
(2004) 11 CHH CK 0007
In the Chhattisgarh High Court
Case No : Writ Petition No. 4123 of 2004

Rajkumar Singh

APPELLANT

Vs

State of C.G. and Others

RESPONDENT

Date of Decision : 08-11-2004

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, 151
Constitution of India, 1950 — Article 142, 226, 227, 32
Land Acquisition Act, 1987 — Section 17(1), 17(4), 57
Madhya Pradesh Re-organisation Act, 2000 — Section 21(2)

Citation : (2004) 2 CGLJ 220

Hon'ble Judges : L.C. Bhadoo, J;Fakhruddin, J

Bench : Full Bench

Advocate : Suresh Pandey, for the Appellant; Prashant Mishra, Addl. A.G. for Respondent No. 1 and 2, Vinay Harit, Senior Standing Counsel for Respondent No. 3 and Sandeep Dubey, for Intervener, for the Respondent

Final Decision : Dismissed

Judgement

L.C. Bhadoo, J.—Application I.A. No. 8584/2004 for intervention is allowed. Shri Sandeep Dubey, Advocate, is allowed to intervene.

The Petitioner who is said to be a student of L.L.B. Second Year has filed this petition purportedly in public interest under Article 226/227 of the Constitution of India questioning the propriety and correctness of the policy decision to construct Chhattisgarh High Court building on Bilaspur-Raipur Road.

2. Brief facts leading to filing of this petition are that under M.P. Re-organization Act, 2000 the State of Chhattisgarh was carved out. Under the enabling powers of Sub-section (2) of Section 21 of the said M.P. Re-organization Act, 2000 (28 of 2000), His Excellency, the President of India appointed Principal Seat of the High Court of Chhattisgarh at Bilaspur with effect from 1st day of November, 2000. In pursuance of that notification the High Court of Chhattisgarh was established at Bilaspur and it started functioning in a school (old) building, the name of the

school was "Normal School", provided by the State of Chhattisgarh after repair and renovation of the said building. However, as the said building was not sufficient for proper and comfortable functioning of the High Court with necessary infrastructure, therefore, a request on 24-11-2000 by the then Registrar General was made to the Collector, Bilaspur, and the Principal Secretary, Law and Legislative Department, Govt. of Chhattisgarh, Raipur for allotment of a land for the purpose of construction of new High Court building. As borne out from the records available on this file, the Collector, Bilaspur in Revenue Case No. 59/A-19/2002-2003 vide order dated 24-4-2003 transferred a patch of 35.80 acres of land of Animal Husbandry Department, 54.74 acres of land of Thakur Chhedilal Barrister Agriculture College University Research Centre, Sarkanda, 2.94 acres of grass land, 1.30 acres of Water Resources Department's land, 0.40 acres of land of Water Resources Department, and 8.60 acres of land of Diary Department, and thereby up to 10-9-2003 total 103.78 acre land was transferred. It appears that the High Court again requested for some more extent of land, as the land allotted was considered to be insufficient and a request was made to transfer 31 acres of more land of Khasra No. 1081/1. The Collector then proposed for transfer of that land of Thakur Chhedilal Barrister Agriculture College, Sarkanda. In all, vide letter dated 16th/20th January, 2004, the Collector made a composite proposal for transfer of 134.78 acres of land and the said proposal was sent to the Government for approval. In the said proposal it was mentioned that condition prescribed under Clause 1 to 36 of Revenue Book Circulars has to be complied with.

3. However, Vice Chancellor, Indira Gandhi Agricultural University raised an objection before the Commissioner, Chhattisgarh Govt. that land of the Agricultural University and Research Centre Sarkanda should not be transferred as the said land is required for construction of University building, students hostel, library building, office of Research Centre and for Laboratory purposes. As certain buildings of Agriculture and Veterinary Department are existing on the allotted land, physical possession could not be given to the High Court and only a symbolic possession was given. The Joint Director, Animal Husbandry Medical Services vide letter dated 13-8-2003 informed the Sub Divisional Officer, Revenue that on the land proposed to be transferred to the High Court Govt. Institutions of Animal Husbandry Department and Poultry farms are functioning. If that land is transferred to the High Court, then it will not be possible to run these Institutions. On 8-9-2003, a similar letter was written by the Director, Veterinary Services to the Joint Director, Veterinary Hospital. Similar objection was sent by the Joint Director Veterinary Services to the Collector. The Dean, Agricultural College and Research Centre, Bilaspur, vide his letter dated 13-8-2003 informed the Sub- Divisional Officer, Bilaspur that Jawahar Lal Nehru University was set up u/s 57 of the Act of 1987. It was further made clear that 48.88 acres of land of the said University has already been taken for the purpose of construction of Indira Vihar, Nootan Colony, Judicial Officers' residence, Radio Station, Doordarshan, Govt. Girls School and 40 acres of land has already been

allotted to Agricultural Science Centre. On 15 acres of land there is fruits garden. On 15 acres of land there is office and residences. 30 acres of land is being used for the farmers, students and for the purpose of production of seeds. Only the management of University can transfer the University's land. In the last, it was requested that further land is required for construction of Research Centre and Agricultural College and also for construction of girls and boys hostel, laboratory and play ground. Therefore, there is no land left, as such land should not be allotted to anybody else.

