

(2010) 09 MAD CK 0001

In the Madras High Court

Case No : Writ Petition (MD) No. 10297 of 2010 and M.P. (MD) No. 1 of 2010

K. Susindran

APPELLANT

Vs

The Director of Elementary School and Others

RESPONDENT

Date of Decision : 21-09-2010

Acts Referred:

Citation : (2011) 2 CTC 386

Hon'ble Judges : S. Nagamuthu, J;P. Jyothimani, J

Bench : Division Bench

Advocate : V.R. Venkatesan, for the Appellant; V. Rajasekaran, Special Government Pleader for Respondent Nos. 1 to 7 and A.T. John Victor, for the Respondent

Final Decision : Dismissed

Judgement

P. Jyothimani, J.—The Concept of Public Interest Litigation, which has been an approved concept being an exception to the Rule of locus

standi, was enunciated for the first time by Justice V.R. Krishna Iyer in the judgment of the Supreme Court in The Mumbai Kamgar Sabha,

Bombay Vs. Abdulbhai Faizullabhai and Others, . It was formulated, at that time, only for the purpose of espousing the cause of general public and

rendering justice to the public unfettered by the Rule of locus standi and that principle has been subsequently followed by the Supreme Court

starting from the case in People's Union for Democratic Rights and Others Vs. Union of India (UOI) and Others, and in series of cases. After the

lapse of more than 25 years, the Apex Court was able to appreciate that this concept of Public Interest Litigation is being abused and misused very

frequently and therefore the Apex Court has heavily come down against using the judicial forum for settling the scores between individuals in the

name of redressal of public grievance.

2. It was, under those circumstances, in BALCO Employees Union (Regd.) Vs. Union of India and Others, the Supreme Court has limited the

concept of Public Interest Litigation on the basis of bona fide, imposition of exemplary costs in cases of abuse and misuse as a deterrent effect and

lastly the High Courts were directed to entertain Public Interest Litigations selectively and those principles have been followed continuously even as

on date as it was held by the Hon'ble Justice Dalveer Bhandari in the latest judgment of the Apex Court in State of Uttaranchal Vs. Balwant Singh

Chaufal and Others, wherein the Supreme Court has laid down guidelines to be followed for the purpose of entertaining public interest litigations,

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 P.I.L.

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

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

(6) The Court 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 Court 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 Petitioners filed for extraneous considerations.

It is pertinent to note that in that case, after holding that abusive method has been followed in filing the Public Interest Litigation for a personal settlement, the Supreme Court has awarded a costs of Rs. 1,00,000/-.

3. The present case is one such instance. In this case, the Petitioner has filed the Writ Petition, as a Public Interest Litigation, for a direction to the

official Respondents for taking severe action against the 8th Respondent for allegedly running a School without recognition and without complying

with the conditions imposed on him while granting approval on 29.09.2006. It is the case of the Petitioner that the 8th Respondent is running a

School in Dindigul District and according to the Petitioner, the approval granted to the said School, upto the year 2008, has not been continued

and without renewal of approval the 8th Respondent is running the School and more than 150 children are studying in the unauthorised School and

the Educational Authorities are not taking any action. It is the further case of the Petitioner that the building in which the School is being run is in a

highly dilapidated condition and in case of any eventuality, which may occur, the children who are admitted and studying in the School are the

parties going to be affected and therefore, public interest requires that severe action should be taken against the 8th Respondent. Lastly, it is the

case of the Petitioner that complaints have come from various quarters, including the residents of Sirumalai Pudhur and teachers association and

other persons and in spite of the same the School is being run by the 8th Respondent, without approval, in a building which is in a bad condition

and therefore it is the case of the Petitioner, as contended by the learned Counsel for the Petitioner vehemently, that this Court should extend its

arms to see that public interest is protected.

4. On the other hand, the Counter Affidavit filed by the 3rd Respondent, the District Elementary Educational Officer, Dindigul District, states that

while it is true that original recognition granted for the School run by the 8th Respondent has expired on 31.05.2008, the 8th Respondent has filed

an application on 18.12.2009 for extension of recognition and the same is pending consideration before the Educational Authorities. It is stated that

for the purpose of compliance of certain requirements, the Application came to be rejected with a direction to the 8th Respondent to resubmit the

proposal for extension of approval. It is further stated that on the basis of certain Complaints received regarding the School run by the 8th

Respondent, the 3rd Respondent has conducted an enquiry and submitted a report on 24.02.2010 before the 2nd Respondent stating that the

School was approved for the period from 01.06.2006 to 31.05.2008 and the renewal Application forwarded by the 4th Respondent has been

returned for compliance for rectification of defects and it is pending at that stage. It is also stated that as far as the nature of the building is

concerned, the building is in a good condition and a building licence has also been issued by the Tahsildar, Dindigul, on 14.12.2009. A reference to

the contents of the Counter Affidavit also shows that on the basis of the Complaints received in respect of the School run by the 8th Respondent,

the Educational Authorities as well as the Revenue Authorities have been repeatedly conducting various enquiries and found that there; is genuine

ground on the part of the 8th Respondent in respect of seeking renewal of recognition as well as in running the School.

5. Mr. V.R. Venkatesan, learned Counsel for the Petitioner, would submit that the 8th Respondent is acting as an undesirable element, against

whom various Complaints have been filed and they are pending. A reference to the Complaint stated to have been given by one V.K.N.

Ravindran, dated 28.04.2010, against the 8th Respondent shows that the said V.K.N. Ravindran's wife happened to be the landlady of the

building where the 8th Respondent is running the School and she has made a Complaint against the 8th Respondent as if he has acted against the

rental contract and she has insisted the 8th Respondent to vacate the building, which he has refused. It is also stated that the said Ravindran's wife

has filed a Suit in the District Munsif Court, Dindigul, in O.S. No. 155/2010, which is pending and further on the strength of the said Complaint, a

Criminal Complaint has been registered, in which the present Petitioner has been cited as an eye-witness. A reference to the said Complaint also

makes it clear that the present Petitioner is aware of all the above facts. Thus, the very contents of the Complaint itself makes it abundantly clear

that the Petitioner has personal interest in seeing that the 8th Respondent is ousted from the place where he is running the School. Further, it is seen

that the Revenue Divisional Officer has conducted an enquiry and on the basis of the said enquiry, approval has been granted in respect of the

building and its stability upto 2011 and the School, as on date, is running. Thus, the manner in which the matter is exposed before the Court, as if

the building is in a highly" dilapidated condition is not acceptable and there is absolutely nothing to come to the conclusion that the building is in a dilapidated condition.

6. In such view of the matter, we are of the considered view that filing of the present Public Interest Litigation is only to settle the scores between

the Petitioner and any other person, who is related to him or connected, against the 8th Respondent and to see that the 8th Respondent is ousted

from the place where he is presently running the School. Further, we are afraid that entertaining such a Petition under the guise of Public Interest

Litigation will only demoralise the very concept which is slated for espousing the cause of general public. Inasmuch as no public interest is involved

in this case, there is absolutely no difficulty in coming to the conclusion that filing of this Petition is nothing but an abuse of process of Court. In such

view of the matter, the Writ Petition stands dismissed with a costs of Rs. 10,000/- (Rupees ten thousand) to be paid by the Petitioner to the Chief

Justice Relief Fund before the Registry of this Bench within a period of four weeks from the date of receipt of a copy of this Order. Connected

M.P. (MD) No. 1 of 2010 is also dismissed.