

(2013) 02 AHC CK 0213

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 1147 of 2013

Dr. Nutan Thakur (P.I.L.)

APPELLANT

Vs

State of UP. and Another

RESPONDENT

Date of Decision : 14-02-2013

Acts Referred:

Citation : (2013) 2 ADJ 747 : (2013) 4 ALJ 216 : (2013) 4 AWC 3681

Hon'ble Judges : Vinay Kumar Mathur, J;Uma Nath Singh, J

Bench : Division Bench

Advocate : Nutan Thakur In Person, for the Appellant;

Final Decision : Dismissed

Judgement

Uma Nath Singh, J.—This Public Interest Litigation has been filed with the following prayers:

1. To issue a writ of mandamus to direct the respondent Nos. 1 and 2 State of U.P. through Principal Secretary Home and the Director General of Police, U.P. to make a detailed re-evaluation/reassessment of all the transfers made from the rank of Station Officer/Station House Officer after the passing of the two Government orders dated 26.12.2010 (Annexure 1 and Annexure 2) and to cancel all such transfer orders which have been passed in defiance of the two Government Orders dated 26.12.2010.
2. To issue a writ of mandamus to direct the respondent Nos. 1 and 2 State of U.P. through Principal Secretary Home and the Director General of Police, U.P. to suitably punish all those officers who acted in contravention and defiance of the abovementioned two Government Orders.
3. To issue a writ of mandamus to direct the respondent Nos. 1 and 2 State of U.P. through Principal Secretary Home and the Director General of Police, U.P. to ensure at their level and through all their concerned instrumentalities that the two Government Orders dated 26.12.2010 (Annexure 1 and Annexure 2) are

followed/ complied in letter and spirit.

4. To issue a writ of mandamus to direct the respondents No. 1 and 2 State of U.P. through Principal Secretary Home and the Director General of Police, U.P. to quash the transfer order dated 6.2.2013 of Sri Navneet Rana, then S.P. Gonda and the transfer order of Sri Rajendra Prasad Singh Yadav dated 6.2.2013 who was posted as S.P. Gonda subsequently after the transfer order of Sri H.N. Singh, who was posted after Sri Navneet Rana was again cancelled being in flagrant violation of the GO dated 26.12.2010 (Annexure No. 1).

The brief facts leading to filing of this writ petition, as claimed by the petitioner, are that this Public Interest Litigation has been filed towards the compliance of orders of the Hon''ble Supreme Court dated 22.9.2006 in Writ Petition No. 310 of 1996 (Sri Prakash Singh v. Union of India and others) which are said to have been complied by the Uttar Pradesh Government vide two Orders dated 26.12.2010 issued in regard to the transfer policy of senior police officers and the officers in charge of police stations. It is alleged that the impugned order is in the blatant violation of the aforesaid Government orders. According to the petitioner, IPS and PPS officers are being posted in district police forces on regular basis in utter disregard to the Government Orders made towards compliance of the Hon''ble Supreme Court's Order in Prakash Singh's case (Supra). It is also alleged that there would be hundreds of examples where IGs of the Zones, DIGs of Range, SPs and Additional S.Ps of the districts, Circle Officers in various police circles, and officers in charge of various police stations (Station Officer (SO) and Station House Officer (SHO) are being transferred almost on daily basis. A recent example of such violation has come in the shape of Sri Navneet Rana, then Superintendent of Police, district Gonda who has been abruptly and suddenly transferred and attached to the DGP's office through the State Government's Order dated 6.2.2013 without citing and specifying any reason for this transfer and in his place firstly one Sri H.N. Singh was posted but he was called back halfway during his journey to Gonda and one Sri Rajendra Prasad Singh was posted.

2. That the petitioner has submitted that this being a PIL under Rule 1, sub rule (3A) of Chapter XXII of the Allahabad High Court Rules, 1952, it would be relevant to present some facts regarding her own credibility. According to her, without referring to her background in great detail, she can claim that she is a social activist and freelance journalist "having an urge to positively contribute to the society in all possible ways." She works primarily in the field of transparency and accountability in governance and Human Rights. The matter being presented here concerns transparency in governance which is a Constitutional issue. She has been the Editor of a Hindi daily Nutan Satta Pravah for many years. She has also written a book "Maun se Mukhar tak? which is an anthology of gender related articles in Hindi literary magazines. The petitioner also claims to have filed a large number of public interest litigation on different subjects of great public importance.

3. That the petitioner also states that under Rule 1(3A) of the Allahabad High Court Rules, by way of this writ petition, she is seeking to espouse a public cause so as to stop the prevailing practice of hurting, harming and transferring whistleblower Government servants while shielding political personalities despite serious allegations made against them.

4. That the petitioner has stated on oath that she is not filing this PIL nor has she filed any other PIL for any ulterior motive save the stated one nor has she received a single penny in this exercise. She states on oath that she has no personal or private interest in the matter and as far as she knows there is no authoritative pronouncement by the Hon"ble Supreme Court or the Hon"ble High Court on the question raised herein. She has also stated on oath that the result of the Litigation will not lead to any undue gain to her or anyone associated with her or any undue loss to any person, body of persons or to the State. She has also stated on oath that she is not related to Sri Navneet Rana in any way and if at all she is mentioning his case, it is only because of the amount of ramifications his transfer may lead to.

5. That this matter relates to the transfer policy of police officers of different ranks including the senior police officers. Learned counsel for petitioner Sri Ashok Pandey reiterated the pleadings of writ petition in the oral submission but transfer being an exigency and condition of service cannot be interfered in a public interest litigation. Besides, petitioner's husband is an I.P.S. Officer of U.P. Cadre, therefore, even though she claims to be not interested in the cause directly or indirectly, yet in the public perception, her stand may not be accepted. Hon"ble the Apex Court in the cases of (i) Seema Dhamdhare, Secretary, M.P.S.C. Vs. State of Maharashtra and Others, ; (ii) Gurpal Singh Vs. State of Punjab and Others, and (iii) Dr. Duryodhan Sahu and Others Etc. Etc. Vs. Jitendra Kumar Mishra and Others Etc. Etc., , has held that the Court should be careful and circumspect and should reject at the outset petitions involving service matters which in the guise of P.I.L are to waste the precious time of the Court. Hence, the writ petition is dismissed.