4. Vide order dated 8-9-2003 Mr. R.P. Bagai, Vice Chancellor of Indira Gandhi Agricultural University wrote a letter to the Collector stating that if the land ad measuring 54.74 is allotted to the High Court, then only 7 acres of land will be left with the University which will not be sufficient to meet the requirement of the University. If it is allotted, then the Research Centre and College will have to be closed. On 14-10-2003, the Dean, Agricultural College and Research Centre, Sarkanda wrote a letter to the S.D.O. Revenue, requesting him to apprise him about the allotment of the land to the High Court so that he can apprise Vice Chancellor. Vide letter dated 20-10-2003 the Joint Director, Animal Husbandry Medical Sciences sent a letter to the Collector expressing his inability to vacate the land and said that it is not possible to transfer 54.74 acres of land. Mr. R.P. Bagai, Principal Secretary, Agricultural Co-operative and Animal Husbandry wrote a letter to the Collector, Bilaspur on 13th November, 2003 stating that the Additional Collector and other Revenue Officers have given symbolic possession of 44.40 acres of land of the Govt. Veterinary Medical Sciences and 54.74 acres of Dr. Chhedilal Barrister, Agricultural College and Research Centre which is not permissible under clause-36 of the Revenue Book Circulars and the Department is not agreeable to give this land. Thereafter, the Collector sent a composite proposal to the Government on 20th January, 2004, but so far the Govt. had not sent any approval to the said proposal of the Collector. The Collector in his letter (Annexure-R/10) mentioned that for construction of new buildings of the Agricultural Department and Animal Husbandry Department an amount of 201.50 lacs will be required. In that it was proposed that it is justified to remove the existing buildings of these departments.

5. It is an admitted position that physical possession was not handed over to the High Court, only symbolic possession was given. In view of the objections by the concerned Department, not giving consent for transfer of land in terms of Clause 36 of Revenue Book Circular and non-receipt of the approval of Government and possession, the said land was not given to the High Court. Therefore, a search had to be made for a new site for construction of the High Court building and residential colony. Ultimately, around about in the month of August, 2004 administration suggested the present site at Bodari on Bilaspur-Raipur Road. After consultation and site inspection by the Registry, the said proposal of the administration was accepted. Ultimately, physical possession of 124.26 acres of land was given to the High Court. Accordingly, function for "Bhoomipujan" to start construction of High Court building and foundation laying of the residential

buildings for the Judges and Registry Officers was fixed on 31st October, 2004 and for that purpose administration and the Registry of the High Court already started making preparations. Even work at the site was started and cards were also distributed to the knowledge of everyone. All of a sudden, without any prior notice for demand of justice or any representation to the Govt. or the High Court, this petition was filed on 26-10-2004.

6. In this petition, the Petitioner has raised grounds that 103 acres of Govt. land at Koni has already been allotted to the High Court and foundation-laying ceremony was already held on 22-4-2004, therefore, decision for changing the site is not appropriate because the proposed site falls on the national high way. The further objections are (a) there is railway crossing on the road to the site, (b) there are dolomite mines in the nearby area, (c) for acquisition of the private land Govt. has to incur expenditure of 2 crores, (d) shifting of the electricity tension towers is also required, and (e) the site is far away where educational and medical facilities are not available for children and family members of the Judges and connected staff. New site is most unsuitable and inconvenient for the litigants, advocates, staff and general public.

7. Objections regarding the maintainability of this petition have been filed on behalf of Respondents 1 and 2. Rejoinder has also been filed on behalf of the Petitioner and supplementary objection has been filed on behalf of Respondents 1 and 2. An application I.A. No. 8584/2004 for intervention has been filed on behalf of one of the Bar members namely, Ku. Devika Bharti in which she has mentioned that the proposed site for construction of new High Court building at Bodari is suitable in all respects.

8. We have heard Shri Suresh Pandey, counsel for the Petitioner; Shri Prashant Mishra, Additional Advocate General for Respondents No. 1 and 2; and Shri Vinay Harit, Senior Standing Counsel for Respondent No. 3 on the question of maintainability of this petition, as also on I.A. No. 8545/2004 filed on behalf of the Petitioner for arraying Secretary, Revenue Department; the Collector. District Bilaspur and Tehsildar, Bilha as Respondents and Shri Sandeep Dubey, counsel for the intervenor.

