

(2013) 05 RAJ CK 0011

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1757 of 2013

Narayan Singh and Others

APPELLANT

Vs

JVVNL and Others

RESPONDENT

Date of Decision : 13-05-2013

Acts Referred:

Citation : (2013) 3 WLN 253

Hon'ble Judges : Amitava Roy, C.J;P.K. Lohra, J

Bench : Division Bench

Advocate : P.S. Bhati, for the Appellant; Ravi Bhansali, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Lohra, J.—Imploring annulment of the impugned order/direction dt. 17.06.2011 (Annex. 4), the petitioners have laid this writ petition under the caption "Public Interest Litigation". The facts apposite are that the respondents with a view to ensure uninterrupted electricity supply to village Kartiya, Tehsil Shedva, District Banner, decided to construct Grid Sub Station (for short, "GSS") of 33/11 KV S/S at village Kartiya. As per version of the petitioners, at the behest of respondent authorities, a request was made to Gram Panchayat for providing appropriate land for the said purpose and thereupon the Gram Panchayat set apart land measuring 4 bigha from Khasra No. 503/15 for construction of Sub Station at village Kartiya. After setting-apart of the land for the purpose of setting up Sub Station at village Kartiya, requisite administrative and technical clearance for construction of 33/11 KV S/S at the village was also accorded. The petitioners have also stated in the writ petition that requisite statement, diagram and map for the said construction were also prepared. While advertng to their afflictions, the petitioners have averred in the petition that the respondents instead of utilizing the land, set apart by the Gram Panchayat for construction of Sub Station, have requisitioned land of one Deepa Mod Kumbha measuring 2 bigha situated in Khasra No. 584/319 of village Dholkiya. The action was initiated by the respondents because Deepa Mod had volunteered to

surrender his land and accordingly the proceedings were initiated by Halka Patwari. The petitioners were perplexed by this sort of decision of the respondents, and therefore, a representation was submitted before the first respondent. The said representation was further followed by a notice for demand of justice dt. 3rd of November 2012. Buttressing their grievances in the petition, the petitioners have categorically stated in the petition that at the threshold the construction of Sub Station was proposed at village Kartiya, subsequently the site for the same was shifted to village Dholkiya with a view to deprive uninterrupted electricity supply to residents of village Kartiya. For voicing their grievance, the petitioners have also annexed many documents with the petition.

2. On behalf of the respondents, reply to the writ petition is submitted and the averments contained in the writ petition are refuted. The respondents with their counter affidavit have placed on record Annex. R/1, single line diagram showing the location of the proposed Sub Station. From single line diagram Annex. R/1, it is amply clear that the proposed construction of Sub Station is at village Kartiya. Along with the reply, the respondents have also placed on record the administrative and technical clearance accorded by the competent authority on 21st of March 2012 which was founded on single line diagram. In the return, the respondents have submitted that based upon administrative and technical clearance, the technical sanction of estimate for construction of 33/11 KV Sub Station at village Kartiya under Sub Division Dhorimanna was given by the competent authority. The technical sanction dt. 10th May 2012 was also annexed with the reply. Responding to the alleged grievance of the petitioners that shifting of Sub Station from village Kartiya to Dholkiya to the detriment of the resident of village Kartiya, the respondents in their reply have clarified that the revenue village Dholkiya was in fact created from original village Kartiya and the same is still within the jurisdiction of Gram Panchayat Kartiya. For substantiating this positive assertion, certificate issued by the concerned Patwari is also annexed with the reply. Defending their action of construction of Sub Station at village Dholkiya, the respondents have mentioned in the reply with clarity and precision that construction of a Sub Station is required to be made at a place which is technically feasible and suitable causing minimum transmission loss and yielding optimum voltage with the sole object of serving the public at large of the area. The respondents have further emphasized that decision of construction of Sub Station cannot be taken at the whims of public, nor on political considerations and such decision is always based upon technical reasons.

3. We have heard the learned counsel for the rival parties and perused the materials on record.

4. From a bare perusal of the writ petition and reply thereto, it is crystal clear that apprehension of the petitioners is apparently misplaced. The decision to construct Sub Station at village Dholkiya, which is a part of Gram Panchayat Kartiya, is an objective decision of the technical experts for catering the needs of public at large of the rural area. On the strength of reply to the writ petition, it is

clearly apparent that the respondents have taken a decision to construct Sub Station at village Dholkiya after administrative and technical clearance and considering technical feasibility for setting up of a Sub Station. The decision of the respondents is based on technical reasons which cannot be faulted in the given circumstances. One more redeeming fact is that village Dholkiya is within the area of Gram Panchayat Kartiya and consequently the alleged grievance of the petitioners is per-se hypothetical. In our considered view, no public interest is involved in the matter and on the face of it the petition appears to be in the form of adversary litigation.

5. The Hon''ble Apex Court in many authoritative pronouncements has deprecated the practice of person or body of persons to satisfy him, or his personal grudge or enmity in the guise of PIL. While discussing elaborately, in case of Janata Dal Vs. H.S. Chowdhary and Others, the Hon''ble Apex Court has made following observations in Para 109 and 110.

109. It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the Court for vindicating any personal grievance, deserves rejection at the threshold.

110. It is depressing to note that on account of such trumpery proceedings initiated before the Courts, innumerable days are wasted which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we are second to none in fostering and developing the newly invented concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from the undue delay in service matters, Government or private persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorised collection of tax amounts are locked up, detenus expecting their release from the detention orders etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either for themselves or as proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffling their faces by wearing the mask of public interest litigation, and get into the Courts by filing vexatious and frivolous

petitions and thus criminally waste the valuable time of the Courts and as a result of which the queue standing outside the doors of the Court never moves which piquant situation creates a frustration in the minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system.

6. Applying the ratio decidendi and the elaborate guidelines propounded by the Hon"ble Apex Court, we are convinced that petitioners are liable to be non-suited in their pursuit of this proxy litigation. Consequently, there is no merit in this PIL and the same is accordingly dismissed.