

(2020) 12 P&H CK 0448

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 70 CWPIL 2020 In Civil Writ Petition No. PIL No.72 Of 2020

Labh Singh

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 04-12-2020

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120B, 148, 149, 307, 308, 323, 324, 341, 382, 452
Arms Act, 1959 — Section 25, 27

Citation : (2020) 12 P&H CK 0448

Hon'ble Judges : Ravi Shanker Jha, CJ;Arun Palli, J

Bench : Division Bench

Advocate : Lupil Gupta, Sonia Sharma

Final Decision : Dismissed

Judgement

Arun Palli, J

The matter is being taken up and heard by video conferencing owing to the prevailing Pandemic (COVID-19).

The petitioner, who purports to have approached this Court in public interest, prays for a certiorari to quash the appointment of Dilpreet Singh

(respondent No.3) as Constable in Indian Army, for, he played fraud with the authorities and secured employment by submitting forged and fabricated

documents.

In brief, the case set out in the petition is: that petitioner is an ardent Social Worker, who always voiced his concerns for a public cause/ interest. He

has been a whistleblower and has brought several incidents involving impropriety, misappropriation and activities that were against National interest to

light.

And in the present case, his concern is: recruitment to the posts of Constables in the Army was carried out, and respondent No.3 (Dilpreet Singh),

who along with others competed for selection, was appointed as such. However, upon getting to know that respondent No.3 had defrauded the

authorities and had submitted forged documents in support of his candidature, the petitioner obtained the necessary/relevant documents/certificates

under Right to Information Act, 2005 (for short, 'the Act'). And it was discovered that respondent No.3 had passed 8th standard from Punjab

School Education Board (for short, 'the Board') in the year 2006 and in his Result Card (Annexure P1) his name is mentioned as Dilpreet Singh

and the name of his parents as Gurdeep Singh and Kuldeep Kaur, and his date of birth is recorded as 21.11.1991. In 2008, he appeared in the

matriculation examination but notification (Annexure P2) shows that he could not qualify the exam and had obtained a 'Reappear'. However,

later he got admission in B.H.S. Senior Secondary School, Barnala and fraudulently obtained a matriculation certificate (Annexure P-3) from the

Board in the year 2014. And, surprisingly, in the said certificate his name is recorded as Gagandeep son of Gurdeep Singh. Though his actual name is

Dilpreet Singh, which is evident even from the Voters' List of village Jawaharke, Tehsil and District Mansa, for the year 2017 (Annexure P-4).

Not just that, he obtained Aadhar Card in the name of Gagandeep Singh son of Gurdeep Singh and in the said document his date of birth is recorded

as 18.11.1997. Actually, respondent No.3 was over age at the time of recruitment and did not even possess the requisite qualification. Thus, he

obtained appointment in the Indian Army on the basis of forged documents/certificates and was liable to be prosecuted. Even though, the petitioner

had complained against respondent No.3 to the Army authorities, vide complaint dated 04.05.2019 (Annexure P-6), but to no avail.

We have heard learned counsel for the petitioner and perused the records.

In terms of Clause 2 of Maintainability of Public Interest Litigation Rules, 2010 (for short, '2010 Rules'), no Public Interest Litigation is to be

entertained by the Registry unless the petitioner(s) has specifically disclosed his credentials and his direct or indirect personal motive or interest

involved in the case, if any, by way of an affidavit. The expression 'specifically

disclosed his credentials? was construed and interpreted by the Division Bench of this Court in Ajaib Singh and Anr. V. The State of Punjab and Ors., 2013(4) PLR 367:

“The expression ‘specifically disclosed his credentials’ must, naturally, imply that he has to set forth what he does for his living, what public interest he has been espousing, the work done by him in that behalf, the particulars of any matter preferred by him as PIL earlier on which the Court has passed orders, etc. It cannot imply merely writing a sentence that a person is residing in the State, is public-spirited and is, thus, filing a PIL.”