9. The main argument advanced by counsel for the Petitioner was that the proposed site is not within the municipal area, therefore, the High Court cannot be constructed out of the municipal area. Second argument was that the land was already allotted for construction of the High Court at Koni (Sarkanda) and there was no justification in changing the site. For that purpose, he placed reliance on the document Annexure-R/10 filed by Respondents written by the Collector to the Government. He also argued that as the Government is required to pay compensation of Rs. 2 crores for acquisition of private land for construction of the High Court building and new site will be more expensive, therefore, this action is not in the interest of general public as Chhattisgarh being a poor State, such unnecessary expenditure has to be avoided by setting up the High Court at Koni. He also argued that the proposed site falls on the national

high way and heavy traffic is also there, therefore, that will not be safe for the High Court building. Dolomite mines are there which will not be safe for the High Court building. Counsel for the Petitioner relied upon the decision of the Hon''ble Apex Court in the matters of Union of India and Anr. v. Hansoli Devi and Ors. 2002 SAR (Civil) 788, First Land Acquisition Collector and Ors. v. Nirodhi Prakash Gangoli and Anr. 2002 SAR (Civil) 349, The State of Kerala and Ors. v. Dr. S.G. Sarvothama Prabhu 1999 SAR (Civil) 307, State Govt. Houseless Harijan Employees Association v. State of Karnataka and Ors. 2001 SAR (Civil) 132 and Dadi Jagannadham v. Jammui Ramuln and Ors. 2001 SAR (Civil) 660.

10. Replying the arguments of counsel for the Petitioner learned Additional Advocate General submitted that decision of the Govt. in consultation with the High Court where High Court building is to be constructed is a policy decision, therefore, High Court has no power to exercise the judicial review on such policy decision. He further argued that since physical possession of Koni site could not be given to the High Court on account of objection of the Agricultural University, Animal Husbandry and Veterinary Department and Poultry Farms, buildings are already existing at the site and for giving possession to the High Court demolition of those buildings is required. The cost of those buildings is estimated Rs. 2 crores. If the possession of Koni site is given to the High Court, then Animal Breeding Centre as well as Poultry Farms have to be closed. The land of the university cannot be taken without consent of the University and if that land is given to the High Court, then no land will be left out for expansion of various facilities of the university which will be detrimental to the interest of the university and general public. As per Clause 36 of Revenue Book Circulars no land can be transferred from one department to other department without consent of the department to which land belongs.

11. Shri Mishra further argued that the land of Koni site is black cotton soil whereas, land at Bodari site is Moorum land. As per P.W.D. Engineer's affidavit if the High Court is constructed at Koni site that will incur 25% to 30% more costs in comparison to the building constructed at Bodari site. Being a black cotton soil, strength of that soil is very poor. If the building is constructed on that site, then there is every chance that cracks would develop in the building. He further argued that the instant petition does not come within the definition of Public Interest Litigation as the Petitioner has failed to show his antecedents and his bonafides that how he is a public spirited person. He further explained that as far as national high way is concerned, in due course of time by-pass is proposed and that will be minimum 1 km before the proposed site for the High Court building, therefore, there is no question of traffic hazards. As far as railway crossing is concerned, there is already proposal for construction of the over bridge. By the time the High Court will start functioning at the new site, both these proposals will be carried out. As far as dolomites mines are concerned, he submitted that those mines are 6-7 km away from the new site and the blasting at the mines is not that high level which can damage the building. Even at the site there is residential colony of the officers and employees of Mining Department and they

are residing nearby the mines, even then there is no damage of those buildings, therefore, this ground is totally baseless. Shri Harit and Shri Dubey supported the arguments of learned Additional Advocate General.

12. Before advertng to the facts of this case, it would be appropriate to have a review about the settled law on the point of public interest litigation as also locus standi of the Petitioner to file this public interest litigation. It is also 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.

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

Public interest - Something in which the public, the community at terge, 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.

In this regard, the Hon"ble Apex Court in the matter of Dr. B. Singh (Supra), para-5, has held that:

When there is material to show that a petition styled as a public interest litigation is nothing but a camouflage to foster personal disputes or vendetta to bring to terms a person, not of ones liking, or gain publicity or a facade for blackmail, said petition has to be thrown out. Public interest litigation which had now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "private interest litigation" or "politics interest litigation" or the latest trend "paise income litigation". If not properly and strictly regulated at least in certain vital areas or spheres and abuse averted it becomes also a tool in unscrupulous hands to release vendetta and wreck vengeance, as well to malign not only an incumbent to be in office but demoralize and deter reasonable or sensible and prudent people even agreeing to accept highly sensitive and responsible offices for fear of being brought into disrepute with baseless allegations. There must be real and genuine public interest involved in the litigation and concrete or credible basis for maintaining a cause before Court and not merely an adventure of knight errant borne out of wishful thinking. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. The credibility of such claims or litigations should be adjudged on the creditworthiness of the materials, averred and not even on the credentials claimed of the person moving the Courts in such cases. A person

acting bonafide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration.

(Emphasis supplied)

In the matters of Janata Dal Vs. H.S. Chowdhary and Others, and Kazi Lhendup Dorji Vs. Central Bureau of Investigation and Others, the Hon''ble Apex Court held 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 a clean heart, clean mind and clean objective." In Janata Dal Vs. H.S. Chowdhary and Others, in para 53 of the judgment the Hon''ble Apex Court while defining the expression "PIL" has held thus:

53. The expression "litigation" means a legal action including all proceedings therein, initiated in a court of law with the purpose of enforcing a right or seeking a remedy. Therefore, lexically the expression "PIL" means a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected.

(Emphasis supplied)

In para-62 of Janata Dal Vs. H.S. Chowdhary and Others, the Hon''ble Apex Court held that:

Be that as it may, it is needless to emphasise that the requirement of locus standi of a party to a litigation is mandatory, because the legal capacity of the party to any litigation whether in private or public action in relation to any specific remedy sought for has to be primarily ascertained at the threshold.

