
(2008) 04 AHC CK 0081
In the Allahabad High Court

Prem Shankar Mishra

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 29-04-2008

Acts Referred:

Advocates Act, 1961 — Section 37, 38
Constitution of India, 1950 — Article 226

Citation : (2008) 6 AWC 6062 : (2008) 2 UPLBEC 1512

Hon'ble Judges : Sabhajeet Yadav, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sabhajeet Yadav, J.—By this petition the petitioner, who is an Advocate in district court Deoria claims himself to be social worker, has dragged a poor widow lady Smt. Gulabi Devi widow of Late Mohan Misra of his own village upto this Court pretending it to be in Public Interest without describing the writ petition as Public Interest Litigation and sought relief of certiorari for quashing the order dated 10.3.2008 by which respondent No. 4 has alleged to have recalled his earlier order dated 15.12.2007 and has directed the Senior Treasury Officer to release all the payments to Smt. Gulabi Devi. A further writ in the nature of mandamus has also been sought for directing the respondents No. 3 and 4 to complete the inquiry against Smt. Gulabi Devi, who is respondent No. 6 in the writ petition, within a specific time and further commanding the respondent No. 5 not to release the payment due to the respondent No. 6.

2. The reliefs sought for in the writ petition rest on the assertions that the petitioner lodged a complaint vide letter dated 3.7.2006 to the Secretary (Basic) Education, Government of Uttar Pradesh alleging therein that respondent No. 6 who was working on the post of Paricharika (Class IV post) in Indira Gandhi Kanya Junior High School, Deoria, at the time of her appointment had submitted a forged migration/transfer certificate dated 24.5.58 indicating her age as 10 years 10 months on the date of issue of said certificate, whereas on the death of

her husband she obtained a succession certificate from the Collector, Deoria on 14.2.1992 disclosing her age as 50 years. Thus, according to such succession certificate the respondent No. 6 ought to have been retired from service in the year 2002 instead of 2007 as availed by her on the strength of forged migration/transfer certificate. It is stated that on the said complaint Up Basic Shiksha Adhikari was directed to enquire into the matter and find out as to what is the truth in the allegations made in the complaint. Thereupon Up Basic Shiksha Adhikari vide his letter dated 28.7.2006 directed the respondent No. 6 to appear in his office to defend the allegations made in the complaint. A copy of letter of petitioner dated 3.7.2006, a copy of migration/transfer certificate of respondent No. 6, a copy of succession certificate dated 14.2.1992 and a copy of letter of Up Basic Shiksha Adhikari dated 28.7.2006 are on record as Annexures-1 to 4 of the writ petition. Thereafter Up Basic Shiksha Adhikari sent a copy of alleged migration/transfer certificate to the District Basic Education Officer, Gorakhpur to verify the genuineness of the same. Thereafter on 18.12.2006 the petitioner sent a detail representation to the Collector, Deoria to look into the matter and get it enquired by District Basic Education Officer, Deoria within a week so that public interest at large may be protected.

3. It is further stated that on 6.1.2007 the Additional District Magistrate, Deoria sent a letter to the Basic Shiksha Adhikari, Deoria requiring certain documents in regard to the appointment of respondent No. 6. On 13/15.12.2007 the Additional District Magistrate, Deoria again issued an official letter to Basic Shiksha Adhikari, Deoria to send the required documents to his office within a week. On 15.12.2007 the petitioner again personally served a letter to Prabhari Zila Adhikari (Chief Development Officer, Deoria) contending that the appointment of respondent No. 6 on the post of Paricharika has been obtained by committing fraud and proper inquiry should be made in this connection by the Chief Development Officer, Deoria and the petitioner vide this letter also requested the concerned officer to stop all payments to the respondent No. 6 till completion of inquiry. In pursuance of aforesaid letter of the petitioner, the respondent No. 4 directed the Basic Shiksha Adhikari, Deoria to stop all payments due to the respondent No. 6 till the inquiry with regard to appointment of respondent No. 6 is completed. It is stated that now vide order dated 10.3.2008 the respondent No. 4 has recalled his order dated 15.12.2007 without completing the inquiry. It is further submitted that despite so many reminders sent by the petitioner to all the authorities concerned, inquiry against the respondent No. 6 has not yet been completed and now by order dated 10.3.2008 the respondent No. 4 has directed the Senior Treasury Officer to release the payments due to the respondent No. 6. It is also stated that despite best effort the petitioner could not obtain order dated 10.3.2008, hence finding no alternative the petitioner approached this Court through abovenoted writ petition.

