

(1996) 09 GAU CK 0001
In the Gauhati High Court
Case No : Civil Rule No. 501 of 1996

R.K. Anand and Others

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

Date of Decision : 20-09-1996

Acts Referred:

Citation : (1997) 1 GLR 66

Hon'ble Judges : V.D. Gyani, J;P.K. Ghosh, J

Bench : Division Bench

Advocate : Kh. Nimaichand Singh, for the Appellant; A. Nilamani Singh, for the Respondent

Final Decision : Allowed

Judgement

1. This petition has been brought in the name of public interest litigation. The petition relates to appointment of graduate teachers in Science, Arts, Home Science and Hindi streams of the Education Department of the Govt, of Manipur. The Petitioners claim that they have filed this petition to highlight the corrupt practices, acts of favouritism and nepotism, manipulation of marks and tempering of records, openly flouting norms of examinations and appointments.

2. Petitioner No. 1, as claimed, is a practising lawyer, human rights activist, social worker and presently Joint Secretary of a political party. While other Petitioners are unemployed Science and Arts graduates.

3. By this petition, the Petitioners pray for a direction to the C.B.J. to investigate the Respondents' action relating to the appointment of teachers in the State. They also pray for quashing and setting aside the result of the D.P.C. dt. 29th June, 1996, Annexures-6, 7 and 8 to the petition by which the DPC recommended appointment of graduate teachers in Hindi, Home Science, Arts and Science.

4. Before proceeding any further in the matter, it would be pertinent to note the chronology of events after filing of the petition. On 26.6.96, a Rule was issued,

made returnable within three weeks. On the same day, learned, Advocate, General appearing for the Respondent State declared that the result of DPC for appointment of 45 Science Graduate teachers contained in Annexure-8, had been cancelled by the State Govt, and, therefore, no stay as such, is necessary for that category of post as contained in Annexure-7. The order-sheet dt. 26.6.96 reads as follows:

Mr. Asok Potsangbam, Id. Advocate General, Manipur submits that, the result of DPC for appointment of 45 (forty five) Science Graduate Teachers contained in Annexure-B has been cancelled by the Government and therefore no stay is necessary for that category of post at Annexure-A/7. The learned Advocate General, Manipur also submits that the result of the DPC for appointment of 115 Graduate teachers has been cancelled by the Govt, and therefore no stay is required in respect of those candidates in Annexure-A/8.

5. The real controversy therefore remain as regards Annexure-A6 and its operation, was stayed till 15th July, A mere glance at Annexure-6 would reveal that a pertains to as many as 165 Hindi and Home Science Graduate candidates, who were declared successful at the test for appointment as Hindi and Home Science teachers in the Government Secondary and Junior High Schools. These successful candidates, and for that matter any other candidates as well have not been impleaded as parties by individual names, although their individual interests in the result of the list can hardly be disputed, The Petitioners had submitted that since it was public interest litigation, notices by paper publication in local dailys were allowed to be published. It was brought to the notices of the Court that as a result of the interim stay order passed on 26.6.96, some genuine candidates were likely to suffer and the Court on 2.7.96 observed:

Mr. A. Nilamoni, the learned senior counsel has submitted that in view of the interim stay some genuine candidates shall suffer. In case it is found that some genuine candidates have suffered any loss on account of this interim stay and if it is brought to the notice of this Court then it will be considered duly.

6. Accordingly some of the candidates adversely affected by the stay order did enter appearance. On 15.7.96 a preliminary objection was raised as regards maintainability of this petition as a public interest litigation. Counsel for the Petitioner sought time till 18.7.96 and the interim order was continued till then.

Thereafter on 18.7.96, one Miss Gita applied for being impleaded as Respondent, her prayer was allowed, yet another objection filed it was ordered to be listed along with the present petition and the case directed to be posted for coming Wednesday. Accordingly the petition was listed before us on 31st July, 1996. It was directed to be listed next week, that is, 31.7.96, the hearing continued on 1.8.96 as well. Apart from the counsel appearing for the parties, the intervenors were also heard on merits, as well as on the preliminary objection about the maintainability of the petition as a public interest litigation.