(Emphasis supplied)

In para-98 of the said judgment, it has further been pointed out as follows:

98. While this Court has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly developed doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that courts should not allow its process to be abused by a mere busybody or a meddlesome interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration.

(Emphasis supplied)

It was also observed that:

It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have as 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.

(Emphasis supplied)

In paras 13 and 15 of Dr. B. Singh's (Supra) case the Hon"ble Apex Court held that:

13. 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 allowed to be used for suspicious products of mischief. It should be aimed at redressed of genuine public wrong or public injury and not 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 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 busy-bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.

(Emphasis supplied)

15. 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 importers and busy-bodies 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.

(Emphasis supplied)

As back as in 1982 the Hon''ble Apex Court in the matter of S.P. Gupta Vs. President of India and Others, held that "the relaxation of the rule of locus standi in the field of PIL does not give any right to a busy-body or meddlesome interloper to approach the Court under the guise of a public interest litigant and the Apex Court further observed that "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," Similar view has been taken by the Hon''ble Apex Court in the matter of Ashok Kumar Pandey v. The State of West Bengal 2003 AIR SCW 6105.

13. In the matter of S.P. Anand Vs. H.D. Deve Gowda and others, in para 18 the Hon''ble Apex Court held that:

Before we part, we cannot help mentioning that on issues of constitutional laws, litigants who can lay no claim to have expert knowledge in that field should refrain from filing petitions, which if we may say so, are often drafted in a casual and cavalier fashion giving an extempore appearance not having had even a second look. This is the impression that one gets on reading the present petition. It is of utmost importance that those who invoke this Court's jurisdiction 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. Such a litigant must not succumb to spasmodic sentiments and behave like a knight-errant roaming at will in pursuit of issues providing publicity. He must remember that as a person seeking to espouse a public cause, he owes it to the public as well as to the Court that he does not rush to Court without undertaking a research, even if he is qualified or competent to raise the issue. Besides, it must be remembered that a good cause can be lost if petitions are filed on half-baked information without proper research or by persons who are not qualified and competent to raise such issues as the rejection of such a petition may affect third party rights. Lastly, it must also be borne in mind that no one has a right to the waiver of the locus standi rule and the Court should permit it only when it is satisfied the carriage of proceedings is in the competent hands of a person who is genuinely concerned in public interest and is not moved by other extraneous considerations. So also the Court must be careful to ensure that the process of the Court is not sought to be abused by a person who desires to persist with his point of view, almost carrying it to the point of obstinacy, by filing a series of petitions refusing to accept the Court's earlier decisions as concluding the point.

(Emphasis supplied)

14. In another judgment of the Hon''ble Apex Court in the matter of Guruvayur Devaswom Managing Committee v. C.K. Rajan AIR 2003 SCW 6039 the Court

after analyzing the case law on the public interest held that:

The Courts exercising their power of judicial review found to its dismay that the poorest of the poor, deprived, the illiterate, the urban and rural unorganized labour sector, women, children, handicapped by "ignorance, indigence and illiteracy" and other down-trodden have either no access to justice or had been denied justice. A new branch of proceedings known as "Social Interest Litigation" or "Public Interest Litigation" was evolved with a view to render complete justice to the aforementioned classes of persons. It expanded its wings in course of time. The Courts in pro bono public granted relief to the inmates of the prisons, provided legal aid, directed speedy trial, maintenance of human dignity and covered several other areas. Representative actions, pro bono public and test litigations were entertained in keeping with the current accent on justice to the common man and a necessary disincentive to those who wish to by-pass the real issues on the merits by suspect reliance on peripheral procedural shortcomings. But with the passage of time, thing started taking different shapes. The process was sometimes abused. Proceedings were initiated in the name of public interest litigation for ventilating private disputes. Some petitions were publicity oriented. A balance was, therefore, required to be struck. The Court insisted on furnishing of security before granting injunction and imposing very heavy costs when a petition was found to be bogus. It took strict action when it was found that the motive to file a public" interest litigation was oblique.

In the above judgment, it was further held that (i) the Court in exercise of powers under Article 32 and Article 226 of the Constitution of India can entertain a petition filed by any interested person in the welfare of the people who is in a disadvantaged position and, thus, not in a position to knock the doors of the Court. The Court is constitutionally bound to protect the fundamental rights of such disadvantaged people so as to direct the State to fulfill its constitutional promises, (ii) issues of public importance, enforcement of fundamental rights of large number of public vis-a-vis the constitutional duties and functions of the State, if raised, the Court treat a letter or a telegram as a public interest litigation upon relaxing procedural laws as also the law relating to pleadings; (iii) whenever injustice is meted out to a large number of people the Court will not hesitate in stepping in; (iv) the common rule of locus stands is relaxed so as to enable the Court to look into the grievances complained on behalf of the poor, deprived, illiterate and the disabled who cannot vindicate the legal wrong or legal injury caused to them for any violation of any constitutional or legal right (v) when the Court is prima facie satisfied about violation of any constitutional right of a group of people belonging to the disadvantaged category, it may not allow the State or the Govt. from raising the question as to the maintainability of the petition. (vi) the Court would ordinarily not step out of the known areas of judicial review The High Court although may pass an order for doing complete justice to the parties, it does not have a power akin to Article 142 of the Constitution of India.

