
(2020) 03 MP CK 0134

In the Madhya Pradesh High Court

Case No : Writ Petition No. 24127 Of 2019 (PIL)

Himmat Singh Tomar

APPELLANT

Vs

State Of MP And Others

RESPONDENT

Date of Decision : 17-03-2020

Acts Referred:

Citation : (2020) 03 MP CK 0134

Hon'ble Judges : Sheel Nagu, J;Rajeev Kumar Shrivastava, J

Bench : Division Bench

Advocate : P.C. Chandil, F.A. Shah

Final Decision : Dismissed

Judgement

Rajeev Kumar Shrivastava, J

1. The petitioner has filed this petition as Public Interest Litigation against illegal and arbitrary action of the respondents, whereby the respondents cancelled allotment of land bearing survey No. 886 admeasuring 0.42 hectare for construction of building of Government High School, Porsa, District Morena, which is adjacent to the existing building of Government Middle School and by the same order has allotted 0.25 hectare land of survey No. 631, which it is urged is far away from the existing Government Middle School and unsafe for the students. It is further pleaded that survey No. 631 is not a government land, rather it is private and a huge expense has already been incurred on survey No. 886, adjacent to building of existing school. Hence, the petitioner has sought for a direction for construction of Government High school building in survey No. 886.

2. Learned counsel for the petitioner has submitted that the petitioner is resident of village Nagra, Tahsil Porsa, District Morena. He is a retired army personnel. He joined Indian Army on 27. 7.1970 and after rendering 30 years service, retired from army on 1.8.2000, whereafter he is involved in social activities for upliftment of villagers of village Nagra and nearby residents.

3. In the petition, it is nowhere mentioned that how the petitioner is aggrieved directly or indirectly by such act of the respondents.

4. It is submitted in the petition that survey No. 631 is a private land but on perusal of concerned khasra (Annexure P/6) it is apparent that survey No. 631 area 0.4200 hectare is shown in the name of Guddi Devi W/o Laxman Singh, etc. In the petition itself it is mentioned that the total area of survey No.631 is 5.13 hectare, which is apparent from Annexure P/1 (para 3). That means, the land which is allotted for construction of High School is not a private land, rather it is a government land. Hence, the objection raised by the petitioner is baseless. It is the domain of the government authorities to take decision with regard to construction of school etc., which predominantly relates to policy making.

5. In a recent judgment of this Court in Gaurav Pandey vs. Union of India and others, passed in Writ Petition No. 17704/2018, decided on 26.2.2020, it is observed as under :-

"11. The traditional rule of locus standi that a person whose right is affected alone can file a petition which has been laid down by the Apex Court in various decisions. Now the Courts permit "Public Interest Litigations" at the instances of public spirited citizens for the enforcement of constitutional legal rights.

12. In the case of S.P. Gupta vs. Union of India, (AIR 1962 SC 149), the Apex Court defined the term "Public Interest Litigation" in the Indian context. Thereafter, various prisoners of Bihar Jail had filed a petition before the Supreme Court Bench headed by Hon. Justice Bhagwati which was registered as Hussainara Khatoon v. State of Bihar, (AIR 1979 SC 1369), wherein the Apex Court held that prisoners should be given benefits of free legal aid and speedy hearing.

13. In various judgments passed by the Apex Court, the issue of PIL was widely considered and PILs have achieved the place of importance in our legal system. See, Mumbai Kamgar Sangh vs. M/s Abdulbhai Faizullabhai and others [1976 (3) SCC 832]; M.C. Mehta vs. Union of India [AIR 1987 SC 965]; Parmanand Katara v. Union of India [AIR 1989 SC 2039]; Vishaka v. State of Rajasthan, [(1997) 6 SCC 241]; and, Javed v. State of Haryana, [(2003) 8 SCC 369].

14. At this juncture, it is also relevant to mention here that to avoid inappropriate use of PIL, in the light of the judgment passed by Apex Court in R & M Trust Vs. Kormangla Residents Vigilance Group, [(2005) 3 SCC 91], following basic requirements are to be seen at the time of verifying the bonafides of a person, group, organization filing PIL before the Court having jurisdiction :-

(i) Whether the petitioner is bonafide and whether he has/had filed any PIL for any other cause before any competent Court ?

(ii) Whether the petition filed sounds of bonafide ?

(iii) No petition was filed earlier for the same cause.

- (iv) No petition was earlier decided by the Court for the same cause.
- (v) Whether cause relates to poor and needy persons in general suffering from violation of their fundamental rights ?
- (vi) The petition is not filed for personal gain or private profit or political motive or oblique consideration ?
- (vii) The petition is not vexatious petition under the colour of PIL .
- (viii) The petition is not filed for vindicating any personal grievance.
- (ix) The petition is not filed with intention to to abuse process of law.
- (x) Petitioner is not a proxy of others.
- (xi) The petition is not filed for extraneous motivation or for glare of publicity."

6. In above view of the matter, at this stage filing of Public Interest Litigation by the petitioner appears to be abuse of process of law.

7. Resultantly, the instant petition being sans substance is hereby dismissed with cost of Rs.10000/- (Rupees Ten Thousand) upon the petitioner. The cost be deposited with the Registry of this Court in favour of MP SALSA within 30 days, failing which this case be listed under caption "Direction" for execution.