7. Arguments have been advanced by the learned Advocate General, as also Mr.

A. Nilamani Singh, learned Senior Advocate on behalf of the Respondents that the present Writ petition is not maintainable as a public interest petition, for short "PIL". The gist of their argument is that the Petitioner No. 1 is a mere busy body having no public interest in mind in filing the present writ petition. Other Petitioners, Petitioner No. 2, 3 and 4 were candidates, who failed in getting themselves selected in the selection, could not challenge. It is infact Mr. N.P. Promod appeared for intervenor Smt. N. Gitabali Devi, who has taken the lead in making his submission support of the maintainability of the present petition as PIL. It was contended by the learned Counsel that even if a Writ petition is moved by Petitioner in his private interest, but if he raises questions of public importance alleging misuse of power by man in authority discharging duty of the Court enquiring into the allegations as PIL, according to him such an enquiry cannot be avoided, as the same is essentially for administration and justice and on upholding the rule of law. This argument in its essence is based on the Supreme Court judgment in Shivajirao Nilangekar Patil Vs. Dr Mahesh Madhav Gosavi and Others,

8. Learned Counsel appearing for the Respondent No. 12, placing reliance on Chhetriya Pardushan Mukti Sangharsh Samiti Vs. State of U.P. and others, and Dr. Nandjee Singh Vs. P.G. Medical Students Association and others, urged that frivolous petitions brought in the name of PIL should not be supported or encouraged.

9. Since the maintainability of the petition as a PIL has been very hotly contested and debated, it would not be out of place to refer to a few more leading illustrative cases on the point in S.P. Gupta Vs. President of India and Others, Bhagawati, J. (as he then was) observed:

The Petitioners being lawyers had sufficient interest to challenge the constitutionality of the circular letter and they were, therefore, entitled to file the writ petition as a public interest litigation. They had clearly a concern deeper than that of a busybody and they cannot be told off at the gates.

10. In the same year, in wellknown Asiad case People's Union for Democratic Rights and Others Vs. Union of India (UOI) and Others, it was again observed by Justice Bhagwati:

We wish to point out with all the emphasis at our command that public interest litigation which is a strategic arm of the legal aid movement and which is intended to bring justice within the reach of the poor masses, who constitute the low visibility area of humanity, is a totally different kind of litigation from the ordinary traditional litigation which is essentially of an adversary character where there is a dispute between two litigating parties, one making claim or seeking relief against the other and that other opposing such claim or resisting such relief. Public interest litigation is brought before the court not for the purpose of enforcing the right of one individual against another as happens in the case of ordinary litigation, but it is intended to promote and vindicate public interest

which demands that violations of constitutional or legal right of large numbers of people who are poor, ignorant or in a socially or economically disadvantaged position shall not go unnoticed and unredressed.

11. In *Shri Sachidanand Pandey and Another Vs. The State of West Bengal and Others*, Khalid, J. sounded a word of caution that:

Courts must restrict free-flow of case under the attractive name of Public Interest Litigation, otherwise it will pose a threat to courts and public alike inasmuch as the traditional litigation will suffer and the courts of law, instead of dispensing justice, will have to take upon themselves administrative and executive functions....

....

The public interest litigants must inspire confidence in courts and among the public. They must be above suspicion.

... ..

... ..

Advancement of the public interest and avoidance of the public mischief are the paramount considerations. The court is concerned with the balancing of interests. Although the Court should refuse to act at the instance of pseudo public spirited citizens who indulge in wild and reckless allegations besmirching the character of others, simultaneously, the court cannot uphold publicly mischievous executive actions which have been so exposed. When arbitrariness and perversion are writ large and brought out clearly, the court cannot shirk its duty and refuse its writ.

(See *Chaitanya Kumar and Others Vs. State of Karnataka and Others*,

12. The case, relied upon by the Petitioner as well. The Supreme Court in its very recent judgment as reported in *K.R. Srinivas Vs. R.M. Premchand and Others*, has observed:

It cannot be forgotten 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 must further come with a clean heart, clean mind and a clean objective. We cannot assume that Dr. R.M. Premchand, who at the relevant lime was a Research Scholar and part and parcel of the University, did not know the regulations whereunder the answer book are destroyed within six months from the examination under formal orders of the functionaries. We cannot assume that Dr. R.M. Premchand did not know about the destruction of the answer books of Srinivas at the time when he moved the High Court in public interest. If this be our impression Dr. R.M. Premchand had no locus standi to move the High Court in public interest at that belated point of time Therefore, we allow the appeal of Srinivas, set aside the order of the Division Bench of the High Court dated 17.12.1993 in W.A. No. 53 of 1993 and restore the operative part of the Single Bench of the High Court, added with the ground that Dr. R.M. Premchand had no

locus standi to move the High Court, in view of the facts and circumstances aforementioned. As a sequel all remarks against Professor K.V. Ramana in the judgment of the Division Bench of the High Court not only get expunged but the whole basis on which they rest stands effaced. His appeal too is allowed.