15. In this connection, it will not be out of place to refer to the speech delivered by none else than Hon"ble the Chief Justice of India Justice R.C. Lahoti in a function held in the memory of Late Justice Sobhagmal Jain on 13th March, 2004, and this is how Hon"ble the Chief Justice of India described the PIL.

A PIL judge shuns busy buddies. An individual acting bonafide with a view to vindicating the cause of justice without personal, private political or oblique motivation is welcome. Away from legalistic jargon I feel a public interest litigant must satisfy the test of being one who is genuinely pained at the injustice done to society or class or public in general as opposed to an individual, and genuinely feels that he deserves the constitutional court lending with justification a helping hand to him. It is that feeling of pain in the heart of the Petitioner proportionate with the cause of public grievance projected in the petition which is determinatives of his locus. The public interest litigant is one who satisfies the test available in literature:

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Says the poet,

The social suffering spread around, So much pains me in my heart. That when the society weeps. The tears roll down my eyes.

16. Therefore, in view of the law laid down by the Hon"ble Apex Court in order to relax the rule of locus standi and entertain PIL the Petitioner is required to satisfy the Court about his credentials and prima facie correctness of nature of the information given by him with the material showing public interest and source of information regarding the issues raised in the petition. He has to come not only with clean hands but also with a clean heart, clean mind and clean objective showing his concern with the public interest and such information should not be vague and indefinite and must show the gravity and seriousness involved. The Petitioner cannot be allowed to pursue his wishful thinking for personal publicity or to stall the policy decision. He should not be actuated by a desire to win notoriety or cheap popularity and to file vexatious petition under the colour of PIL for vindicating any personal grievance and showing the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected. A person acting bonafide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions. The Petitioner cannot request the Court to make a roving enquiry in the matter, even the Petitioner has not mentioned in the petition when he came to know about the function.

17. Now, coming to the locus of the Petitioner, counsel for the Petitioner disclosed during the course of arguments that the Petitioner is a student of L.L.B.

second year and residing at Durg, which has not been mentioned in the petition. A perusal of the petition reveals that the Petitioner has not mentioned in the petition anywhere about his credentials, how he is a public-spirited person, what prompted him to file this petition and how he is concerned with the establishment of the High Court and source of information. The Petitioner is not citizen of the Bilaspur City and he is not in legal profession at Bilaspur. During the course of arguments, it was disclosed that about 400 lawyers are practicing in High Court, but none of the Advocate of High Court Bar Association raised this point or raised any objection to the proposed site for construction of the High Court building. Shri Vinay Harit, learned Sr. Standing Counsel for Union of India argued that he has ascertained the views of the Bar members, and according to the views ascertained, the Bar members are quite disturbed about stalling of functions by filing of this petition. On this, Mr. V.D. Bajpai, the President of the High Court Bar Association who was in the Court, also endorsed the same view. Therefore, the petition lacks in material particulars. The Petitioner has not been able to bring on record material, which entitles him to relax the rule of locus standi as per the settled law.

18. At the time of hearing, it was enquired from the counsel for the Petitioner about the Petitioner's presence in order to ascertain certain factual position from him and also about his credentials, but he was not present in the Court, therefore, we could not ascertain about his credentials. In accompanying affidavit of the petition, in para-2, the Petitioner has mentioned that paras-1 to 12 of the writ petition and ad-interim relief of the same are true to his personal knowledge, but he has not mentioned in the petition from where he derived the personal knowledge and what is the basis of personal knowledge. Therefore, this petition has been drafted in a most casual and cavalier manner and without furnishing full particulars and material in order to enable the Court to reach the conclusion that how the public interest has suffered in this matter. Paragraphs 6.5 and 6.6 of the petition are not happily drafted and worded. Counsel for the Petitioner ought to have refrained from mentioning names of the Highest Dignitaries of the Judiciary and Judges of the High Court. It was sufficient to mention that foundation-laying ceremony has already been held. Therefore, the Petitioner is not entitled to relax all the rules of locus standi in this matter in view of the law laid down by the Hon'ble Apex Court in the matters of S.P. Anand Vs. H.D. Deve Gowda and others, , S.P. Gupta Vs. President of India and Others, , Janata Dal Vs. H.S. Chowdhary and Others, , Ashok Kumar Pandey AIR 2003 SCW 6105 and Guruvayur Devaswom Managing Committee cases AIR 2003 SCW 6039.