4. Heard learned Counsel for the petitioner and learned Standing Counsel for the respondents No. 1 to 5. The order which I propose to pass in the writ petition, I need not to ask any counter affidavit either from the respondents No. 1 to 5 or

from the respondent No. 6, instead thereof the writ petition is liable to be disposed of as fresh on preliminary issue of locus standi of the petitioner itself to file instant writ petition.

5. At the very outset, it is necessary to point out that in connection of locus standi of the petitioner to move before this Court in para 5 of this petition only this much has been stated that the petitioner is social worker and has complained against the respondent No. 6, therefore, he has locus standi to file this petition. Except the aforesaid statement he has nowhere stated that as a social worker what services he has rendered to the downtrodden and weaker Section of society by now and how for and in what manner he is ventilating their cause who are not in a position to ventilate their grievances by their own in the Courts of law or at other appropriate forum. In absence of necessary averments made in the writ petition in this regard, it is very difficult for this Court to make any inquiry about his working as social worker and assume his locus standi for approaching this Court under Article 226 of the Constitution of India for seeking writ of certiorari and mandamus.

6. Now the question which arises for consideration is that as to whether the petitioner can be said to be aggrieved person so as to entitle him to approach this Court for relief sought for or not? In this connection, it would be useful to examine some case law on the question of locus standi for seeking relief under Article 226 of the Constitution of India.

7. In Bar Council of Maharashtra Vs. M.V. Dabholkar and Others, the question for consideration before Hon"ble Apex Court was that whether the Bar Council of State of Maharashtra was "a person aggrieved" to maintain an appeal u/s 38 of the Advocate Act 1961? A Seven Judges Constitution Bench while answering the aforesaid question in affirmative in para 28 of the decision has observed as under:

28. Where a right of appeal to Courts against an administrative or judicial decision is created by statute, the right is invariably confined to a person aggrieved or a person who claims to be aggrieved. The meaning of the words "a person aggrieved" may vary according to the context of the statute. One of the meanings is that a person will be held to be aggrieved by a decision if that decision is materially adverse to him. Normally, one is required to establish that one has been denied or deprived or something to which one is legally entitled in order to make one "a person aggrieved". Again a person is aggrieved if a legal burden is imposed on him the meaning of the words "a person aggrieved" is sometimes given a restricted meaning in certain statutes which provide remedies for the protection of private legal rights. The restricted meaning requires denial or deprivation of legal rights. A more liberal approach is required in the background of statutes which do not deal with property rights but deal with professional conduct and morality. The role of the Bar Council under the Advocates" Act is comparable to the role of guardian in professional ethics. The words "person aggrieved" in Section 37 and 38 of the act are of wide import and

should not be subjected to a restricted interpretation of possession or denial of legal rights or burdens or financial interests. The test is whether the words "person aggrieved" include "a person who has a genuine grievance because an order has been made which prejudicially affects his interests." It has, therefore, to be found out whether the Bar Council has a grievance in respect of an order or decision affecting the professional conduct and etiquette.

8. In *Jasbhai Motibhai Desai Vs. Roshan Kumar, Haji Bashir Ahmed and Others*, , the question in controversy was that in whether the proprietor of a Cinema Theatre holding a license for exhibiting cinematography films is entitled to invoke certiorari jurisdiction against no objection certificate granted under Rule 6 of Bombay Cinema Rules 1954 by District Magistrate in favour of rival in the trade? While answering the aforesaid question in paras 34, 35 and 39 of the decision the Hon"ble Apex Court has been pleased to observe as under:

34. This Court has laid down in a number of decisions that in order to have the locus standi to invoke the extraordinary jurisdiction under Article 226, an applicant should ordinarily be one who has personal or individual right in the subject matter of the application, though in the case of some of the writs like habeas corpus or quo warranto this rule is relaxed or modified. In other words, as a general rule, infringement of some legal right or prejudice to some legal interest inhering in the petitioner is necessary to give him a locus standi in the matter. see *The State of Orissa Vs. Madan Gopal Rungta, The Calcutta Gas Company (Proprietary) Ltd. Vs. The State of West Bengal and Others*, ; *Ram Umeshwari Suthoo v. Member, Board of Revenue, Orissa* (1976) 1 SCA 413 ; *Godde Venkateswara Rao Vs. Government of Andhra Pradesh and Others*, : *State of Orissa and Others Vs. Rajasaheb Chandanmull Indrakumar (P) Ltd. and Others, Dr. Satyanarayana Sinha Vs. S. Lal and Company (P) Ltd.*,

35. The expression "ordinarily" indicates that this is not a cast-iron rule. It is flexible enough to take in those cases where the applicant has been prejudicially affected by an act or omission of an authority, even though he has no proprietary or even a fiduciary interest in the subject matter. That apart, in exceptional cases even a stranger or a person who was not a party to the proceedings before the authority, but has a substantial and genuine interest in the subject-matter of the proceedings will be covered by this rule. The principles enunciated in the English cases noticed above, are not inconsistent with it.

39. To distinguish such applicants from "strangers", among them, some broad tests may be deduced from the conspectus made above. These efficacy varies according to the circumstances of the case, including the statutory context in which the matter falls to be considered. These are whether the applicant is a person whose legal right has been infringed? Has he suffered a legal wrong or injury, in the sense, that his interest, recognised by law, has been prejudicially and directly affected by the act or omission of the authority, complained of? Is he a person who has suffered a legal grievance, a person against whom a decision has been pronounced which has wrongfully deprived him of something or

wrongfully refused him something, or wrongfully affected his title to something? Has he a special and substantial grievance of his own beyond some grievance or inconvenience suffered by him in common with the rest of the public? Was he entitled to object and be heard by the authority before it took the impugned action? If so, was he prejudicially affected in the exercise of that right by the act of usurpation of jurisdiction on the part of the authority? Is that statute, in the context of which the scope of the words "person aggrieved" is being considered, a social welfare measure designed to lay down ethical or or professional standards of conduct for the community? Or is it a statute dealing with private rights of particular individuals?

9. In Ghulam Qadir Vs. Special Tribunal and Others, of the decision the Apex Court has been pleased to observe as under:

38. There is no dispute regarding the legal proposition that the rights under Article 226 of the Constitution of India can be enforced only by an aggrieved person except in the case where the writ prayed for is for habeas corpus or quo warranto. Another exception in the general rule is the filing of a writ petition in public interest. The existence of the legal right of the petitioner which is alleged to have been violated is the foundation for invoking the jurisdiction of the High Court under the aforesaid article.

10. From the aforesaid legal position enunciated by Hon"ble Apex Court, there can be no scope for doubt to hold that the petitioner is not an "aggrieved person" entitled for seeking reliefs of certiorari for quashing impugned order dated 10.3.2008, which is also not on record to enable the court to know the actual order which is alleged to have been passed by the concerned respondent and reasons therefor. Therefore, the instant writ petition is liable to be dismissed on the aforesaid ground alone in view of law laid down by Hon"ble Apex Court in Surinder Singh Vs. Central Government and Others, . The pertinent observations made in para 9 of the decision are as under:

9. ...The respondents who had challenged the order of Shri Rajni Kant should have filed a copy of the order. In the absence of the order under challenge the High Court could not quash the same. Normally whenever an order of Govt. or some authority is impugned before the High Court under Article 226 of the Constitution, the copy of the order must be produced before it. In the absence of the impugned order it would not be possible to ascertain the reasons which may have impelled the authority to pass the order. It is therefore improper to quash an order which is not produced before the High Court in a proceeding under Article 226 of the Constitution. The order of the High Court could be set aside for this reason, but we think it necessary to consider the merits also....

11. Not only this, but the petitioner did neither seek nor can seek relief of writ of quo warranto against the respondent No. 6 as she has already been retired from service some times seems to be in July 2007, therefore, it is necessary to examine as to whether any other relief sought for can be granted by this court?

