
(2014) 04 AHC CK 0056
In the Allahabad High Court
Case No : Misc. Bench No. 2967 of 2014

Nutan Thakur

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 11-04-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 32

Citation : (2014) 4 ALJ 275 : (2014) 104 ALR 399

Hon'ble Judges : Sunil Ambwani, J;Devendra Kumar Upadhyaya, J

Bench : Division Bench

Advocate : Alok Mathur, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Sunil Ambwani and Devendra Kumar Upadhyaya, JJ.—We have heard Dr. Nutan Thakur, the petitioner appearing in person in this public interest litigation. Sri Alok Mathur appears for respondents. By this writ petition, filed in public interest, Dr. Nutan Thakur, appearing in person, has challenged the validity of the Special Protection Group Act 1988, enacted for the constitution and regulation of an armed force of the Union for providing proximate security to the Prime Minister of India and former Prime Minister of India and members of their immediate families and for matters connected therewith.

2. It is alleged that providing security under the Special Protection Group Act to the Prime Minister, former Prime Ministers and their immediate family members is discriminatory as it provides for protection to a limited set of people, in all circumstances whether they actually need or deserve such protection or not; it is thus prima facie ultra vires to Article 14 of the Constitution of India. The Central Government is required to follow a policy where security needs of Prime Ministers, Ex-Prime Ministers and their family members is evaluated on a case to case basis through any prescribed method. There are large number of persons who are important to the country and are holding constitutional posts. They also require similar protection.

3. We find that the writ petition is entirely baseless, and has been filed with an oblique purpose for seeking publicity. The petitioner does not appear to have the locus and understanding of the importance of security which is required to be provided to the Prime Minister, former Prime Ministers and their family members. After assassination of the former Prime Ministers of the country, the Special Security Group Act was enacted, to protect the highest public executive functionary of the country from threats extended by terrorist organizations. The importance of this Act cannot be overstated. The Act itself provides in the proviso to section 4(1) and section 4(1-A) of the assessment of level of threat periodically for continuing the security and the guidelines for such assessment. We thus find the challenge of the Act, as ultra vires to Article 14 of the Constitution of India, is entirely baseless and frivolous.

4. We are informed, and are confirmed by Dr. Nutan Thakur the petitioner appearing in person that she has filed about 140 writ petitions under the category of public interest litigation. She appears in Court almost every day, for these matters. She has become a self-styled P.I.L. specialist, and her name regularly appears in news papers. Some of the writ petitions filed by the petitioner have been entertained by this Court. Even her husband, a serving I.P.S. Officer of I.G. rank indulges in filing writ petitions in public interest numbering more than 20 up to the beginning of this month. Together the petitioner and husband have filed 160 writ petitions in purported public interest matters in last three to four years.

5. The Registry has supplied a list of 86 cases, which have been filed by the petitioner Dr. Nutan Thakur in person, in which she is the first petitioner, which is extracted as under:

6. In *State of Uttaranchal Vs. Balwant Singh Chauhal and Others*, the Supreme Court, after considering the evolution of public interest litigation in India and laying down its importance, expressed a note of caution about its abuse. The Supreme Court held in paragraphs 161 to 188 as follows:

161. Unfortunately, of late, it has been noticed that such an important jurisdiction which has been carefully carved out, created and nurtured with great care and caution by the courts, is being blatantly abused by filing some petitions with oblique motives. We think time has come when genuine and bona fide public interest litigation must be encouraged whereas frivolous public interest litigation should be discouraged.

162. In our considered opinion, we have to protect and preserve this important jurisdiction in the larger interest of the people of this country but we must take effective steps to prevent and cure its abuse on the basis of monetary and non-monetary directions by the Courts.

163. In *BALCO Employees Union (Regd.) Vs. Union of India and Others*, this Court recognized that there have been, in recent times, increasing instances of abuse of public interest litigation. Accordingly, the Court has devised a number of

strategies to ensure that the attractive brand name of public interest litigation should not be allowed to be used for suspicious products of mischief. Firstly, the Supreme Court has limited standing in P.I.L. to individuals "acting bona fide." Secondly, the Supreme Court has sanctioned the imposition of "exemplary costs" as a deterrent against frivolous and vexatious public interest litigations. Thirdly, the Supreme Court has instructed the High Courts to be more selective in entertaining the public interest litigations.