13. The Petitioners as well as the intervenor have also relied upon Chaitanya Kumar and Others Vs. State of Karnataka and Others, which holds that when arbitrariness and perversion writ large and brought out clearly, the court cannot shirk its duties and refuse its writs. There can be no dispute with the proposition of law as laid down. The other case on which reliance has been placed is, Dr. Upendra Baxi and Others (II) Vs. State of U.P. and Others, This case related to the conditions prevailing in the protective home and the great concern shown by the courts for welfare of inmates of the protective home, issuing various directions with a view to improving the living conditions in the protective home. It was in this factual background that the Supreme Court observed that PIL is not a litigation of adversary character, a collaborative and co-operative approach on the part of the Government and its officers as also the lawyers appearing in the case is called for. The case at hand is different in the sense that the Petitioners who could not be selected as teachers, are challenging the selection of those who have been selected and appointed, on the ground of favouritism and corruption and the number of such teachers runs into hundreds, and they have not been made parties to this petition. It was through a general paper publication in the local press that they are sought to be served with notice of this petition. Some of them have entered appearance and but naturally have denied the allegations. In this circumstance, it is bound to assume that the character of adversarial litigation still however, on principle in a real case of public interest litigation an adversarial approach must be avoided. Chaityana Kumar's case was a case of grant of contract for bottling of country liquor "Arrak". Pausing the question of public interest as professed and projected by the Petitioners, is that the method of selection of school teachers must be free from favouritism and corruption. Going by their pleaded case, the written test was held for selection of Arts, Science, Home Science and Hindi teachers on various dates in the month of October, 1991. Since the result was not declared, some of the candidates who had appeared at the written test moved this Court in a writ petition and the Court directed the Respondents to declare the result. Accordingly, the result of the written test was declared on 5.5.94. The number of successful candidates were Arts Graduates 2558, Science Graduate 1229. Home Science 123 and Hindi 259. As there was delay in holding the viva-voce test, the Petitioner No. 2 as Secretary of a Graduate Teachers' Action Committee again moved the Court praying for a direction to the Respondents to hold the viva-voce test. By order dated 4.5.95 passed in Civil Rule No. 1141/95 the Respondents were directed to hold the viva-voce test within 45 days of the order. Accordingly, the test was held as per the programme Annexures-4 and 5, 10 (ten) marks were allotted for interview. The result of the interview for Hindi and Home Science Graduate teachers was announced on 29.1.96 as per Annexure-A/6. The select list of

Science and Arts Graduate teachers were published on 17.6.96 as per Annexures-7 and 8 respectively.

14. So far as the list of Hindi and Home Science teachers is concerned, the Petitioner's grievance is that as against 7 requisitioned post of Home Science teachers 8 (eight) were selected and as against 117 requisitioned post of Hindi Teachers 157 were selected.

15. The requisition Annexure -A/1 is dated 27.6.91. The select list was made almost five years thereafter in June, 1996. The likelihood of increase in the required strength cannot be ruled out viewed with the intervening period of 5 years. May be some of them who passed the written test may not be available for appointment. There is nothing wrong in providing for exigencies even if there was no actual increase in the required strength, and as such, the increase in the number of selected candidates cannot be faulted with on any legitimate ground. Having narrated the facts leading to publication of the select list in foregoing paragraphs 6 to 9, the Petitioners made the following allegations in paragraphs 10 and 11:

10. That the Petitioners beg to state that the Respondents while publishing the lists of successful candidates recommended for the aforesaid post as per Annexures-A/6, A/7 and A/8 the Respondents wilfully, mala fide and intentionally, by practising of corrupt practice and by flouting the norms of tests for recruitment of teachers in all the aforesaid disciplines and by tampering the marks obtained by each candidate and by inserting the names of persons who were already declared unsuccessful in the written test were published to be the successful and recommended candidates for the posts. The following are the persons who were declared successful in the final results of the DPC. They are:

A. In Science Graduate Teachers at Annexure-A/7

(i) N. Geetabali Devi Roll No. 1625

(ii) A. Lakhenswari Devi Roll No. 1796

B. In the Arts Graduate Teachers at Annexure-A/8

(i) K. Bijaya Devi Roll No. 3624

(ii) K. Radhapyari Devi Roll No. 7870

(iii) Lallein Shimary Roll No. 4581

(iv) L. Tombimacha Devi Roll No. 5344

(v) L. Sorojini Devi Roll No. 5968

C. In Hindi Graduate D. P. C. at Annexure - A/6

(i) Km. L. Lalita Devi Roll No. 728

(ii) L. Jimanmala Devi Roll No. 729

(iii) Ch. Sobita Devi Roll No. 609

D. In Home Science Graduate Teachers at Annexure-A/6

(i) Th. Mema Devi Roll No. 129

11. That, on the plain and comparative reading of the roll numbers of the candidates who were declared successful in the written test which is at Annexure-A/2 along with final result sheet at Annexure A/6, A/7 and A/8 of the roll numbers of the aforesaid persons at para 9 of this petition were not found in the list at Annexure A/2. This is the glaring example of manipulation and tampering of the result sheet and tabulation of marks sheets with an oblique motive of corruption, nepotism and favouratism. For the purpose of easy reference the names of those persons who were not successful as per result sheet at Annexure-A/2 is prepared after a thorough comparison with the final result sheets at Annexure-A/6, A/7 and A/8. These lists of persons along with their roll numbers against their names is enclosed herewith and marked as Annexure-A/9.

