

(2021) 09 GAU CK 0013

In the Gauhati High Court

Case No : Public Interest Litigation No. 49 Of 2021

Debia Tara

APPELLANT

Vs

State Of Arunachal Pradesh And 8 Ors

RESPONDENT

Date of Decision : 03-09-2021

Acts Referred:

Citation : (2021) 09 GAU CK 0013

Hon'ble Judges : Sudhanshu Dhulia, Cj; Manash Ranjan Pathak, J

Bench : Division Bench

Advocate : M Kato

Final Decision : Disposed Of

Judgement

The matter has been taken up today through video conferencing.

Heard Mr. S. Biswakarma, learned counsel for the petitioner. Also heard Mr. B. D. Goswami, learned Additional Advocate General, Arunachal Pradesh, appearing for respondent nos. 1 to 8 as well as Mr. D. Kamduk, learned counsel for respondent no. 8.

This writ petition has been filed by the petitioner as a Public Interest Litigation (PIL) with the following prayers:

"i. to direct the State Government to appoint an Independent Enquiry Officer by the Central Government Agencies to investigate and enquire the execution of present works and submit the report directly to this Hon'ble Court, to secure ends of justice.

ii. a direction to the Respondent Authorities to issue NIT afresh for construction of Yazali-Mengio Road to Sito via Tepi village by crossing Polyu River, as per the Technical Sanctioned of the Government, for greater interest of the general public.

iii. a direction to Respondent No. 5 to immediately stop the ongoing road

construction activities from Yazali-Mengio Road to Sito via Tepi village, in the interest of justice.

iv. a direction to the Respondent No. 5 not release the bills for execution of the said works in violation and deviation of DPR of the approved technical sanctioned of the Government, to the respondent no. 8, to secure the ends of justice.

-AND-

IN THE INTERIM, Your Lordships be further pleased to stay the ongoing construction works from Yazali-Mengio road to Sito via Tepi village, presently executing by the respondent no. 8, in the interest of justice.

-AND-

After hearing the parties, Your Lordships may pass any other order(s) or direction(s) of like nature, as Your Lordships may deem fit and proper for securing the ends of justice."

The fact of the matter, however, is that the petitioner before this court was one of the bidders who had responded to the Notice Inviting Tender (NIT) issued by the respondent authorities for construction of a road in the State of Arunachal Pradesh. As we have been informed by the learned Additional Advocate General, Arunachal Pradesh, since the petitioner could not get the contract, he filed as many as three writ petitions, being WP(C) 629(AP)/2018, WP(C) 32(AP)/2019, WP(C) 68(AP)/2019, which were dismissed. Thereafter, the petitioner preferred a writ appeal, being WA no. 140/2019 which was also eventually dismissed. Having failed in the writ proceedings and the writ appeal, the petitioner has now approached this court by filing the present writ petition in the form of PIL.

A genuine and bonafide PIL must be encouraged by all Courts but at the same time, a frivolous PIL which is being filed for extraneous reasons must be discouraged. This has been the law as laid down by the Hon'ble Apex Court in its seminal judgment, i.e. State of Uttaranchal -Vs- Balwant Singh Chauhan & Ors. reported in (2010) 3 SCC 402, wherein it gave certain guidelines, which are as follows:-

"(1) The Courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.

(2) Instead of every individual Judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy of the rules prepared by the High Court is sent to the Secretary General of this Court immediately thereafter.

(3) The Courts should prima facie verify the credentials of the petitioner before

entertaining a PIL.

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

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

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

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

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

In our view, this writ petition in the form of Public Interest Litigation is a blatant abuse of the process of law. There is no public purpose here. It is purely the commercial and business interests of the petitioner which are being advanced in the petition camouflaged as a PIL.

In view of the above, we are of the opinion that this writ petition has to be dismissed with an exemplary cost. Accordingly, we hereby direct that the petitioner shall deposit Rs. 1,00,000/- (Rupees One Lakh), as Cost, before the Registry of the Itanagar Bench of this Court, within a period of two weeks from today. In case the Cost is not deposited, the Registry of the Itanagar Bench will bring this fact to the notice of this Court immediately.

The PIL is closed in terms of the above.