

(2014) 11 MP CK 0023

In the Madhya Pradesh High Court

Case No : Writ Petition No. 4358/2014 (PIL)

Madhya Pradesh Rajya Karmchari Sangh

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 07-11-2014

Acts Referred:

Constitution of India, 1950 — Article 21

Madhya Pradesh Lokayukt Evam Up-Lokayukt Adhiniyam, 1981 — Section 9

Citation : (2014) 11 MP CK 0023

Hon'ble Judges : S.K. Gangele, J; Rohit Arya, J

Bench : Division Bench

Advocate : Jitendra Sharma, Advocate for the Appellant; Praveen Newaskar, Government Advocate, Kunal Suryavanshi, J.P. Mishra and P.D. Bidua, Advocate for the Respondent

Judgement

1. This writ petition labelled as Public Interest Litigation is at the instance of a retired Municipal Corporation's employee styling himself to be the Secretary of a union claiming to be recognized by the State of Madhya Pradesh.

2. Neither there is any certificate of registration of the aforesaid union with the Registrar, Trade Union, nor approved list of office bearers, wherein the petitioner is shown to be the Secretary of the union, nor there is any resolution of the union authorizing the petitioner to file the instant petition as a Public Interest Litigation. As such, the credentials of the petitioner are doubtful.

3. By this petition direction is sought from this Court that an enquiry being conducted by the Commissioner of the Municipal Corporation, Gwalior pursuant to the letter issued from the office of Chief Secretary, Bhopal dated 27/12/2013, Annexure P/5, against respondent no. 5 serving as in-charge Office Superintendent and Assistant Accounts Officer in the Municipal Corporation, Gwalior, be withdrawn and indulgence of this Court is sought firstly that respondent no. 6 serving on the aforesaid post and allegedly involved in serious financial irregularities, therefore, should be removed from the office held by him

in Municipal Corporation, Gwalior and further direction to respondents no. 1 and 2 to appoint an authority not below the rank of Deputy Secretary, Urban Administration Department, to enquire into the allegations against respondent no. 6. Further relief is sought that the Lokayukt Sangathan be directed to register a case against the culprits on the complaint made by the petitioner.

4. Before addressing upon the aforesaid reliefs sought by the petitioner, it is considered apposite to refer to certain decisions of the Hon''ble Supreme Court dealing with the meaning, scope, concepts of Public Interest Litigation and extent, limit and scope of jurisdiction of the Constitutional Courts while dealing with the Public Interest Litigation in general as well as in particular in the context of the subject matter of this petition.

5. In the case of Dr. B. Singh Vs. Union of India (UOI) and Others, the Hon''ble Supreme Court has held as under:-

"5. It is necessary to take note of the meaning of the expression "public interest litigation". In Stroud's Judicial Dictionary, Vol. 4 (4th Edn.), "public interest" is defined thus:

"Public interest.—(1) A matter of public or general interest 'does not mean that which is interesting as gratifying curiosity or a love of information or amusement; but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected'."

6. In Black's Law Dictionary (6th Edn.), "public interest" is defined as follows:

"Public interest.—Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interests of the particular localities, which may be affected by the matters in question. Interest shared by citizens generally in affairs of local, State or national Government."

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 armoury 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, courts 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 busybodies 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; and (c) the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike a 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 motives, 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 busybodies 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 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. Though in *Duryodhan Sahu (Dr) v. Jitendra Kumar Mishra*⁸ this Court held that in service matters PILs should not be entertained, the inflow of the 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. This tendency is being slowly permitted to percolate for setting in motion criminal law jurisdiction, often unjustifiably just for gaining publicity and giving adverse publicity to their opponents. 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.

17. In *S.P. Gupta v. Union of India*⁹ it was emphatically pointed out that the relaxation of the rule of locus standi in the field of PIL does not give any right to a busybody or meddlesome interloper to approach the court under the guise of a public interest litigant. The following note of caution was given: (SCC p.219, para 24)

"24. But we must be careful to see that the member of the public, who approaches the court in cases of this kind, is acting bona fide and not for personal gain or private profit or political motivation or other oblique consideration. The court must not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain a political objective."

19. Khalid, J. in his separate supplementing judgment in *Sachidanand Pandey v. State of W.B.*¹¹ (SCC at p. 331) said:

"Today public-spirited litigants rush to courts to file cases in profusion under this attractive name. They must inspire confidence in courts and among the public. They must be above suspicion. (SCC p.331, para 46)

* * *

Public interest litigation has now come to stay. But one is led to think that it poses a threat to courts and public alike. Such cases are now filed without any rhyme or reason. It is, therefore, necessary to lay down clear guidelines and to outline the correct parameters for entertainment of such petitions. If courts do not restrict the free flow of such cases in the name of public interest litigations, the traditional litigation will suffer and the courts of law, instead of dispensing justice, will have to take upon themselves administrative and executive functions. (SCC p.334, para 59)

* * *

I will be second to none in extending help when such help is required. But this does not mean that the doors of this Court are always open for anyone to walk in. It is necessary to have some self-imposed restraint on public interest litigants. (SCC p. 335, para 61)"

6. The aforesaid judgment has been succinctly followed in subsequent decisions viz. *Gurpal Singh Vs. State of Punjab and Others*, and *Neetu Vs. State of Punjab*

and Others, . It is a settled law that in service matters, Public Interest Litigation is held to be not maintainable: Dr. Duryodhan Sahu and Others Etc. Etc. Vs. Jitendra Kumar Mishra and Others Etc. Etc., followed in Bholanath Mukherjee and Others Vs. R.K. Mission V. Centenary College and Others, and the same has been approved in Central Electricity Supply Utility of Odisha Vs. Dhobei Sahoo and Others, , which reads as under:-

"29. In Bholanath Mukherjee v. Ramakrishna Mission Vivekananda Centenary College it has been laid down that public interest litigation would not be maintainable in service law cases.