16. From the above breakup, as given by the Petitioners it would be seen that the total numbers of candidates who were not declared successful at the written test but included in the select list is only 11. The Respondent State in its affidavit-in-opposition having raised a preliminary objection about the maintainability of this petition as public interest litigation, has given the post-wise breakup of candidates ; who appeared at the viva voce test which is as follows:

Category of posts Candidate sponsored Candidates appears at written test Date of written Date of viva-voce

Arts Graduate 8,716 8,432 13.10.91 26.6.95 to 13.7.95

Science Graduate 3,686 2,472 23.10.91 14.7.95 to 22.7.95

Home Science 169 138 27.10.91 27.7.95

Hindi Graduates 739 529 6.10.91 25.7.95 to 26.7.95

The Respondent State in its affidavit-in-opposition has explained as to how the whole matter was put before the Minister of Education as required under the Rules of Business and it was considered in the light of the following:

- a) Thai there was general shortage of teachers particularly in the Hill areas;
- b) Since 1991 when D.P.C. was started with the written test, there had not been any D.P.C. for recruitment to Assistant Graduate teachers on account of ban imposed by the Government and on account of various court directives not to fill up any post.
- c) Any new D.P.C. would invariably take around 3 to 4 months,
- d) Adhoc appointment of teachers was not desirable;
- e) There was general pressure from the candidates for filling up of more number

of posts by filing formal representations.

17. Thereafter the matter was placed before the Hon"ble Chief Minister of the State. A Cabinet decision was taken modifying the notification dated 17.6.96 Annexures-7 & 8 to the petition. It was modified to the extent that the recommended candidates in Schedule "B" should be cancelled and the number of recommended candidates in Schedule "A" should be equivalent to the number of requisitioned posts plus 10% and those in excess thereof should be cancelled. This modification is placed on record as Annexure-R/1 to the affidavit-in-opposition. It is significant to note here that the Petitioners have not challenged the cancellation of the excess teachers recommended by the D.P.C.

18. As already noted above, vide order-sheet dated 26.6.95, on the basis of statement made by the learned Advocate General, the appointment of 45 Science Graduate teachers contained in Annexure-B to Annexure-A7, as filed by the Petitioners and 115 Arts Graduate teachers, as per Annexure-B to Annexure-A8, as filed by the Petitioners, had already been cancelled by the Respondent. In an attempt to nuke capital out of this cancellation, it was argued by the Petitioner's counsel that reference to Annexure-R1 at page 20, that the Respondents have also admitted that complaint were received by the authorities regarding the functioning of the DPC which according to the learned Counsel goes to show the public interest involved in the petition. There is no denying the fact that complaints were received, learned Advocate General argued and submitted that if on receipt of complaints the mistakes pointed out are rectified, the authorities who rectified the same, cannot be parried, It should be appreciated that no sooner any mistake or malpractice was brought to notice, the same was rectified, The DPC results were announced on 17.6.96 and on 25th June, 1996 the order of cancellation was issued.

19. Incidentally, this order dt. 25th June, 1996 as passed by the Respondent State was a reference of compliance of order passed by this Court in Civil Rule No. 1141/94 and a Contempt Case No. 24/96. Civil Rule 1141/94 was not filed by the Petitioner, it was failed by All Manipur graduate Teachers Written Examination 1991 Passed Candidates Action Committee. The Petitioners can not take credit for it. As rightly pointed out Petitioner 2, 3 and 4 availing of the aforesaid order passed in Civil Rule No. 1141/94 appeared before the DPC for viva-voce test held on 26.6.95 to 13.7.95 (for Arts Graduates) and 14.7.95 to 24.7.95 (for Science graduates) they did not raise any objection at that point of time. It was only after finding that their names did not figure in the select list published on 17.6.96, they started impeaching the recommendations and functioning of the DPC. The Respondent No. 4 in his affidavit has charged the Petitioner with oblique motive and their silence in the matter till the publication of we result on 17.6.96, speaks volumes for their so called public interest. The Supreme Court in one of its recent judgment as reported in K.R. Srinivas Vs. R.M. Premchand and Others, pointed out the duty of a Writ Petitioner who comes to the court for relief in public interest in the following words:

It cannot be forgotten 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 must further come with a clean heart, clean mind and a clean objective. We cannot assume that Dr. R.M. Premchand, who at the relevant time was a Research Scholar and part and parcel of the University did not know the regulation where under the answer books are destroyed within six months from the examination under formal orders of the functionaries. We cannot assume that Dr. R.M. Premchand did not know about the destruction of the answer books of Srinivas at the time when he moved the High Court in public interest. If this be our impression Dr. R.M. Premchand had no locus standi to move the High Court in public interest at that belated point of time. Therefore, we allow the appeal of Srinivas, set aside the order of the Division Bench of the High Court dated 17.12.1993 in WA No. 53 of 1993 and restore the operative part of the order of the Single Bench of the High Court, added with the ground that Dr. R.M. Premchand had no locus standi to move the High Court, in view of the facts and circumstances aforementioned. As a sequel all remarks against Professor K.V. Ramana in the judgment of the Division Bench of the High Court not only get expunged but the whole basis on which they rest stands effaced. His appeal too is allowed.