164. In *S. P. Gupta's case* (supra), this Court has found that this liberal standard makes it critical to limit standing to individuals "acting bona fide. To avoid entertaining frivolous and vexatious petitions under the guise of P.I.L., the Court has excluded two groups of persons from obtaining standing in P.I.L. petitions. First, the Supreme Court has rejected awarding standing to "meddlesome interlopers". Second, the Court has denied standing to interveners"" bringing public interest litigation for personal gain.

165. In *Chhetriya Pardushan Mukti Sangharsh Samiti* (supra), the Court withheld standing from the applicant on grounds that the applicant brought the suit motivated by enmity between the parties. Thus, the Supreme Court has attempted to create a body of jurisprudence that accords broad enough standing to admit genuine P.I.L. petitions, but nonetheless limits standing to thwart frivolous and vexations petitions.

166. The Supreme Court broadly tried to curtail the frivolous public interest litigation petitions by two methods-one monetary and second, non-monetary. The first category of cases is that where the Court on filing frivolous public interest litigation petitions, dismissed the petitions with exemplary costs. In *Neetu Vs. State of Punjab and Others*, , the Court concluded that it is necessary to impose exemplary costs to ensure that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the Courts.

167. In *S.P. Anand Vs. H.D. Deve Gowda and others*, , the Court warned that it is of utmost importance that those who invoke the jurisdiction of this Court seeking a waiver of the locus standi rule must exercise restraint in moving the Court by not plunging in areas wherein they are not well-versed.

168. In *Sanjeev Bhatnagar Vs. Union of India (UOI) and Others*, ., this Court went a step further by imposing a monetary penalty against an Advocate for filing a frivolous and vexatious P.I.L. petition. The Court found that the petition was devoid of public interest, and instead labelled it as "publicity interest litigation." Thus, the Court dismissed the petition with costs of Rs. 10,000/-.

169. Similarly, in *Dattaraj Nathuji Thaware Vs. State of Maharashtra and Others*, , the Supreme Court affirmed the High Court's monetary penalty against a member of the Bar for filing a frivolous and vexatious P.I.L. petition. This Court found that the petition was nothing but a camouflage to foster personal dispute. Observing that no one should be permitted to bring disgrace to the noble profession, the Court concluded that the imposition of the penalty of Rs. 25,000

by the High Court was appropriate. Evidently, the Supreme Court has set clear precedent validating the imposition of monetary penalties against frivolous and vexatious P.I.L. petitions, especially when filed by Advocates.

170. This Court, in the second category of cases, even passed harsher orders. In *Charan Lal Sahu and Others Vs. Giani Zail Singh and Another*, , the Supreme Court observed that, "we would have been justified in passing a heavy order of costs against the two petitioners" for filing a "light-hearted and indifferent" P.I.L. petition. However, to prevent "nipping in the bud a well-founded claim on a future occasion," the Court opted against imposing monetary costs on the petitioners." In this case, this Court concluded that the petition was careless, meaningless, clumsy and against public interest. Therefore, the Court ordered the Registry to initiate prosecution proceedings against the petitioner under the Contempt of Courts Act. Additionally, the Court forbade the Registry from entertaining any future P.I.L. petitions filed by the petitioner, who was an advocate in this case.

171. In *J. Jayalalitha Vs. Government of Tamil Nadu and Others*, , this Court laid down that public interest litigation can be filed by any person challenging the misuse or improper use of any public property including the political party in power for the reason that interest of individuals cannot be placed above or preferred to a larger public interest.

172. This Court has been quite conscious that the forum of this Court should not be abused by any one for personal gain or for any oblique motive.

173. In *B.A.L.C.O. (supra)*, this court held that the jurisdiction is being abused by unscrupulous persons for their personal gain. Therefore, the Court must take care that the forum be not abused by any person for personal gain.

174. In *Dattaraj Nathuji Thaware (supra)*, this court expressed its anguish on misuse of the forum of the Court under the garb of public interest litigation and observed that the 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 Court must not allow its process to be abused for oblique considerations.