19. Now, coming to the question whether in this case in fact public interest has suffered on account of the decision taken by Govt. in consultation with the High Court, as mentioned above, it is an admitted position that large chunk of the land which has been allotted at Koni and Sarkanda site, is in fact, belongs to the Agricultural University, and Veterinary Department where their buildings are existing. Their departments are functioning and part of the university campus,

for which they have raised serious objections as mentioned in earlier part of this order. As per clause-36 of the Revenue Book Circular, land of any department cannot be transferred to other department without consent of department to whom the land belongs. In this case, various objections are raised by the Chancellor and Vice Chancellor of the University, they have gone to the extent that Animal Breeding Centre, Poultry Farms and other Science Centre have to be closed if the land is given to the High Court, therefore, question before us is whether it is in the public interest to close those departments and take a land of educational institution where future of young generation is being sharpen and developed, should be stopped for establishment of the High Court building. The Agricultural University and other departments are also public institutions and those institutions have been set up for the public purpose, therefore, in the opinion of the Court if area of the land of those departments is taken away, their comparative hardship is in favour of the university and public interest will suffer, if that land is taken for construction of the High Court building.

20. Moreover, during the course of arguments it was made clear, that if buildings, which are existing, are demolished, then loss of Rs. 2 crores will be caused to the public exchequer and further much more than that amount will be required to construct those buildings at some other place. There are mother plants of high value for the research and value of those plants cannot be assessed in terms of money and that they have to be removed if the land is given to the High Court. We fail to understand how the said site was proposed by the administration for construction of the High Court building, in comparison to that if we look towards the present site, the land is Govt. land open land, lying vacant, physical possession of which has already been handed over to the High Court and only around about less than three and half acres in to be acquired, which has been mentioned in the return, for that purpose only Rs. 70 lacs of the public exchequer is to be incurred and out of which 32 persons have already given their consent for exchange of land with Govt. land. Moreover, at new site land is Govt. vacant land and possession on which has already been given to the High Court, therefore, at the new site no public exchequer in comparison to Koni site is required to be incurred, looking to the hardship of the Agricultural University and Animal Husband Department. The Government has not given its approval in response to the Collector's letter (Annexure-R/10).

21. It is an admitted position that physical possession of Koni site has not been handed over to the High Court and the High Court was established as back as on 1-11-2000. The High Court is functioning in the school building since last four years and on account of this dispute no construction activate has started. It is a common knowledge that existing building of the High Court is insufficient to cater the need of the High Court, Bar, Law Officer and the Public and on account of that High Court is facing lot of function difficulties. There is no space for keeping library books. There is no Sparc to keep records and moreover the High Court is in the process of receiving about 8,000 files from State Administrative Tribunal, which has been abolished, which is going to add more problems due to paucity of

Spark. Even the High Court has not been computerized, that is why in these compelling circumstances the Government was asked to look into the matter and provide site for construction of building that is why the Govt. proposed alternative site, which was accepted by the High Court. Apart from that there is constant demand for space and building by High Court Bar Association, Bar Council and Advocate General's Office.

22. As has been mentioned by Respondents 1 to 2 in supplementary objections and supported by the affidavit of Executive Engineer of P.W.D. that Koni site land is of black cotton soil, which is very poor in the matter of strength. If the building is constructed on that site, then that will cost 25%-30% extra in comparison to the proposed site at Bodari. This fact itself shows that how argument of counsel for the Petitioner is without any basis or supported without any material that the Govt. will be required to incur more expenditure at the new site, therefore, argument of counsel for the Petitioner that the proposed site will be more expensive than Koni site, in view of this reason, is without force. As far as question of heavy traffic on the national high way is concerned, learned Additional Advocate General has already made submission that by-pass has already proposed 1 km before the new site for High Court building, therefore, there is no question of heavy traffic. Even otherwise, it is not ground to make this point as public interest litigation. Similarly, Railway Over Bridge has also been proposed. As far as dolomites mines are concerned, the Petitioner deliberately has not mentioned in the petition the distance between the proposed site and dolomite mines. It is common knowledge that dolomite mines are about 6-7 km away from the proposed site and the blasting at the mines is not that high level which may affect the building. The residential colony of the officers and staff is also there and they are residing in that area, that itself shows that there is no such danger which the Petitioner has tried to raise and highlight in this petition. The Petitioner in the relief clause of the petition itself has requested for constitution of a committee comprising a retired High Court Judge, representative of Bar, High Court staff and public to find out the suitability of sites for new High Court building. If this prayer of the Petitioner is accepted then it is going to create further more complications and construction of new High Court building will again be held-up for an indefinite period.

23. As far as the proposed site is concerned, no member of the High Court Bar Association has raised any objection at any point of time. Even the invitation cards for 31st October, 2004, ceremony were distributed among High Court Bar Association members, all the District Bar Associations through out the State, Bar Council members, and Law Officers, but none has come forward raising objection against the proposed site of the High Court building. Even the Petitioner has not made any representation about his objection and all of a sudden, he filed the petition and the time selected by him to file the petition itself speaks more than what has been mentioned in the petition. How the time was selected to stall the function at the eleventh hour.