20. It is a settled law that if a candidate takes a calculated chance and appears at the interview then only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of the interview was unfair (See Om Prakash Shukla Vs. Akhilesh Kumar Shukla and Others,

21. One of the grievances made by the Petitioners is that candidates far exceeding the requisitioned number of post were selected by the DPC. The Supreme Court in Ashok Kumar and Others Vs. Chairman, Banking Service Recruitment Board and Others, has held that while challenging the same without impleading the selected candidates, the court would not interfere with the appointments already made.

22. Coming now to the supplementary list as published on 6.5.94, Annexure-R3 which has been the target of scathing attack by the Petitioners, as well as the intervener and Gila Bali Devi, learned Counsel appearing for the intervener assailed the same on the following grounds:

(i) that it was humanly impossible and therefore unbelievable that a large number of answer papers miming into 11571 to be processed could not have been verified within a short time of just 24 hours;

(ii) that the supplementary list Annexure-R3 is an after-thought after receipt of the notice of filing of the present petition. It was a mere device to intuit the candidates who had failed at the written test;

(iii) that the notification Annexure-A4 and A5 issued calling candidates for viva-voce test makes no mention of the supplementary list;

(iv) that the supplementary list Annexure-R3 dt. 6.5.94 was not published in any newspaper;

(v) that the supplementary list Annexure-R3, the Roll No. of four candidates for the post of Arts Graduate teachers were cancelled without any prior notice to those affected and without (sic) into confidence of other members of the DPC.

Adding to the above, counsel for the Petitioner submitted that the file No. referred to in Annexure-R3 does not tally or corresponds with the file No. of the notification dl. 5.5.94, Annexure-A2. According to him ii tallys with Annexure-A4. The supplementary list Annexure-R3 was not brought to the notice of the court while Civil Rule No. 1141/94 was still under process of being disposed of and the court specifically mentioned the number of successful candidates as only 4169 which does not include the 32 successful candidates, who figure in the supplementary list, Annexure-R3.

23. It was urged that Annexure-R3 was manufactured and fabricated document only to accommodate the daughter-in-law and other relatives of the then Director of Education.

24. The Respondent No. 4 in his affidavit-in-reply, has explained that it is not obligatory that the file number in the supplementary list should bear the same file No. as of the original. Non-mention of the supplementary list at the time of disposal of Civil Rule No. 1141/94 is also not much significant as it was a matter between the Graduate Teachers Action Committee and the State, and the specific case of the Petitioner committee was, as can be gathered from Annexure-A3 filed by the Petitioners that although the Petitioner had appeared at the written test held on 13.10.91, the result was not declared and they prayed for a direction to the State for declaration of result. In such a situation, if the supplementary list Annexure-R3 does not find mention in the court's proceedings, it does not result in invalidate the list. As for omission to make endorsement in Annexure-R3, as found in Annexure-A2, this omission is not necessarily vital in face of the fact that an endorsement has in fact been made to the following effect "Copy to (1) Notice Board. Non-publication of Annexure-R3 in the local press would not render it invalid so far as the question of cancellation of four Arts Graduate candidates bearing Roll No. 444, 2756, 4706 and 6756 is concerned, it is their individual matter. If they are really aggrieved, it is open to them to agitate their claim. It does not lie in the mouth of intervener to say that their results were cancelled without affording them any opportunity of being heard.

25. Notice dated 6th May, 1994, Annexure-R3 itself assign the reasons that the exclusion and inclusion of Roll Nos. of the above candidates in the result-sheet were purely type mistakes. It was further made clear that any candidate having doubt in his or her result may complain to the undersigned (the Director of Education) for confirmation. It is not as if there was no scope for any hearing.

26. An objection was raised that Annexure-R3 has not been endorsed to the officials as mentioned in Annexure-A2. See, the only concerned officials as

referred to in Annexure-A2 is the Secretary, Education, the rests are only for the purpose of publicity. It may be noted that all these allegations and objections pertaining to Annexure-R3 were placed on record in the Petitioner's rejoinder/reply affidavit dt. 30th July, 1996 consequent upon the affidavit-in-opposition filed by Respondent No. 4 and 5. Intervener Smt. N. Gitanjali Devi taking a similar objections also filed petition on the same day, that is, 30th July, 1996. When the petition was directed to be listed for hearing as first item to be taken up after the recess and the hearing continued thereafter for two days on 31st July, 1996 and 1st August 1996. The Respondent No. 5 in his affidavit in opposition has explained in the following words as to what necessitated the publication by way of correction of supplementary list, Annexure-R3 as published on 6.5.94:

I beg to state that since the number of successful candidates were many, typing mistakes occurred and they were rectified by necessary insertion under "tick-mark". Such corrections may be seen in the result sheets of the candidates for science graduate posts annexed by the Petitioners. The successful Hindi Graduate candidates in the written test examination were altogether 263 in number of which 260 were in the original list and 3 in the supplementary list.