175. In *Thaware's case (supra)*, the Court encouraged the imposition of a non-monetary penalty against a P.I.L. petition filed by a member of the Bar. The Court directed the Bar Councils and Bar Associations to ensure that no member of the Bar becomes party as petitioner or in aiding and/or abetting files frivolous petitions carrying the attractive brand name of Public Interest Litigation. This direction impels the Bar Councils and Bar Associations to disbar members found guilty of filing frivolous and vexatious P.I.L. petitions.

176. In *Holicow Pictures Pvt. Ltd. Vs. Prem Chandra Mishra and Others*, , this Court observed as under:

It is depressing to note that on account of such trumped up proceedings initiated before the Courts, innumerable days are wasted, the time which otherwise could have been spent for disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of P.I.L. 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, un-represented 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 undue delay in service matters-Government or private, persons awaiting the disposal of cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenu 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 busy bodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffing 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 Courts never moves, which piquant situation creates frustration in the minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system.

The Court cautioned by observing that:

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 armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not 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.

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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; (c) the information being not vague and indefinite. The information should show gravity

and seriousness involved. Court has to strike 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.

177. The malice of frivolous and vexatious petitions did not originate in India. The jurisprudence developed by the Indian judiciary regarding the imposition of exemplary costs upon frivolous and vexatious P.I.L. petitions is consistent with jurisprudence developed in other countries. U.S. Federal Courts and Canadian Courts have also imposed monetary penalties upon public interest claims regarded as frivolous. The Courts also imposed non-monetary penalties upon Advocates for filing frivolous claims. In *Everywoman's Health Centre Society v. Bridges* 54 BCLR (2nd Edn.) 294, the British Columbia Court of Appeal granted special costs against the appellants for bringing a meritless appeal.

178. U.S. Federal Courts too have imposed monetary penalties against" plaintiffs for bringing frivolous public interest claims. Rule 11 of the Federal Rules of Civil Procedure ("F.R.C.P.") permits Courts to apply an "appropriate sanction" on any party for filing frivolous claims. Federal Courts have relied on this rule to impose monetary penalties upon frivolous public interest claims. For example, in *Harris v. Marsh* 679 F.Supp 1204 (EDNC 1987), the District Court for the Eastern District of North Carolina imposed a monetary sanction upon two civil rights plaintiffs for bringing a frivolous, vexatious, and meritless employment discrimination claim. The Court explained that "the increasingly crowded dockets of the Federal Courts cannot accept or tolerate the heavy burden posed by factually baseless and claims that drain judicial resources." As a deterrent against such wasteful claims, the Court levied a cost of \$83,913.62 upon two individual civil rights plaintiffs and their legal Counsel for abusing the judicial process. Case law in Canadian Courts and U.S. Federal Courts exhibits that the imposition of monetary penalties upon frivolous public interest claims is not unique to Indian jurisprudence.

179. Additionally, U.S. Federal Courts have imposed non-monetary penalties upon Attorneys for bringing frivolous claims. Federal rules and case law leave the door open for such non-monetary penalties to be applied equally in private claims and public interest claims. Rule 11 of the F.R.C.P.: additionally permits Courts to apply an "appropriate sanction" on Attorneys for filing frivolous claims on behalf of their clients. U.S. Federal Courts have imposed non-monetary

sanctions upon Attorneys for bringing frivolous claims under Rule 11.

180. In *Frye v. Pena* 199 F.3d 1332 (Table), 1999 WL 974170, for example, the United States Court of Appeals for the Ninth Circuit affirmed the District Court's order to disbar an Attorney for having "brought and pressed frivolous claims, made personal attacks on various Government officials in bad faith and for the purpose of harassment, and demonstrated a lack of candor to, and contempt for, the court." This judicial stance endorses the ethical obligation embodied in Rule 3.1 of the Model Rules of Professional Conduct ("M.R.P.C."): a lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous." Together, the F.R.C.P., U.S. federal case law, and the M.R.P.C. endorse the imposition of non-monetary penalties upon attorneys for bringing frivolous private claims or public interest claims.

181. In *Bar Council of Maharashtra* (supra) this Court was apprehensive that by widening the legal standing there may be flood of litigation but loosening the definition is also essential in the larger public interest. To arrest the mischief is the obligation and tribute to the judicial system.