What is the position in the matter at hands? The petitioner, who is an Electrician, purports to be a Social activist and a public-spirited person. He claims to have always stood for a public cause and against activities that were against National interest. However, the petition sans any such instance(s) or initiatives taken by the petitioner. Significantly, the petition does not even contain any details of his works and contribution for public good either to lend credence to his locus to maintain this petition. On the contrary, the petitioner is involved in five criminal matters bearing (i) FIR No.3, dated 05.01.2019, U/s 382, 120-B IPC, 1860, P.S. Jhunir, District Mansa; (ii) FIR No.4, dated 05.01.2019, U/s 307, 34 IPC, 1860 and U/s 25/27 of Arms Act, P.S. Jhunir, District Mansa; (iii) FIR No.29, dated 19.04.2018, U/s 308, 452, 323, 148, 149 IPC, 1860, P.S. Boha, District Mansa; (iv) FIR No.33, dated 07.04.2018, U/s 341, 324, 323, 34 IPC, 1860 and U/s 25/27 of Arms Act, 1959, P.S. Jhunir, District Mansa; and (v) FIR No.128, dated 11.10.2018, U/s 341, 323, 427, 34 IPC, 1860, P.S. Jhunir, District Mansa.

Adverting to the merits, the specific case set out by him is that he had knowledge about the fraudulent recruitment of respondent No.3, whereupon he obtained copies of Aadhar card, Voters list and his certificates under the Act. However, nothing is stated as to how and from whom he derived knowledge regarding appointment of respondent No.3 as also the fraud he alleged to have played with the authorities. Likewise, nothing is placed on record to show that petitioner himself, in pursuit of his social activism and being a public-spirited person, applied and obtained these documents in adherence to the procedure stipulated under the Act. Further, what forms basis of the claim of the petitioner is that actual name of respondent No.3 is Dilpreet Singh and in terms of the certificates (Annexures P1 & P2), his date of

birth is 21.11.1991, whereas in the Aadhar card (Annexure P-5) his name is mentioned as Gagandeep Singh and his date of birth is recorded as 18.11.1997. However, an analysis of the document Annexure P-5 reveals that it actually is the Aadhar card of the petitioner himself and contains his name, particulars and address. The records show that petitioner is a resident of village Jhunir, whereas respondent No.3 is shown to be the resident of village Jawaherke. Both these villages appear to be in close proximity, for, these are situated in the same district (Mansa). Thus, in the absence of any conclusive material to the contrary, we are constrained to presume that petitioner is a set up. The petition is sponsored which has been filed for an oblique purpose and motive to settle a personal vendetta. In terms of 2010 Rules, ordinarily the PIL is entertained on any subject of vital public importance as stipulated in Clause 6 of the Rules. But as demonstrated above, public interest appears to be the only casualty in the matter. At this juncture, we are also reminded to refer to the observations recorded by the Supreme Court in *Ashok Kumar Pandey v. State of W.B.*, (2004)3

SCC 349 (para 16):

“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 a large number of so-called public interest litigations, whereas only 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 a large number of cases, yet unmindful of the real intentions and objectives, courts at times are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases.”

Likewise in *Duryodhan Sahu (Dr) v. Jitendra Kumar Mishra*, (1998) 7 SCC 273, it was observed:

“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. Apart from the sinister manner, if any, of getting such

copies, the real brain or force behind such cases would get exposed to find out whether it was a bona fide venture. Whenever such frivolous pleas are

taken to explain possession, the court should do well not only to dismiss the petitions but also to impose exemplary costs, as it prima facie gives

impression about oblique motives involved, and in most cases shows proxy litigation. Where the petitioner has not even a remote link with the issues

involved, it becomes imperative for the court to lift the veil and uncover the real purpose of the petition and the real person behind it. It would be

desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforestated so that the message goes in the right direction

that petitions filed with oblique motive do not have the approval of the courts.

In the wake of the above, we are dissuaded to entertain this petition at the behest of the petitioner, for it lacks bonafides and does not involve a subject

of vital public importance so to say.

Dismissed.

Needless to assert that this order shall not constitute any expression of opinion concerning the candidature of respondent No.3 and his

appointment/recruitment in the Armed Forces, for we have not examined the matter on merits.