27. It is significant to note that it was not the Petitioners' pleaded case in the petition as filed on 24.6.96, it was only after the Respondent No. 5 in his affidavit-in-opposition referred to and filed the supplementary list as Annexures that the Petitioners have raised the above objection. If at all there was any such fishy deal as alleged, the Petitioners could well have incorporated the same in their petition as filed on 24.6.96. It is not merely a question of pleadings, it is an attempt to improve one's own case. Learned Advocate General argued (hat had there been any such thing, the Respondents would not have referred to it, much less produce it before the Court as Annexures.

28. Public Interest Litigation has its own grammar. It calls for an indepth study of the subject, collecting material, ascertaining facts, to extract truth from the basketful of facts, containing non-truths and half-truths for this purpose the group studies, very common in U.S.A." and is also gaining ground some parts of our country. It is by adopting such group studies and if necessary by specialist groups, specialised in particular subject, which translate PIL in an actual positive. It is no doubt a laborious hard work, collection of materials, which at times turn out to be mountainous, which calls for not only the ability to sort out but also to ferret out the truth. It is a tardy and tedious process but those who profess to be public spirited, espousing public cause should undertake it, to find out the truth from the garbled versions before approaching the court. No general or wide propositions, on mere insinuations, such as, favouritism, nepotism, corruption or negligence and violations (so forth and so on depending on the nature of PIL).

29. What has happened in the instant case, soon after the publication of the select list of teachers by the PPC on 17.6.96, the Petitioners who were not selected, approached this Court just within a week on 24th June, 1996, making

all sorts of allegations regarding favouritism, nepotism, corruption, manipulation and tampering of records. Assuming for a while, that there is a germ of truth in these allegations but the person concerned is not made a party in the petition as originally filed. In a PIL individual cases cannot be decided, that too behind their back. It would be a flagrant violation of elementary principle of natural justice.

30. Petitioners have in fact made allegations against the selection of Smt. Sobita Devi and Smt. Memo Devi but they are not parties before us. It is the Petitioners pleaded case that the inclusion of Smt. Ch. Sobita Devi, Roll No. 609, in the list of successful candidates is the starting point of manipulation of records. Surprisingly enough she is not made a party to the petition, nor any attempt made for the purpose. So also Smt. Mema Devi, who is the daughter-in-law of Respondent No. 5. Had it been a case directly challenging their selection, making them party, the matter would have been different but what the Petitioners want by citing their illustrations, quashing of the whole selection process by the DPC. It should not be forgotten, that one swallow does not make a summer, nor would it be proper for the court to denounce the whole selection process because of these two instances.

31. The Respondents No. 5 and 4 have in their affidavits explained the circumstances that led to the inclusion of their Roll Numbers in the list of successful candidates. Smt. Sobita Devi, who was a candidate for Hindi Arts Graduate Teacher, made an application Annexure-R/1, on 5.5.94 itself, stating that she had done very well at the Test and yet the Roll No. was missing from the list of successful candidates. She therefore prayed for a checking, on such checking of her answer script, it was found that she was successful, therefore, her Roll No. was included in the list of successful candidates, Annexure-R/2.

32. As for Smt. Mema Devi, the Respondent No. 5 in his affidavit dated 31.7.96 which is self-explanatory has deposed:

I received a copy of rejoinder filed by the Petitioners at about 9 A.M. on 30.7.1996. I have perused the rejoinder and have understood the contents thereof. On perusal of the rejoinder I have found that many new facts which were not disclosed in the writ petition have been stated in this rejoinder. I did not have the chance to submit my replies in my affidavit-in opposition because this new allegations have not been brought to my knowledge. I therefore pray that I may be permitted to submit this Supplementary affidavit-in-opposition.

... ..

... ..

In para No. 6(1) of the rejoinder a number of persons have been given as may (sic, my) relatives. I deny all the allegations made therein except the following:

i) Th. Mema Devi - Home Science (Roll No. 129) She was eloped by my second son in August, 1995 after viva voce test was over. Th. Mema Devi was also called TH. MARY DEVI. The Heijngpot Ceremony was performed on 23.8.1995 and their

marriage took place on 17.11.1995. I did not know her prior to aforementioned elopement.

... ..