182. In *S.P. Gupta* (supra) the court cautioned that important jurisdiction of public interest litigation may be confined to legal wrongs and legal injuries for a group of people or class of persons. It should not be used for individual wrongs because individuals can always seek redress from legal aid organizations. This is a matter of prudence and not as a rule of law.

183. In *Chhetriya Pardushan Mukti Sangharsh Samiti* (supra) this Court again emphasized that Article 32 is a great and salutary safeguard for preservation of fundamental rights of the citizens. The superior Courts have to ensure that this weapon under Article 32 should not be misused or abused by any individual or organization.

184. In *Janata Dal Vs. H.S. Chowdhary and Others*, ., the Court rightly cautioned that expanded role of Courts in modern "social" State demand for greater judicial responsibility. The P.I.L. has given new hope of justice-starved millions of people of this country. The Court must encourage genuine P.I.L. and discard P.I.L. filed with oblique motives.

185. In *Guruvayur Devaswom Managing Commit. and Another Vs. C.K. Rajan and Others*, , it was reiterated that the Court must ensure that its process is not abused and in order to prevent abuse of the process, the Court would be justified in insisting on furnishing of security before granting injunction in appropriate cases. The Courts may impose heavy costs to ensure that judicial process is not misused.

186. In *Dattaraj Nathuji Thaware* (supra) this Court again cautioned and observed that the Court must look into the petition carefully and ensure that there is genuine public interest involved in the case before invoking its

jurisdiction. The Court should be careful that its jurisdiction is not abused by a person or a body of persons to further his or their personal causes or to satisfy his or their personal grudge or grudges. The stream of justice should not be allowed to be polluted by unscrupulous litigants.

187. In *Neetu* (supra) this Court observed that under the guise of redressing a public grievance the public interest litigation should not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature.

188. In *M/s. Holicow Pictures Pvt. Ltd.* (supra) this court observed that the judges who exercise the jurisdiction should be extremely careful to see that behind the beautiful veil of P.I.L., an ugly private malice, vested interest and/or publicity-seeking is not lurking. The Court should ensure that there is no abuse of the process of the Court.

7. In many of the files of public interest litigation filed by the petitioner, examined by the Court, we find that the petitioner has raised issues within a few days when any social or political issue attracts the attention of the media. Almost all the writ petitions are filed without any research or material and based only on the newspaper reports. The petitioner appears to have a permanent presence before the Bench hearing public interest litigation matters. It appears from the records of the writ petitions and the orders that the petitioner has received a tacit encouragement in filing such petitions, which takes away substantial time of the Court leaving other important matters.

8. Most of the writ petitions, filed by the petitioner in person are not in public interest. These writ petitions have been filed covering almost every subject covered by media to be topical mostly concerning social, political economic or commercial interest. She has also allowed her children, still minor in filing writ petitions; the last one concerning the decision of the Central Government awarding Bharat Ratna awards. Almost every subject under the sun which attracts her imagination becomes a subject-matter of Public Interest Litigation.

9. In order to save this Court from the tsunami of writ petitions filed by the petitioner who appear almost every other day in Court touching matters which hits the headline, treating it as public interest, we find it appropriate to direct that hence forth the registry of the Court will not entertain any writ petition in public interest from Dr Nutan Thakur-either in person or through Counsel (either as petitioner or co-petitioner) unless the petition, filed by her, accompanies a demand draft of Rs. 25,000/- (Twenty Five Thousand). At the time of admission of the writ petition, if the Court considers that the petitioner has raised a matter which is genuine and bonafide in public interest, the demand draft deposited by her may be returned to her. In case it is found by the Court that the writ petition filed by her does not involve any public interest and the writ petition is dismissed, the amount in the demand draft deposited by her will be treated as costs imposed on her, and the amount will be credited in the account of the High Court Legal Services Committee at Lucknow to be spent for activities of the Legal

Services Committee of the High Court.

10. The writ petition is dismissed, with cost of Rs. 25,000/- to be paid by the petitioner appear in person to be deposited by her within a month with Senior Registrar, High Court at Lucknow, failing which it will realized from her by the District Magistrate, Lucknow within one month thereafter for which the demand will be sent by the Senior Registrar, subject to deposit made by her within one month. Let a copy of this order be given to Senior Registrar of the Court, learned Chief Standing Counsel and the learned Assistant Solicitor General of India.