24. Now, coming to the question of judgments cited by counsel for the Petitioner is concerned, in the matters of the State of Kerala and Ors. 1999 SAR (civil) 307 (Supra), Jammulu Ramulu and Ors. 2001 SAR (civil) 660 (Supra) and Hansoli Devi and Ors. 2002 SAR (civil) 788 (Supra) the Hon"ble Apex Court has held that "functions of the Court is to interpret law according to the intention of the legislature and apply to facts of the case and Court must as far as possible adopt a construction which will carry out the intention of the legislature when the meaning of the words of the statues are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense." All the three judgments are relating to the interpretation of statute and, therefore, they are of no assistance and help and relevant in the present case. In the case of First Land Acquisition Collector and Ors. 2002 SAR (civil) 349 (Supra), the matter relates to land acquisition in which while interpreting Section 17(1) and (4) of the Land Acquisition Act the Court held that "ordinarily, it is not open to the Court to make a scrutiny of the propriety of the satisfaction on an objective appraisal of facts. Non-application of mind to the relevant factors by appropriate authority or mala fides of such authority in taking the decision can be grounds for the Court to interfere with the notification". In the present case, no malafides have been alleged by the Petitioner in taking the decision for selecting new site for construction of the High Court. On facts, it cannot be said that there was non-application of mind while selecting new site, therefore, this authority is also of no assistance to the Petitioner.

25. In the matter of Gram Panchayat of Village Naulakha v. Ujagar Singh and Ors. 2000 SAR (Civil) 962 in placitum-c the Hon"ble Apex Court held that "public interest should not be allowed to be jeopardized by persons who, at an earlier point of time, might have represented it and who were expected to effectively defend public interest and community property. Persons representing public bodies are expected to discharge their functions faithfully and in keeping with the trust reposed in them." As mentioned in the earlier part of this order, counsel for the Petitioner has failed to point out as to how in the present case Respondents authorities have failed to discharge their duties and functions. But on facts, Respondents were compelled to take decision for selecting the new site for the High Court. Similarly, in the case of State Govt. Houseless Harijan Employees Association 2001 SAR (civil) 132 (Supra), the matter relates to Land Acquisition Act, as no application in the present case. As far as the case of Savitri Devi v. District Judge, Gorakhpur and Ors. 1999 SAR (Civil) 326 is concerned, the matter relates to interpretation of Order 1, Rule 10 and Section 151 CPC regarding necessary party to be added in the suit. In this case, the petition of the Petitioner is not maintainable. Therefore, there is no question of allowing the application I.A. No. 8545/2004 for implement of the party.

26. Now coming to the point raised by counsel for the Petitioner that proposed site is out of Bilaspur city, whereas, His Excellency the President of India by notification has ordered for establishment of High Court at Bilaspur, therefore, High Court cannot be constructed at the proposed site, this argument of counsel

for the Petitioner is also without any basis as it is common knowledge that with expansion of the city, the proposed site is adjacent and even within the vicinity of Bilaspur. Even though it is commonly known as Bodari village area, but counsel for the Petitioner forget to understand that the proposed site lies in Bilha block, the part of the city of Bilaspur is in Bilha block and Koni site also come within Bilha block. Even the present High Court building is also in Bilha block. During the course of arguments learned Counsel for Respondents 1 and 2, Mr. Mishra submitted that even Koni site is also not within the municipal area of Bilaspur, which was not refuted, by counsel for the Petitioner. Therefore, this argument is also of no assistance to the Petitioner. In view of the foregoing discussion, the Petitioner has failed to establish that on account of the decision to establish the High Court at new Bodari site the public interest is going to suffer in any way.

27. Now, coming to the question of judicial review, where the High Court is to be located, it is primarily within the domain and realm of the Government to decide, of-course, with the consultation with the High Court and that has been done. No individual or private person has a right to ask the Government to establish the High Court at a particular place. Primarily it is a policy decision and the Court is not entitled to interfere with the policy decision. In this connection, we are fortified in our view by the judgment of the Hon"ble Apex Court in the matter of BALCO Employees Union (Regd.) Vs. Union of India and Others, in which the Hon"ble Apex Court held that "in the policy decision matters the Court has no power to exercise the power of judicial review." Similarly, in the matter of Union of India and Ors. v. Kannadapara Sanghatanegala Okkuta and Kannadigara and Ors. (2002) 10 SCC 226 the Hon"ble Apex Court has held that "there are various factors which have to be taken into consideration when a decision like this has to be arrived at. Assuming that the decision so taken is a political one, it cannot possibly give rise to a challenge on the ground of legal malafides. A political decision, if taken by a competent authority in accordance with law, cannot per se be regarded as malafide. In any case, there is nothing on record to show that the present decision was motivated by political consideration." In this case, the Central Govt. took a decision to establish railways headquarters at Banglore, before notification could be issued, the Central Govt. decided to establish that headquarter at Hubli which was challenged before the High Court. The High Court quashed the decision and the matter went up to the Supreme Court and Hon"ble Apex Court while reversing the High Court's judgment held that in the matter of policy decision taken by the Government, the High Court is not entitled to exercise the power of judicial review and held that it is not function of the Court to decide the location of the site of the headquarters. It is the function of the Government.