30. In Duryodhan Sahu a three-Judge Bench posed a question whether the Administrative Tribunals constituted under the Administrative Tribunals Act, 1985 can entertain a public interest litigation. A post of Lecturer was created in a government medical college recognised by the Medical Council of India and the State Government requested the Public Service Commission to recommend a suitable candidate from the reserved list. At that stage, a third party described himself as the Secretary of a particular Surakhya Committee and filed an original application for quashing the government order creating the post of the teacher. A grievance was also put forth that the post was not advertised. The Tribunal restrained the appointment of the beneficiary, the appellant before this Court. The learned Judges opined that the Administrative Tribunal constituted under the said Act cannot entertain a public interest litigation at the instance of a total stranger. While so stating the three-Judge Bench opined that as the prayer was for quashment of the creation of post itself and preventing the authorities and for preventing the Government from appointing any candidate as Lecturer, the prayer would not come in the sphere of quo warranto.

31. Thus, from the aforesaid authorities it is quite vivid that the public interest litigation was initially evolved as a tool to take care of the fundamental rights under Article 21 of the Constitution of the marginalised sections of the society who because of their poverty and illiteracy could not approach the court. In quintessence it was initially evolved to benefit the have-nots and the handicapped for protection of their basic human rights and to see that the authorities carry out their constitutional obligations towards the marginalised sections of people who cannot stand up on their own and come to court to put forth their grievances. Thereafter, there have been various phases as has been stated in Balwant Singh Chaufal. It is also perceptible that the Court has taken note of the fact how the public interest litigations have been misutilised to vindicate vested interests for the propagated public interest. In fact, as has been seen, even the people who are in service for their seniority and promotion have preferred public interest litigations. It has also come to the notice of this Court that some persons, who describe themselves as pro bono publico, have approached the Court challenging grant of promotion, fixation of seniority, etc. in respect of third parties."

7. In the case of Kalyaneshwari Vs. Union of India (UOI) and Others, the Hon''ble

Supreme Court observed as under:-

"39. Every litigant, who approaches the Court, owes a duty to approach the Court with clean hands and disclose complete facts. A petition which lacks bona fides and is intended to settle business rivalry or is aimed at taking over of a company or augmenting the business of another interested company at the cost of closing business of other units in the garb of PIL would be nothing but abuse of the process of law.

41. In *Ashok Kumar Pandey v. State of W.B.* this Court took a cautious approach while entertaining public interest litigations and held that public interest litigation is a weapon, which has to be used with great care and circumspection. The judiciary has to be extremely careful to see that no ugly private malice, vested interest and/or seeking publicity lurks behind the beautiful veil of public interest. It is to be used as an effective weapon in the armoury of law for delivering social justice to citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief.

42. In *Rajiv Ranjan Singh 'Lalan' (8) v. Union of India*, this Court reiterated the principle and even held that howsoever genuine a case brought before a court by a public interest litigant may be, the court has to decline its examination at the behest of a person who, in fact, is not a public interest litigant and whose bona fides and credentials are in doubt; no trust can be placed by the court on a mala fide applicant in a public interest litigation.

43. The courts, while exercising jurisdiction and deciding a public interest litigation, have to take great care, primarily, for the reason that wide jurisdiction should not become a source of abuse of process of law by the disgruntled litigant. Such careful exercise is also necessary to ensure that the litigation is genuine, not motivated by extraneous considerations and imposes an obligation upon the litigant to disclose true facts and approach the Court with clean hands. Thus, it is imperative that the petitions, which are bona fide and in public interest alone, be entertained in this category. Abuse of process of law is essentially opposed to any public interest. One who abuses the process of law, cannot be said to serve any public interest, much less, a larger public interest. In the name of the poor let the rich litigant not achieve their end of becoming richer by instituting such set of petitions to ban such activities."

8. In view of the aforesaid enunciation of law as regards nature, extent, limit and scope of interference in the matters filed with the label of Public Interest Litigation, now if we examine the facts of this petition, it appears that the petitioner; a retired employee, having no other engagement in his social life, therefore, has flocked to this Court, which in his wisdom is a place with protected environment for ease and amusement through this novel method of filing Public Interest Litigation. It is further found that no public interest is involved in this petition, which can be said to be of the interest of community of people at large.

9. Public Interest Litigations are in fact meant for the enforcement of any right of

such class of people, who are socially economically prevented from knocking the doors of justice and suffer wrath of deprivation and indignation.

10. The purpose of filing this petition appears to be only to create repel and satisfy the fancy of the petitioner, who otherwise appears to have an unnoticed social life. Once an enquiry has already been ordered from the office of Chief Secretary, Annexure P/5, and thereafter enquiry is being conducted by the Commissioner, Municipal Corporation, Gwalior, which as per the counsel for respondent/Corporation, shall be completed within six months, this Court finds no justification to interfere in the same at the instance of the petitioner; who we hold to be a busy body. There is nothing on record to suggest that any illegality has been committed in the matter of enquiry being conducted by the Commissioner. That apart, another fanciful relief of a direction to the Lokayukt Sangathan to register a complaint is also worth-rejection, as Section 9 of the M.P. Lokayukt Evam Up-Lokayukt Adhiniyam, 1981 itself provides complete machinery in the matter of filing of complaint and processing thereof. Instead of even noticing the aforesaid Act much less reading, the petitioner has filed this petition for the aforesaid direction. The petition is misconceived. Court's valuable time has been wasted, since the time the petition is pending consideration. Therefore, the writ petition is dismissed.