
(2013) 11 JH CK 0072

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 4218 of 2013

Diwan Indranil Sinha

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 22-11-2013

Acts Referred:

Chotanagpur Tenancy Act, 1908 — Section 46

Citation : (2013) 4 JLJR 689

Hon'ble Judges : R. Banumathi, C.J;Dhirubhai Naranbhai Patel, J

Bench : Division Bench

Advocate : Rajeev Kumar, for the Appellant;

Judgement

1. This writ petition has been filed as "Public Interest Litigation" to direct Income Tax Department i.e. respondents Nos. 4 and 5 to thoroughly investigate the illegal assets/wealth amassed by respondent Nos. 9 to 14 at the cost of tax payers money by misusing their office and also invested the same in the name of respondent Nos. 12 to 14 and to direct respondent Nos. 4, 5, 6 and 7 to submit the details of progress of the investigation and also for other directions. The petitioner, who claims to be spirited person has filed this writ petition as "Public Interest Litigation" stating that the respondent Nos. 9 to 14 have amassed wealth.

2. The case of the petitioner is that respondent No. 9 has been elected as M.L.A. for Jharkhand Assembly from Jama constituency and before 2009 she was simply a house wife and only her late husband was the M.L.A. for the same constituency. According to the petitioner, respondent No. 9 has been elected as M.L.A. for the first time in 2009 and at the time of filing nomination for Jama Constituency, she has sworn in affidavit before Election Commissioner showing only some of the properties and even before 2009, the respondent No. 9 has immovable property purchased by two sale deeds and even before 2008, she was owning various immovable properties as indicated in sub-para 9 (a) to (c). That apart, respondent No. 9 has got immovable property in the form of commercial

as well as private vehicles which are hundreds in numbers and the details of the same, as allegedly owned by respondent No. 9, are stated in para-9. According to the petitioner, the respondent No. 9 possesses properties worth of 100 crores of rupees and this property has been purchased by respondent No. 11 as he has held so many posts as public servant.

3. Further case of the petitioner is that respondent No. 10 has amassed various properties in the name of his wife and respondent No. 10 has never held any public post and his only source of income was the income of respondent No. 11. According to the petitioner, respondent No. 10 has not disclosed about purchase of land in Argora P.S. at Ranchi on 9.1.2009 although he has sworn in an affidavit dated 2.1.2009 before the Election Commissioner. Respondent No. 10 has also amassed landed property. The petitioner has alleged that respondent No. 10 has amassed property worth Rupees 80 lacs and the actual value of 23 kathas of land is in crores of rupees and the actual source of income, as alleged, is to hold public posts as public servants by respondent No. 11.

4. Petitioner has also alleged that respondent No. 12 happens to be close relatives to respondent Nos. 9, 10 and 11, having held no public post, are possessing property worth not less than rupees 5000 crores and is running hotels in Cannot Place, New Delhi property worth several crores. Likewise respondent No. 13 was holding the post of clerk in Jharkhand Vidhan Sabha and due to his close proximity with respondent. No. 9, respondent No. 13 amassed various properties as indicated in para 15 of the affidavit.

5. Learned counsel for the petitioner contended that respondent Nos. 9 to 14 have amassed various properties and respondent Nos. 9 and 10 have not disclosed the property owned by them in the affidavit sworn in by them before Election Commissioner.

6. Learned counsel for the petitioner has drawn our attention to the communication sent by respondent No. 9 to the Income Tax Department. Learned counsel further submitted that even though the matter was seized up by the Income Tax Department, since respondent Nos. 9 to 11 are very influential and no action has been taken by the Income Tax Department.

7. While relying upon Vineet Narain and Others Vs. Union of India (UOI) and Another, learned counsel for the petitioner submitted that it has been consciously held by Hon"ble Supreme Court the lack of probity in public life reaching to a high degree of corruption and it also has adverse effect on public and it is the duty of the judiciary to enforce the rule of law. Learned counsel further submitted that the Court, being the protector and coordinator of the fundamental right of the citizen, has to pass such a direction to the respondent Income Tax Department, Enforcement Directorate and also Central Bureau of Investigation to investigate into this prolonged assets amassed by respondent Nos. 9 to 13 and, therefore, seeks further direction as aforesaid.

8. Taking notice for the respondent Nos. 1 to 3, learned Advocate General

submitted that this is not a "Public Interest Litigation" and nothing is "mentioned about the credential of the petitioner and the requirement as required under Jharkhand High Court Public Interest Litigation Rules, 2010 are not satisfied. He further submits that there is no bona-fide in the" Public Interest Litigation filed by the petitioner. Learned counsel further submitted that regarding purchase of property by respondent No. 10 alleging the gross violation of Section 46 of Provisions of Chotanagpur Tenancy Act, this writ petitioner had himself filed writ petition being W.P. (PIL) No. 2514 of 2011 and the same was dismissed by a Division Bench of this Court vide order dated 19.10.2013. Learned Advocate General also submitted that the same petitioner has filed another petition as "Public Interest Litigation" being W.P. (PIL) No. 579 of 2012 against the respondents allegedly for violation of Section 46(i), (ii) and (iii) of Chotanagpur Tenancy Act and the said writ petition is still pending.

9. We have considered the submissions of the learned counsel for the petitioner and the learned Advocate General.

10. In this Public Interest Litigation, the grievance of the petitioner is in two fold. One is that the respondent Nos. 9 and 10 have not disclosed the various items of immovable properties in the affidavit sworn in before the Election Commissioner for contesting the Assembly Election in 2009 i.e. those non-disclosed assets were purchased by respondent Nos. 9 and 10 by abusing the public office held by respondent No. 11. Second limb of contention is that Income Tax Department has not taken any action against the alleged assets amassed by respondent Nos. 9 to 11.

