft of Lokpal Bill itself is a legislative proposal.

21. At this juncture, reference of the judgment of the Supreme Court delivered in the case of Republican Party of India (supra) will be helpful. In the said case, the resolution for setting up commission to give suggestion for review and to make changes in the Constitution of India was challenged and the Hon'ble Supreme Court held that this resolution was a resolution only, therefore, challenging the resolution is misconceived. In the present case also, it is clear from the notification that this is a "resolution" of the Government of India and also it is clear from the language of the notification that it is only obtaining suggestion for operation of law and nothing more and the Government can take suggestion from anybody. Hence, because of this reason also we do not find any merit in this writ petition.

22. As we have already observed that in this purported name of public interest litigation we are not going to look into any credentials of any of the persons and in the matter of selection of the persons by the Government because that will lead us to nowhere as we have already observed that decision of this committee will be only suggestive in nature and cannot become law unless a competent body, who has right to take a decision itself, takes a decision.

23. Learned Mr. Sachin Kumar has invited our attention to the recent judgment of Delhi High Court delivered in the case of Babu Rao Patil v. Union of India and Ors. in W.P. (C) No. 2671 of 2011 on 2nd May, 2011 but after going through the said judgment we are of the view that the points which have been raised by the writ petitioner in this writ petition were not the issue raised in the said petition and that petition was based on entirely different facts and grounds. In view of the above, that decision is of no consequence.

24. In view of the above reasons we do not find any merit in this petition hence this Public Interest Litigation is dismissed.