
(2007) 11 JH CK 0003

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 4301 of 2007

Citizen Forum

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-11-2007

Acts Referred:

Citation : (2008) 1 JCR 393

Hon'ble Judges : M. Karpaga Vinayagam, C.J; Dilip kumar sinha, J

Bench : Division Bench

Advocate : Ram Kishore Prasad, for the Appellant; S.B. Gadodia, General, for the Respondent

Final Decision : Dismissed

Judgement

M. Karpaga Vinayagam, C.J.—Citizen Forum, Jharkhand, Ranchi has filed this Public Interest Litigation seeking for various reliefs, which are as follows:

(i) The respondents, the authorities of the State Government shall be restrained from making construction of Haj House in front of Kadru Masjid on the Government land;

(ii) The Notification No. 1786 dated 12.06.2006 by which the land in question is allotted for construction of Haj House for the benefit of the particular religion shall be quashed;

(iii) Direction shall be issued to the respondents to construct building for the use of Argora Police Station and the residential apartment for the police officials;

(iv) Direction shall be issued to the respondents to develop Argora Railway Station and remove encroachment surround Railway Station.

2. According to the petitioner, the Citizen Forum, Jharkhand, Ranchi, represented by its Convener Nawal Kishore Singh is an organization dedicated for the benefit of common men and all citizens of India irrespective of the caste and community. The organization came to know that the respondents-State is going to construct

a Haj House on the Government land, which is allotted by the State Government in favour of Muslim Community in order to win their votes. Therefore, the organization sent a representation dated 15.06.2007 opposing the action of the respondent-State in allotment of Government land. However, there was no response for the said representation. Hence, this petitioner has filed this Public Interest Litigation.

3. According to the counsel for the petitioner, the allotment of the Government Land, Aam Land, which is a prime location of Ranchi City in favour of the Muslim Community to construct a Haj House is against the various provisions of the Constitution and the Manual, i.e., Bihar Government Estate (Khas Mahal) Manual in violation of the mandate. He also pointed out the order of allotment dated 12.06.2006 itself would indicate that in the order the Department of Revenue and Land Reforms allotted this Aam land Plot No. 167 Area 0.75 acres, Khata No. 164 for the construction of Haj House and this allotment in favour of Muslim Community is against the Manual as well as against the provisions of the Constitution and the construction should not be allowed since Hindu festivals are being conducted in that area periodically.

4. As directed by this Court, the Counter Affidavit has been filed by the State giving the details of the factual position.

5. According to the State:

(i) the land in question has neither been allotted nor settled in favour of any Community. The Haj Committee Act, 2002 was enacted by the Government of India. It provides that every State shall constitute a Committee, namely State Haj Committee for making arrangements for the pilgrims of Muslim Community and the matter connected thereto;

(ii) As per the Act the primary responsibility of Haj Committee of India as well as the State is to provide assistance to the Haj pilgrims in the matter of their transport between the Home States and the point of exit from India and transit accommodation at points of exit;

(iii) The land has been transferred from Department of Revenue and Land Reforms by the order dated 12.06.2006 to the Welfare Department for construction of Jharkhand State Haj House in implementation of the Haj Committee Act and in the light of the policy decision taken by the State Government Cabinet, and as such there is no violation of any provisions of any Manual or Articles of the Constitution of India. The petition is not bonafide.

6. On going through the affidavit filed by the petitioner and as well as Counter Affidavit filed by the State it is clear that the land in question which is admittedly a Government land has not been allotted or settled in favour of a particular Community or religion and on the other hand, the land in question has been transferred from one Department to another Department by the Government for the construction of Haj House as per the Haj Committee Act, 2002 in pursuance

of the policy decision taken by the Cabinet of the State Government. Therefore, it cannot be said that it is an allotment or settlement in favour of a Muslim Community.

7. It is also noticed that the land in question is located in Kadru in Ranchi district in front of the local mosque and hence the State felt that it is a fit place for construction of the building of Haj House. Furthermore, the site has been selected, since the site is essentially dominated by Muslim community in or around the vicinity of the said site. Admittedly, the construction work has already commenced.

8. When such is the fact situation, we are unable to understand as to how the petitioner could claim that the area is used for conducting Hindu Festivals and therefore, Haj House should not be constructed therein.

9. As correctly pointed out in the counter affidavit filed by the respondents, the various averments and assertions made by the petitioner in his petition would sound political tone casting aspersions against the State Government as well as the Muslim Community. Some of the statements made by the petitioner in the affidavit, in our view, are not in good taste. Those averments are not only irrelevant, but also unsavoury and unwarranted remarks made against the Ruling Political Party as well as the Government and against the Muslim Community.