In this connection, it is also noteworthy to point out that once the relief of writ of certiorari can not be granted for reasons that the petitioner has not brought the impugned order on record, other writ or order like mandamus can also not be granted to him so long as the impugned order is not quashed. Therefore, there appears hardly any scope for grant of any other relief prayed by the petitioner for aforesaid reasons even then I propose to examine the matter further. In this connection it is necessary to point out that except the statement made in para 5 of the writ petition that the petitioner is social worker and has complained against the respondent No. 6, thus has locus standi to file this writ petition, nothing more has been stated in the writ petition. In para 10 of the writ petition also only this much is stated that the authorities were called upon by the petitioner through his letter referred hereinbefore to look into public interest at large, otherwise the public interest would be suffered.

12. Now the question which arises for consideration of this Court is that as to whether this writ petition filed as service matter without describing it as public interest litigation can be entertained as public interest litigation? In this connection it would be useful to refer few decisions of Hon''ble Apex Court having material bearing on the question in controversy involved in the case hereinafter.

13. In R.K. Jain Vs. Union of India and Others, the appointment of President of Custom, Excise and Gold Control Appellate Tribunal was under consideration before Hon''ble Apex Court. In para 74 of the decision while dealing with question of locus standi the Hon''ble Apex Court has been pleased to observe as under:

74. Sri Harish Chander, admittedly was the Sr. Vice President at the relevant time. The contention of Sri Thakur of the need to evaluate the comparative merits of Mr. Harish Chander and Mr. Kalyasundaram a senior most Member for appointment as President would not be gone into in a public interest litigation. Only in a proceeding initiated by an aggrieved person it may be open to be considered. This writ petition is also not a writ of quo warranto. In service jurisprudence it is settled law that it is for the aggrieved person i.e. non-appointee to assail the legality of the offending action. Third party has no locus standi to canvass the legality or correctness of the action. Only public law declaration would be made at the behest of the petitioner, a public spirited person.

14. In Dr. Duryodhan Sahu and Others Etc. Etc. Vs. Jitendra Kumar Mishra and Others Etc. Etc., the Hon''ble Supreme Court held that in service matters, PILs should not be entertained. If the inflow of so-called PILs involving service matters continues unabated at the instance of strangers and allowed to be entertained, the very object of speedy disposal of service matters would get defeated.

15. In BALCO Employees Union (Regd.) Vs. Union of India and Others, , the Hon''ble Supreme 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. The Hon''ble Apex Court observed as under:

There is, in recently years, a feeling which is not without any foundation that Public Interest Litigation is now tending to become publicity interest litigation or private interest litigation as a tendency to be counter productive PIL is not a pill or a panacea for all wrong. It is essentially meant to protect basic human rights of the weak and disadvantaged and was a procedure which was innovated where a public spirited person filed a petition in effect on behalf of such persons who, on account of poverty, helplessness or economic and social disabilities could not approach the Court for relief. There have been in recent times, increasingly abuse of PIL.

16. In Dattaraj Nathuji Thaware Vs. State of Maharashtra and Others, the petitioner was member of the legal profession and had resorted to blackmailing respondents No. 6 and 7, wherein Hon''ble Apex Court has proceeded with the observation that this case is sad reflection on the members of legal profession and is almost back spot on the noble profession. While approving imposition of Rs. 25,000/- (Twenty five thousands) exemplary cost by the High Court on the petitioner, sounded note of caution that it is high time that Bar Councils and Bar Associations ensure that no member of Bar becomes party as petitioner or inaiding and/or abetting files frivolous petitions carrying the attractive brand name of "public interest litigation". That will be keeping in line, the high traditions of the Bar. No one should be permitted to bring disgrace to the noble profession. In para 12 and 16 of the decision the Hon''ble Apex Court observed as under:

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 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 be publicity oriented or founded on personal vendetta. As indicated above, Court 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 considerations. 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.

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 where even 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 are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilised for disposal of genuine cases. Though in *Duryodhan Sahu (Dr.) v. Jitendra Kumar Mishra* this Court held that in service matters PILs should not be entertained, the inflow of 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....