... ..

(ii) K. Bijiya Devi - Arts Graduate (Roll No. 3624, Group-A); I have discovered that She is the younger sister-in-law of my eldest daughter. I do not know her by face till now because of age gap and distant relationship and also distance between my house and that of K. Bijiya Devi. I discovered the relationship only from narration and not from association.

(iii) Regarding:

(a) Keisham Hemabati Devi, Science Graduate, Roll No. 2983 (Group-B);

(b) Thounaojam Ramananda, Arts Graduate, Roll No. 6023 (Group-A);

(c) Laishram Kumar Singh, Arts Graduate, Roll No. 5912 (Group-A);

(d) Laishram Sorojini Devi, Arts Graduate, Roll No. 6968 (Group-A); and

(e) L. Bhawani Devi, Science Graduate, Roll No. 2624 (Group-A),

They are all stated to be the residents of Utlou and Nambol Village. I left Utlou village in the year 1967. Because of age gap I do not know them by face or by name.

iv) Regarding H, Radhapyari Devi of Singjamei, Arts Graduate, Roll No. 7870 (Group-A) I beg to submit that she is not known to me either by face or by name. It is submitted that Manipur is a very small place. Therefore some sort of relationship shall always be traceable provided efforts are made although such relationship may not have any practical and social connections.

Regarding over age of candidates as alleged by the writ Petitioners, it is submitted that their names had been sponsored by the Employment Exchange Government of Manipur, The Employment Exchange is presumed to examine the eligibility of the sponsored candidates for the advertised posts. There may be cogent grounds but the same may be available in the records of the office of the Directorate. I can not now state the details without referring to records.

33. Manipur is a small State and even if some sort of far fetched relationship exist between a member of the selection committee and the candidate, that by itself without there being anything else, would not be sufficient to vitiate the whole process of selection. It may be noted that it was not the Petitioners' case as originally pleaded. These facts have been placed on record during the course of hearing of the petition and the Respondent No. 5 has in his affidavit explained the whole thing. It is not us if his son or daughter was appearing for selection, some distant relation as a lady candidate Miss Marry who later on months after married the Respondent No. 5's son and above all, they are not the parties

before the Court. Therefore, taking any adverse view of those candidates being relations and beneficiaries, is neither justifiable nor any adverse order can be passed on such a presumptuous approach. The Respondent No. 5 has explained his conduct.

34. Although it was argued from the Petitioners' side and by the learned Counsel appearing for the intervener Geeta Bali Devi that a public interest litigation is not an adversaria litigation, it is collaborative and co-operative but at one stage, this public interest litigation degenerated into an exchange place of allegations and counter allegations on personal level, rather said.

35. There is yet another petition, being Civil Rule No. 603/96, filed by, as many as, 106 Petitioners against the Respondent-State and also the Petitioners herein. These 106 Petitioners have approached this Court against the interim order dated 2.7.96 passed by this Court in Civil Rule No. 501/96. They are the candidates, who-were selected as Hindi Teachers and prior to the passing of the interim order of this Court on 2.7.96, they had received their appointment-cum-posting orders on 7.6.96, in pursuance to the government letter dt. 7.6.96. This petition 603/96 was also heard along with 501/96. In fact, both these petitions are nothing but two sides of the coin. In Civil Rule 501/96, the four Petitioners pray for quashing of the process of the selection as a whole, while in the other, that it, Civil Rule No. 603/96, the Petitioners pray for vacating the interim order dl. 2.7.96. In these circumstances, the adversarial nature when two groups, one claiming enforcement of the selection list and the other denouncing it as unfair, does par take a certain element of adversarial nature but it should never be allowed to degenerate into allegations and counter allegations at personal level. We, therefore, ignore them so far as this present public interest litigation is concerned.

36. The main plank of Petitioner's attack is based on Annexure-9, containing the list of persons who were not qualified in the written test but declared successful by the D.P.C. in the final list published on 29.1.96 and 17.6.96. Counsel for the Petitioner has described it as a glaring example of manipulation and tampering with the result sheet, Annexures-A/6, A/7 and A/8. As very rightly pointed out by Mr. N. Singh, counsel for Respondent No. 12, the said list Annexure-A/9 should be compared with Annexure-R/3 the supplementary list of successful candidates published on 6.5.94. It would be found on comparison that Roll Numbers mentioned in Annexure-A/9 are mentioned in Annexure-R/3 the supplementary list, the criticism made about it has already been discussed above.