11. It is to be pointed out that the Assembly Election for the State of Jharkhand was held in the year 2009 and respondent Nos. 9 and 10 are said to have sworn in affidavit before the Election Commissioner in 2009. If the respondent Nos. 9 and 10 have not disclosed the various assets owned by them before Election Commissioner for the election held in 2009, the petitioner could have made representation before the Election Commission then and there, and immediately thereafter, the petitioner could have raised objection. But the petitioner has neither filed any representation nor approached the authorities at that point of time alleging nondisclosure of assets and he straightway approached this Court only on 12.7.2013 by which time respondent No. 10 has assumed the office of the Chief Minister of the State of Jharkhand. There is no explanation as to why the petitioner has filed this petition as "Public Interest Litigation" at this distant point of time.

12. It is pertinent to note here that the petitioner himself had filed another writ petition before this Court being W.P. (PIL) No. 579 of 2012 alleging violation of Section 46(i), (ii) and (iii) of Chotanagpur Tenancy Act and seeking for a direction to constitute a State Level High Power Committee under the Chairmanship of a retired High Court Judge.

13. The next allegation made by the petitioner is that because the respondent

Nos. 9 and 10 have not disclosed the various items of immovable properties, the petitioner contends that those properties were amassed by the respondent Nos. 9 and 10 by holding the post of Public offices by respondent No. 11. Merely because of respondent Nos. 9 and 10 have not disclosed various items of immovable properties, presumption could be drawn against the respondent Nos. 9 and 10.

14. The timing of filing of this writ petition is relevant to be noted. This petition as "Public Interest Litigation" has been filed only after respondent No. 10 has assumed the office of the Chief Minister of the State of Jharkhand. The writ petitioner, who comes to the Court for getting relief in a "Public Interest Litigation", must come not only with clean hands like any other writ petitioner but also with clean heart, clean mind and clean objects. The Court shall not allow its process to be abused for public consideration in observing that when a "Public Interest Litigation" is filed, the Court has to be careful to see whether the attack in the guise of public interest is really intended to unleash a private vendetta, personal grouse or some other male fide object. After referring to various judgments of the Supreme Court, the Hon"ble Supreme Court in the case of *Neetu Vs. State of Punjab and Others*, held as under:--

As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else, It is shocking to note that Courts are flooded with large number of so called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in large number of cases, yet mindful of the real intentions and objectives, High Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in *Dr. Duryodhan Sahu and Others Etc. Etc. Vs. Jitendra Kumar Mishra and Others Etc. Etc.*, this Court held that in service matters PILs should to be entertained, the inflow of so-called PILs involving service matters continues unabated in the Courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession: It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the Court should do well not only to dismiss the petitioners but also to impose exemplary costs. It would be desirable for the Courts to filter out the frivolous petitions and dismiss them with costs as aforesaid so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the Courts.

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 allowed to 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. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the Court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives and try to bargain for a good deal as well to enrich themselves. 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.

15. It has been held by the Hon^{ble} Supreme Court in Ashok Kumar Pandey Vs. The State of West Bengal and Others, as under:--

4. When there is material to show that a petition styled as a public interest litigation is nothing but a camouflage to foster personal disputes, said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. 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, as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of knight errant or poke ones into for a probe. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting bona fide 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. These aspects were highlighted by this Court in Kazi Lhendup Dorji Vs. Central Bureau of Investigation and Others, A writ petitioner who comes to the Court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective. See The Ramjas Foundation and Others Vs. Union of India and Others, and K.R. Srinivas Vs. R.M. Premchand and Others,

12. 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. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the Court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations. 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.

14. The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike 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, however, 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. The Court has to act ruthlessly while dealing with imposters and busy bodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of Pro Bono Publico, though they have no interest of the public or even of their own to protect.

16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that Courts are flooded with large number of so called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in large number of cases, yet unmindful of the real intentions and objectives, Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in *Dr. Duryodhan Sahu and Others Etc. Etc. Vs. Jitendra Kumar Mishra and Others Etc. Etc.*, this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the Courts and strangely are entertained.

The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the Court should do well not only to dismiss the petitioners but also to impose exemplary costs. It would be desirable for the Courts to filter out the frivolous petitions and dismiss them with costs as afore-stated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the Courts.

16. Time and again, it has been held that 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. Though the parameters of "Public Interest Litigation" have been indicated by Hon"ble Supreme Court in/large number of cases, yet unmindful of the real intention and objections, number of Public Interest Litigation are filed.

17. The petitioner has not approached the concerned authorities at the relevant point of time. The petitioner has chosen to file this Public Interest Litigation only after respondent No. 10 has assumed the Office of Chief Minister of the State of Jharkhand. We do not find any bona fide in this Public Interest Litigation filed by the writ petitioner and the writ petition is liable to be dismissed with cost. In the facts and circumstances of the case, we are of the view that there is no bona fide in the Public Interest Litigation filed by the petitioner. The writ petition is dismissed with cost of Rs. 50,000/- (fifty thousand). This amount, of course, will be deposited by the petitioner within a period of 6(six) weeks from today before the Jharkhand State Legal Services Authority, "Nyaya Sadan", Doranda, Ranchi. The Registry is hereby directed to send a copy of this order to the Member Secretary, Jharkhand State Legal Services Authority.