17. Similarly in *R and M Trust Vs. Koramangala Residents Vigilance Group and Others*, the Hon'ble Supreme Court cautioned the Courts that the Public Interest Litigation should be entertained in rare cases where it is satisfied that public at large stand to suffer. The jurisdiction cannot be allowed to be invoked for the purpose of serving private ends and professional rivalry. This jurisdiction is meant for the purpose of coming to the rescue of the downtrodden. It has now become common for unscrupulous people to serve their private ends and jeopardise the rights of innocent people so as to wreak vengeance for their personal ends. The pertinent observations made in para 24 of the decision are as under:

24. Public interest litigation is no doubt a very useful handle for redressing the grievances of the people but unfortunately lately it has been abused by some interested persons and it has brought a very bad name. Courts should be very very slow in entertaining petitions involving public interest: in very rare cases where the public at large stand to suffer. This jurisdiction is meant for the purpose of coming to the rescue of the downtrodden and not for the purpose of serving private ends. It has now become common for unscrupulous people to serve their private ends and jeopardize the rights of innocent people so as to wreak vengeance for their personal ends....

18. From the aforesaid decisions it is clear that in *R.K. Jain's case* (supra) Hon'ble Apex Court has observed that in service jurisprudence it is well settled that it is for the aggrieved person i.e. non-appointee to assail the legality of the offending action. Third party has no locus standi to canvass the legality or correctness of the action, only public law declaration would be made at behest of the petitioner a public spirited person. The same principle has been reiterated by Hon'ble Apex Court in *Duryodhan Sahu's case* (supra) holding that in service matter P.I.L. should not be entertained. If inflow of so called P.I.L.s involving service matters continues unabated at the instance of strangers and allowed to be entertained, the very object of speedy disposal of service matters would get defeated. In *BALCO Employees Union's case* (supra) it was observed that P.I.Ls are essentially meant to protect basic human rights of the weak and

disadvantaged and was innovated where a public spirited person filed a petition in effect on behalf of such persons, who on account of poverty, helplessness or economic and social disabilities could not approach the court for relief.

19. In Dattaray Nathuji Thaware's case (supra) while reiterating the view of Duryodhan Sahu's case Hon"ble Apex Court held that in service matters PILs should not be entertained, High Courts should throw them out at very threshold on the basis of said decision. While approving Rs. 25,000/- (Rupees twenty five thousand) exemplary cost imposed by the High Court upon the petitioner, who was member of legal profession; and involved in blackmailing of respondent No. 6 and 7 of that case speaking through the Bench Hon"ble Mr. Justice Arjit Pasayat observed that this case is sad reflection on the members of legal profession and is almost black spot on the noble profession and cautioned High Courts to throw such petitions at very threshold by placing reliance upon Duryodhan Sahu's case. If such frivolous petitions would be entertained by the Courts unmindfully, the precious time of the courts would go waste which could be utilised for disposal of genuine cases of those who are in queue and waiting for their turn, their interest would get defeated. While explaining the nature and purpose. His Lordship observed that public interest litigation is 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. The attractive brand name of public interest litigation should not be used for suspicious product of mischief. It would be aimed at redressal of genuine public wrong or public injury and not be publicity oriented or founded on personal vendetta. It has also been observed that a writ petitioner who comes to the court for relief in public interest must come not only with clean hands like any other writ petitioner but also with clean heart, clean mind and clean objective by taking note of earlier decisions. The court must be careful to see that a body of persons or member of public who approaches the court is acting bonafide and not for personal gain or private motive or political motivations or other oblique considerations. The court must not allow its process to be abused for oblique considerations at the instance of person who approach the court with improper motive and for personal gain or other private ends. Similar view has also been taken by Hon"ble Apex Court in R.M. Trust's case (supra).

