

(2014) 07 DEL CK 0113

In the Delhi High Court

Case No : Writ Petition (Civil) No. 3572 of 2014

Raj Kumar Sharma

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 01-07-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 1 AD 722 : (2014) 211 DLT 255

Hon'ble Judges : G. Rohini, C.J.;Rajiv Sahai Endlaw, J

Bench : Division Bench

Advocate : Aseem Mehrota, Parag P. Tripathi, Sr. Advocate and Amitesh Kumar, Advocate for the Appellant; A.K. Gautam and Abhay Pratap Singh, Advocate for the Respondent

Judgement

Rajiv Sahai Endlaw, J.—This petition filed under Article 226 of the Constitution of India filed as a Public Interest Litigation (PIL), seeks: "(a) the issuance of a writ of quo warranto removing the respondent No. 5 Prof. S.S. Mantha from the position of Chairman, the respondent No. 6 Dr. M.K. Hada, from the position of Adviser (Approval) and the respondent No. 7 Dr. S.G. Bhirud, from the position of Adviser-I & CVO of the All India Council for Technical Education (AICTE);

(b) a writ of mandamus directing the respondent No. 1 Union of India (UOI) to re-constitute the Selection Committee for filling up the posts of Technical Education (Financial Adviser and Group "A" Technical Posts);

(c) a direction for appointment of Chairman and other members of the Board of Studies of AICTE on the basis of All India Selection;

(d) a direction for filling up the posts in the AICTE on regular basis;

(e) a direction commanding the Comptroller and Auditor General of India to look into the accounts of the respondent No. 4 AICTE; and,

(f) an inquiry into the acts of the respondent Nos. 5 to 7 by an independent

agency like the CBI."

The Supreme Court, recently in *Hari Bansh Lal Vs. Sahodar Prasad Mahto and Others*, has reiterated that except for a writ of quo warranto, PIL is not maintainable in service matters. A writ of quo warranto can only be issued when the appointment is contrary to statutory provision. 2. The petitioner, a resident of Agra, claims to be a law graduate. There is no explanation whatsoever of the basis of his knowledge of the facts pleaded in the petition or of his concern with the affairs of the AICTE. It is not as if the petitioner is involved in the field of education or has been regularly taking steps in public interest for filling up the lacunae in the system. When such an unconcerned person files a petition directed at someone, purportedly in public interest, the same raises doubts.

3. Our doubts in the present case are not misplaced. The Senior Counsel for the respondent AICTE appearing on advance notice brings to our attention the order dated 9.7.2012 in W.P. (C) No. 3934/2012 filed by one Braj Vikas Party and has also handed over in Court a copy of the said writ petition. It is pointed out that W.P. (C) No. 3934/2012 was filed impugning the order dated 20.3.2012 of the Central Administrative Tribunal (CAT) in OA No. 923/2012 and which in rum was filed for quashing of the appointment then of the said respondent No. 5 Prof. S.S. Mantha as the acting Chairman of the AICTE and of the respondent No. 6 Dr. M.K. Hada and the respondent No. 7 Dr. S.G. Bhirud as Advisers of the AICTE. The CAT in its order dated 20.3.2012 held the OA No. 923/2012 to be not maintainable. W.P. (C) No. 3934/2012 preferred there against was on 9.7.2012 withdrawn after some arguments.

4. The Counsel who represents the petitioner before us was also the Counsel for the petitioner in W.P. (C) No. 3934/2012 before this Court as well as before the CAT. Notwithstanding the same, the factum of the proceeding before CAT and/or of filing of W.P. (C) No. 3934/2012 is not disclosed in the present petition.

5. The Counsel for the petitioner admits his mistake and states that he will amend the petition. However no reason for such a mistake, except calling it a mistake, is stated.

6. We do not expect such a mistake from the advocates of this Court. The principles qua PILs are now sufficiently laid down. Rules in that regard have also been made and the same mandate a complete disclosure. The petitioner admittedly did not make the disclosure. Such non-disclosure is not found to be innocent. The Senior Counsel for the respondent AICTE points out that though the same Advocate appearing for the petitioner in W.P. (C) No. 3934/2012 had sought liberty to file a PIL on the same cause of action but that liberty was not given by the Court. It is perhaps for this reason only that this petition, instead of being filed by the petitioner in W.P. (C) No. 3934/2012, has been filed by the present petitioner who as aforesaid has not disclosed his concern with the subject purported to be flagged.

7. It is evident that the petition is motivated. Of course, the reason for such

motivation cannot be known to us. The petition is obviously at the behest of some vested interest. The said finding is sufficient for us to dismiss this petition. The Supreme Court in Central Electricity Supply Utility of Odisha Vs. Dhobei Sahoo and Others, , has taken note of PILs being misutilized to vindicate vested interests for the propagated public interest and of some persons, who describe themselves as pro bono publico, having approached the Court challenging grant of promotion, fixation of seniority etc. in respect of third parties and the need for the Courts to allow the use of the weapon of PILs with care, caution and circumspection. While so dismissing the petition, we also impose costs of Rs. 20,000/- payable to the Delhi High Court Bar Association Lawyers' Social Security and Welfare Fund, New Delhi. A copy of this order be also forwarded to the said Fund.