10. From the averments made in the writ petition, it is obvious that the instant Public Interest Litigation has been filed by the petitioner, predominantly for restraining the respondents from constructing the Haj House on a particular plot of land in which the petitioner has got vested interest. Since the petitioner himself suggested that construction of Haj House could be made on the Madarsa Land of Kadru or at Gumla Road, Tata Road, Khunti Road or at Ormanjhi Road, it is clear that on one hand the petitioner states that Haj House cannot be constructed by the fund of the State Government in the area in question and on the other hand the petitioner stated that it can be constructed in some other places. This would indicate that the Public Interest Litigation has been filed with some oblique purpose as it appears the petitioner forum has got some vested interests in the land in question.

11. Further it is pointed out by the counsel for the respondents on the strength of the counter filed by the State, that the Convener, Nawal Kishore Singh, who represents the Citizen Forum, the petitioner, is an active member of a political party, namely, "Shiv Sena", as such the petition is politically motivated one in order to make unsavoury allegations as against the Government and Muslim Community. We find force in this statement.

12. It can not be disputed that the Government of India enacted Haj Committee Act, 2002 for establishment of Haj Committee of India and the State Haj Committees for making arrangements for pilgrims of Muslims for Haj.

13. In the above context, Haj Houses are being constructed in several States for

providing exit accommodation to the Haj pilgrims and for performing allied functions etc. So, by virtue of various provisions of the Act, a decision was taken by the State Government by the Cabinet through the Cabinet for construction of Haj Houses so that the policies and directives in relation to Haj Pilgrims under the Haj Committee Act, 2002 are implemented.

14. It is specifically stated in the counter affidavit that the land was selected for construction of Haj House by the Deputy Commissioner, Ranchi after proper investigation and a report has been sent by the Deputy Commissioner recommending that place for construction of Haj House. On the basis of the report of the Deputy Commissioner, Ranchi, the Department of Revenue and Land Reforms issued an order regarding the transfer of the land in question to the Welfare Department. Thus, it is clear that the land has not been allotted or settled to any religious organization.

15. It is also clear from the counter affidavit filed by the State that the land in question is located in the Kadru locality in front of local Mosque and also in the area, which is essentially dominated by the Muslim Community and the construction has already been started after the approval of the Cabinet of the State in pursuance of the policy decision.

16. The various averments made in the affidavit filed by the petitioner would indicate that the petitioner has virtually indulged in the process of mudslinging by throwing dust on the Government by making general reckless allegations without any basis.

17. In view of the above, this Court is constrained to feel that this Public Interest Litigation has been filed by the petitioner being a political man with ulterior purpose for oblique gain and as such this application has to be rejected as a politically motivated one. Further, this Court is to point out that this petition has been filed out of oblique motive in order to see that the construction of the Haj House is some how or other stopped. This Court also cannot absolve from observing that the entire reading of the affidavit filed by the petitioner would reveal that the petitioner has simply added other prayers relating to improvement of the police station and a railway station only as a camouflage and not in bonafide interest.

18. In this context, it would be relevant to refer to some of the guidelines drawn by the Supreme Court in 2004 (1) JLJR 1 (SC) Ashok Kumar Pandey v. State of West Bengal

(i) A person acting bonafide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration;

(ii) A writ petitioner who comes to the Court for relief in public interest must

come not only with clean hands, clean heart, clean mind and clean objective;

(iii) 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 in veil of Public Interest an ugly private malice, vested interest and/or publicity seeking is not lurking;

(iv) Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.

(v) Court has to strike a balance between two conflicting interests (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail for oblique motive, justifiable executive actions. In such case, the Court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature;

(vi) The public interest litigation which has now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "private interest litigation" or "politics interest litigation" or the latest trend "paise income litigation". If not properly regulated and abuse averted it becomes also a tool in unscrupulous hands to release vendetta and wreck vengeance.

19. Having regard to the facts of the case and the statements made by the petitioner and the respondents in their respective affidavits and also the guidelines given by the Supreme Court as referred to above, we come to the following conclusion:

This petition is not bonafide and it is politically motivated. The way in which unwarranted allegations have been leveled against the State Government, the officials and the ruling political parties, it would indicate that the petitioner being a political man has filed this petition as a Public Interest Litigation out of oblique motive and oblique consideration at the instance of the vested interests, making reckless allegations besmirching the character of others without any basis. Hence, this petition is liable to be rejected at the threshold.

Even though we felt, as observed by the Supreme Court, that this is a case where exemplary costs have to be imposed on the petitioner, who tried to use this forum for oblique purpose, we deem it fit to avoid imposing such cost on the petitioner, since we hope at least in the future the petitioner, who belongs to a political party, claiming himself as the Convener of Citizen Forum, will realize his mistake and will not file any unscrupulous petitions with a view to get cheap publicity to secure the political gain. Accordingly, we warn the petitioner that he

should not misuse this forum by filing this sort of applications in future.

This writ petition is, thus, dismissed.

D.K. Sinha, J.

20. I agree.