20. Now examining the facts of the case from the point of view of aforestated legal position, it is to be noted that from the description of particulars and address of the parties, it appears that the petitioner and respondent No. 6 are resident of the same Village and Post Katarari District Deoria. From perusal of Annexure- 3 of the writ petition, it appears that it is copy of alleged succession certificate appears to have been issued from the office of District Magistrate, Deoria on 14.2.1992, It reveals that on death Sri Mohan Mishra S/o Sri Deo Narayan Mishra of Village and Post Katarari, Tehsil and District Deoria on 12.7.1973 the aforesaid certificate was issued and the respondent No. 6 was shown as widow of deceased Mohan Mishra and her age was mentioned as 50

years at the time of issue of said certificate. Annexure-2 of the writ petition is copy of alleged migration/transfer certificate appears to have been issued on 24.5.1958 in which the date of birth of Gulabi Devi- respondent No. 6 has been mentioned as 15.7.1947 and her age as 10 years, 10 months by that time. On that basis the petitioner has complained that the appointment of respondent No. 6, is based on forged migration certificate. But there is nothing to indicate that when and how the petitioner has obtained copy of aforesaid migration certificate issued from Primary School on 24.5.1958, and the copy of aforesaid succession certificate issued on 14.2.1992. It is also not clear that as to whether the aforesaid documents were procured by him from lawful custody in lawful manner or he himself has manufactured the aforesaid documents for the aforesaid purpose.

21. Although from the averments of writ petition, there is nothing to indicate that the aforesaid alleged succession certificate sought to be utilised by the petitioner against the respondent No. 6 for contradicting her age recorded in her alleged migration certificate, has ever been admitted document by the respondent No. 6 either before any authority or court of law, but assuming for the sake of argument that the same cannot be disputed by the respondent No. 6, even then, age of respondent No. 6 mentioned therein cannot be assumed to be absolutely correct as gospel truth for the purpose of holding any disciplinary/departmental inquiry against her at the instance of a stranger like the petitioner. The reason behind it is that it was quite possible that while making application for issue of succession certificate due to some sort of inadvertence of the Counsel, the age of respondent No. 6 would have been mentioned more than that of her actual age or it would have been written by the Counsel merely on the basis of her physical appearance or it could be mentioned some time on the basis of entries made in the family register or Voter list of the village which are normally prepared by the officials, merely by asking from some persons of the village without actually verifying correctness from the person concerned, therefore, the same cannot be taken as a gospel truth without any proof in respect of the entries made therein particularly for dislodging the entry regarding the date of birth of respondent No. 6 made in migration certificate.

22. Sometimes it so happens that in the school register of students different age at variance of other documents regarding the age are mentioned. For which some times guardians of students while giving details of students at the time of admission of their children give notional date of birth and age which might be lesser than actual age. Sometimes even teachers note notional date of birth at the time of admission of the students in scholar's Register of schools, therefore, mere variance in the age and date of birth of respondent No. 6 recorded in various different documents who is a villager merely educated upto Primary level in Village school cannot be a ground for holding any departmental inquiry against her on account of contradictions in her date of birth between aforesaid documents, particularly when it is not the case that she has manipulated and changed her date of birth already recorded in service book at the strength of

aforesaid migration certificate subsequently and continued in service on account of changed/manipulated date of birth for some longer time and that too at the instance of stranger like petitioner.

23. That apart, it is also nowhere pointed out in the writ petition that when the respondent No. 6 was appointed on the post of Pancharika which was merely a lowest class IV post in the institution. It is also not stated that as to whether at the time of her appointment any educational qualification was essential for the said post or not or as to whether her such appointment was made on compassionate ground under dying in harness Rules or it was based on open market selection. After her retirement, no service Rules has been pointed out under which inquiry sought for by the petitioner who is stranger can be held at this stage. It is also not stated that how the petitioner has any concern with such inquiry sought for and what are the past activities of the petitioner in public interest. Except the statement that he has written letter to the authorities on 3.7.2006 to enquire into the matter when the respondent No. 6 was likely to be retired from service, nothing has been indicated that as to whether he has ever pointed out any such illegality in respect of the appointment of the respondent No. 6 to the concerned authorities, and how he woke up all of a sudden when the respondent No. 6 was at the verge of her retirement, particularly when the records show that respondent No. 6 is resident of same village of the petitioner, why he was sleeping for such long lapse of time? These suspicious circumstances undoubtedly created doubts about the bonafide of filing of instant writ petition.