37. Learned Advocate General tracing the history of the litigation and explaining the difficulties faced by the State Government, tried to justify the delay in holding D.P.C. meeting for selection of teachers. A large number of petitions, writ appeals were filed with interim orders, at times clashing, passed therein from 1987 to 1992. In this connect ion he also referred lo All Manipur Regular Posts Vacancies Substitute Teachers' Association Vs. State of Manipur, and the directions made therein. During 1992 to 1996 a general ban on appointments

was operating while the number of schools increasing. He also stated that almost 99% of schools in the State were without science graduate teachers. In such circumstances he fervently urged that public interest lies in going ahead with appointments once the desks are cleared, and not in thwarting the same. Making it clear that the State is not interested in any individual appointment, public interest demands that education should not suffer. Referring to the cancellation of lists in Part "B" of Annexures-A/7 and A/8, he maintained that the State Government was equally concerned about transparency and fairness in public appointments, but he also urged that such petitions brought in the name of public interest, for self-serving ends should be dismissed. Public interest (sic) can not be for a individual idea, or to indicate the individual grievance. Public interest, its being adversely affected, must be shown, by the Petitioner. Every grievance and every event can in some way be remotely connected with or attributed to "public interest", but that will not connect or clothe the controversy with the character of "Public Interest". In the instant case Petitioner's professed public interest is to maintain purity of the process of selection of teachers. Their prayer is two fold (1) an inquiry by C.B.I. or any other competent authority and (ii) quashing of result dated 29.1.96 Annexure-A/6 as announced by the DPC, the result of DPC for appointment of Science and Arts Graduate teachers as per Annexuics-A/7 and A/8. Hundreds of selected candidates are affected and they arc not made parties. Secondly and more importantly as already noted above by citing two or three instances of beneficiaries of alleged favouritism, no sweeping conclusion on the basis of pleadings can be reached, the whole process of selection was vitiated. No writ of certiorari can be granted in such circumstances. It would be pertinent to note here that the constitution of the D.P.C. has not been challenged. The Petitioners professing quasi public motives, such as those concern with, practicing favouritism and corruption from public employment should have frankly and truthfully challenge any particular individual appointment, rather than being evasive about their personal interest in the matter. Had it been a case of genuine public interest, a blanket ban on the implementation of the select list would not have been sought.

38. Before parting with this case, it may be noted that intervener Smt. N. Geeta Bali Devi, who was permitted to be impleaded as a Respondent to the case, is not entitled to any relief in this petition. The Respondent No. 4 and 5 in their affidavit have deposed that she had not passed the written test yet, was allowed to face the DPC for a viva-voce test and in fact she was also selected in Group-B of the list of Science Graduate Teachers. Smt. N. Geeta Bali Devi has in her affidavit dt. 30th July, 1996 stated:

It is also stated that I was declared to have passed the written test as per the result notified and affixed on the notice Board on 5.51994 and consequently.

I was also allowed to face the D.P.C. on 18.7.1995 for viva-voce test. I was also selected by the DPC and my roll number was placed in Annexure/Group-B of the Select list published on 17.6.1996 (at Annexure-A/7 to the writ petition):

However, it is surprising to note that my Roll Number is not found in Annexure-A/2 to the writ petition, This singular fact will also lead to the conclusion that more than one result sheet were prepared by the DPC at various stages. It may be mentioned that though the Respondents No. 4 and 5 had denied the accuracy of the result at Annexure-A/2 to the Writ petition, they have not produced result sheet which they can claim to be an accurate and genuine one.

In her affidavit-in-opposition filed to the petition she has stated as follows:

That as regards paragraph Nos. 1, 2, 3 and 4 of the Writ petition, I have no reply except to state that in the original Notice dated 5.5.94 which was affixed in the Notice board of the Directorate of Education (School) my roll number was shown as a candidate passing the written test. However, it is surprising to note that my roll number which is 1626 is not shown in the notice dated 5.5.94 annexed to the Writ petition as Annexure-A/2.1 submit that Annexure-A/2 omitting my roll number is not the true copy of the original notice.

39. From the above statements it would be seen, while the Petitioners placed reliance on the result sheet of the written test examination of the graduate teachers in Arts, Science, Home Science and Hindi as published on 5th May, 1994, Annexure-A/2, the intervener does not accept it as the original and genuine. There is no basis for suspecting Annexure-A/2.

40. Allegations have been made against the Ministers and it was argued that despite notice they have not chosen to enter appearance. Even if the averments made in the petition are allowed to go ex-parte, the Petitioner is not absolved of his responsibility to substantiate the allegations and the materials placed by him on record, the press clippings cannot be held to be sufficient for substantiating the allegations.

41. In the result, this petition fails. It is accordingly dismissed. Needless to add that the interim order dated 26.6.96 staying the operation of the select list and order dt. 2.7.96 as passed in Civil Misc. Case No. 533/96 staying the operation of the three notifications contained in Annexure-A/6, A/7 and A/8 and its further continuance vide order dated 15.7.96, 18.7.96, also stands cancelled. In view of the above order, setting aside the stay order, Civil Rule No. 603/96, essentially challenging the aforesaid stay order, stands allowed. Parties are left to bear their own costs.