28. In Narmada Bachao Andolan Vs. Union of India and Others, , commenting on the scope of judicial review in PIL cases, the Apex Court held that:

In respect of public projects and policies which are initiated by the Government the courts should not become an approval authority. Normally, such decisions are

taken by the Government after due care and consideration. In a democracy welfare of the people at large, and not merely of a small section of the society, has to be the concern of a responsible Government. If a considered policy decision has been taken, which is not in conflict with any law or is not malafide, it will not be in public interest to require the court to go into and investigate those areas, which are the function of the executive. For any project which is approved after due deliberation the court should refrain from being asked to review the decision just because a Petitioner in filing a PIL alleges that such a decision should not have been taken because an opposite view against the undertaking of the project, which view may have been considered by the Government, is possible. When two or more options or views are possible and after considering them the government takes a policy decision it is then not the function of the court to go into the matter afresh and, in a way, sit in appeal over such a policy decision.

29. Moreover, in the present case, no legal malafides or any political motive has been alleged, proved or established that the Respondents have any legal malafides in selecting the new site for construction of the High Court building. As has been held in *Narmada Bachao Andolan Vs. Union of India and Others*, when two or more options or views are possible and after considering them the Government takes a policy decision it is then not the function of the Court to go into the matter afresh and, in a way, sit in appeal over such policy decision. Therefore, on this ground also this writ petition is liable to be dismissed.

30. It is an admitted position that even after the lapse of four years, construction of High Court building could not be started as physical possession of the land of Koni site has not been given and the Judicial functioning of the High Court, the Registry, High Court administration, Law Officers, Bar Association, Bar Council and litigants are suffering on account of paucity of space. In these compelling circumstances, all concerned authorities were required to take decision for construction of the High Court building. In this background, as back as in the months of June and July 2004 search for new site was started and it was regularly appearing in the newspaper. Even in the 2nd week of September 2004 meeting with the Chief Secretary in the High Court was convened and in that meeting it was made clear that High Court is to be constructed at Bodari and that appeared in the newspaper, even then the Petitioner had not made any representation to the Govt. knowing fully well that the High Court building is going to be located at the new site. Even the Petitioner is relying on the newspaper report of 12-10-2004. But he did not come forward to challenge the decision by representation, only when function of 31st October 2004 was fixed, all the arrangements were made, cards were also distributed, Highest Judicial Dignitaries of the country were to participate in the function, at the last moment, deliberately with oblique considerations and reasons best known to the Petitioner, he filed this petition to stall the function which has brought the Judicial System of this place to a stage which cannot be expressed in words and the harm which has been done to the Institution by filing this petition cannot be compensated in

any manner.

31. The new High Court was established at District Headquarter, Bilaspur, without being any Bench of Madhya Pradesh High Court at this place prior to that and even after 4 years of the establishment of this High Court. The manner in which frivolous petitions are being filed against the constitutional functionaries, other dignitaries and authorities with impunity to malign them and to deter them from discharging their official functions without any reason or rhyme and due to paucity of Judges such petitions are not being taken up for hearing is a matter of concern for all who are concerned with the Judicial System. Therefore, in our considered opinion, it is high time that such activities should be nipped at the bud that the ugly designs should be unveiled as has been mentioned in Dr. B. Singh's case, if such types of petitions are to be entertained, then irreparable damage will be caused to the Judicial System. The time selected for filing this petition speaks that it has been filed with oblique motive to stall the function, therefore, we are of the considered opinion that it should be dismissed with exemplary cost in order to deter such persons from filing such litigation to malign the constitutional authorities with oblique motive.

32. In the result,

(i) in view of what has been discussed above, it shows to what extent the process of law can be abused in the guise of attractive brand name of "Public Interest Litigation". The observation made by Hon''ble Apex Court in the matter of Dr. B. Singh v. Union of India and Ors. AIR 2004 SCW 1494 that "but the least that can be said is that it smacks of everything what a public interest litigation should not be" aptly applies in this case. Therefore, the petition deserves to be dismissed with exemplary cost and the same is dismissed with a cost of Rs. 50,000/- (Rupees fifty thousand only). The Petitioner is directed to deposit the same within thirty days from today.

(ii) At the same time looking to the seriousness of the matter where the Petitioner has chosen to file this petition at the last minute in order to stall the function and the way the Petitioner has damaged and maligned the Institution, Highest Judicial Dignitaries of the country, Judicial System and constitutional functionaries, in the circumstances, irresistible and only conclusion can be drawn is that some person/persons are behind the whole drama to achieve their ulterior motive, therefore, it is imperative and high time to expose the ugly design. In order to unveil the ugly design and to identify the person/persons who are behind and involved in filing of this writ petition, we direct the Central Bureau of Investigation to enquire into the facts and circumstances leading to filing of this writ petition and to identify the person/persons who are behind and involved in filing of this writ petition and to submit its report as early as possible preferably within a period of 30 days from the date of receipt of copy of this order in order to take further action in the matter, in accordance with law. However, C.B.I. should ensure that enquiry should be conducted by an Officer not below the rank of Superintendent of Police and for this purpose the Registrar General is directed

to hand over copy of this order forthwith to the Superintendent of Police, C.B.I..

(iii) Consequently, applications I.A. No. 8376/2004 for exempting from depositing security amount and I.A. No. 8545/2004 for adding the Collector and Revenue Secretary as party stand rejected.

Before parting with this order, we would like to appreciate the valuable assistance rendered by learned Counsel for the parties.