24. Not only this but another suspicious circumstance is that the petitioner has also not filed impugned order dated 10.3.2008 to enable the Court to know the reasons for which the concerned respondent allegedly declined to hold such inquiry or dropped the same as alleged by the petitioner without concluding such inquiry or after holding alleged inquiry they were satisfied about no longer need of such inquiry. In the wake of the provisions of Right to Information Act, it is very difficult to accept that despite his best effort, the petitioner could not obtain copy of the impugned order dated 10.3.2008. In given facts and circumstances of the case the aforesaid statement of the petitioner does not appear to be true and fair, rather appears to be mischievous and misleading to the Court. As held earlier, the writ petition is liable to be dismissed on this ground alone in view of law laid down by the Hon'ble Apex Court in Surinder Singh's case (supra) that the petitioner has not brought on record the copy of the alleged order dated 10.3.2008 passed by respondent No. 4 sought to be quashed in instant writ petition.

25. Besides, learned Counsel for the petitioner could not point out any authority of this Court or Hon'ble Apex Court, where any departmental inquiry can be directed at the instance of stranger like petitioner against employee in respect of his/her illegal appointment after his/her retirement from service for forfeiture of post retiral dues of such employee and for recovery of salary paid to him/her during his/her service tenure. I have also held earlier that writ of quo warranto is

also not available after retirement of employee. Besides, as held by Hon'ble Apex Court in R.K. Jain's case (supra), Duryodhan Sahu's case (supra), BALCO Employees Union's case (supra) and again in Dattaray Nathuji Thaware's case (supra) in service matter PIL should not be entertained, rather it must be thrown at very threshold by imposing exemplary cost upon the petitioner in appropriate cases where it is found that the petition has been moved by unscrupulous person with ulterior or oblique motive or for some personal gain or other oblique considerations.

26. In view of foregoing discussions in given facts and circumstances of the case, I am of the considered opinion that the petitioner has approached this Court not in public interest to ventilate grievances of any weaker Sections of society for redressal of their grievances on their behalf who on account of their social and economic disabilities are not in a position to approach this Court on their own, contrary to it. It appears that instant writ petition has been filed by the petitioner against the respondent No. 6, who is poor widow lady of his own village seeking direction for holding departmental inquiry against her after her retirement and for forfeiture of her salary and other post retiral dues on account of her alleged forged appointment on the post of Paricharika, which is lowest Class IV post in the Junior High School. In my opinion, having regard to the attending circumstances of the case the petitioner appears to be unscrupulous person of the same village of respondent No. 6, has approached this Court to harass the respondent No. 6 due to some personal malice against her and with oblique or ulterior motive to serve his own private end. This equitable jurisdiction cannot be permitted to be abused at the instance of the petitioner, who is an advocate and member of noble legal profession, but has no sympathy with the weaker Section of society and poor widow lady of his own village. In my mind he must have filed instant writ petition with oblique or ulterior motive for oblique considerations. Such petition cannot be held to have been filed to root out the alleged corruption as there is nothing to indicate that he has ever done such work in public interest and this work is an instance in chain of his such continued past activities.

27. Since the petitioner is an Advocate and member of noble legal profession, therefore, his such approach is shocking to the conscience of Court and in the words of Hon'ble Mr. Justice Arjit Pasayat it is black spot on noble legal profession. In fact and in effect to my mind, the petitioner has attempted to blackmail the respondent No. 6 and by doing so he has brought disgrace to the noble legal profession, therefore, in order to give lesson to him that noble legal profession should not be brought to such a disgrace and he should not carry his profession as blackmailer and to give a message to the public at large that this court is not favouring such litigation.

28. I am of the considered opinion that writ petition is liable to be dismissed with exemplary cost of at least Rs. 25,000/- (Twenty five thousand) payable by the petitioner, accordingly the same is hereby dismissed as such.

29. District Magistrate, Deoria is directed to recover the aforesaid amount of Rs.

25000/- (Rupees Twenty Five Thousand) from the petitioner as arrear of land revenue within a month from the date of communication of this order to him and shall deposit the same in the Account of Mediation and Conciliation Centre of the High Court, Allahabad within two weeks thereafter. The Registrar General of this Court is directed to communicate this order to the Collector, Deoria by 15th May 2008 through fax/speed post and/or other device available to him as earliest as possible.

30. With the aforesaid observation and direction, writ petition is hereby dismissed with exemplary cost of Rs. 25,000/- (Twenty five thousand) upon the petitioner.