

(2020) 04 DEL CK 0044

In the Delhi High Court

Case No : Civil Writ Petition No. 2964 Of 2020, Civil Miscellaneous Application
No. 10304 Of 2020

Vaibhav Sharma

APPELLANT

Vs

Air India Limited & Ors

RESPONDENT

Date of Decision : 15-04-2020

Acts Referred:

Constitution Of India, 1950 — Article 21, 226

Citation : (2020) 04 DEL CK 0044

Hon'ble Judges : J.R. Midha, J;Jyoti Singh, J

Bench : Division Bench

Advocate : H.S. Nanda, Padma Priya, Maninder Acharya, Jasmeet Singh

Final Decision : Dismissed

Judgement

J.R. Midha, J

1. Present petition under Article 226 of the Constitution of India read with Article 21 of the Constitution of India has been filed as a Public Interest

Litigation by the petitioner, who claims to have no personal interest in the litigation and is neither guided by self gain nor is the petition filed for gain of

any other person/Institution/body, save as a member of the public and has further averred that he has no motive other than public interest in filing the present petition.

2. At the outset, it needs to be noted that the petitioner has given no particulars of his educational qualification or occupation or of any background of

having worked in the field of Public Interest Litigation or social welfare in the past. It is also to be noted that in para 2 of the petition, it is clearly stated

that the petition is based on information received through media reports, publicly available in print media and considering the grave urgency and

immense paucity of time the information could not be confirmed from the concerned offices by way of authenticated replies.

3. The present petition has been filed seeking appropriate directions to the respondents to provide proper PPE kits (Personal Protective Equipment) to

the pilots and the other cabin crew members on board the flights which are operating between India and foreign countries, carrying foreign nationals to

their respective home countries. It is alleged that even if the PPE kits are being issued, the same are not enough for the entire crew and many a times

are oversized, in contradiction to the safety and security guidelines. The other issue raised in the petition is that the pilots and the other crew members

on these flights, on return, should be quarantined in some hotels, near the airport, instead of home quarantine, where there is a risk of infection to their

family members and also leads to serious ostracization of these members.

4. A bare perusal of the petition shows that there is nothing on record to substantiate the averments made other than newspaper reports and this fact

is admitted in the petition, as noted above. Learned counsel was also unable to satisfy the Court on the locus of the petitioner and his expertise or

knowledge, in the said field, to file the present petition. On a pointed query by the Court as to what groundwork the petitioner had done before filing

the present petition, the only response was that the information was based on newspaper reports and was believed to be true by the petitioner. The

petitioner made no effort to approach the concerned authorities and voice the grievances before filing this present petition. The authenticity of the

information received through newspapers was never verified by the petitioner.

5. In *B.P. Singhal v. State of T.N. and Others*, (2004) 13 SCC 673, Supreme Court while dealing with a Public Interest Litigation, dismissed the

petition on the ground that it lacked material particulars and the averments made were by and large based merely on newspaper reports and not

personal knowledge. It was observed that the petitioner did not even state that it had taken any step to verify the correctness of the averments made.

6. To the same effect is the decision of the Supreme Court in *Dr. B. Singh v. Union of India and Others*, (2004) 3 SCC 363 wherein it was held that it

was too much to attribute authenticity to any information merely because it was published in a newspaper or a journal or a magazine. In matters of

Public Interest Litigation, Supreme Court has time and again cautioned that the

Court has to be satisfied about (a) credentials of the petitioner; (b) prima facie correctness or nature of information given by him; and (c) the information should not be vague and indefinite.

7. In *S.P. Anand, Indore v. H.D. Deve Gowda And Others*, (1996) 6 SCC 734, Supreme Court while dealing with the locus standi of a petitioner in a

Public Interest Litigation clearly held that those who invoke the Court's jurisdiction seeking a waiver of the locus standi rule must exercise

restraint in moving the Court by not plunging in areas where they are not well versed. A person who espouses public cause must remember that he

owes to the public as well as to the Court that he does not rush to the Court without undertaking research, even if qualified or competent to raise the

said issue.

The Supreme Court further observed that it must be remembered that a good cause can be lost if petitions are filed on half baked information, without

proper research and the rejection would then affect the third party rights.

Relevant para of the judgement is as under:

18. Before we part, we cannot help mentioning that on issues of constitutional law, 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 that 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. We say this because when we drew the attention of the petitioner to earlier decisions of this Court, he brushed them aside, without so much as showing willingness to deal with them and without giving them a second look, as having become stale and irrelevant by passage of time and challenged their correctness on the specious plea that they needed reconsideration. Except for saying that they needed reconsideration he had no answer to the correctness of the decisions. Such a casual approach to considered decisions of this Court even by a person well-versed in law would not be countenanced. Instead, as pointed out earlier, he referred to decisions having no bearing on the question, like the decisions on cow slaughter cases, freedom of speech and expression, uniform civil code, etc.; we need say no more except to point out that indiscriminate use of this important lever of public interest litigation would blunt the lever itself.â??

8. Seen and examined in the light of the law laid down with regard to Public Interest Litigations and having carefully gone through the present petition and having heard the learned counsel for the petitioner, we are of the opinion that the petitioner has not been able to make out a case for interference of this Court. The petitioner has not given any material particulars to enable this Court to come to a conclusion that adequate measures are not being taken by the Government to extend proper protective kits etc. to the crew members or that the home quarantine measures are having any adverse effects.

9. Be that as it may, since the issue is of concern in the present environment, we called upon Ms. Maninder Acharya, learned Additional Solicitor General as well as Ms. Padma Priya, learned counsel for Air India Limited, who are appearing on advance copy, to put forth their respective stands,

on the issues flagged by the petitioner.

10. All the respondents have a common stand with respect to the measures taken to ensure safety and protection of the crew members on board the aircrafts, which are being chartered to evacuate/repatriate foreign nationals to their home countries. Learned Additional Solicitor General submits that the petitioner is a busybody with no locus to file the present petition. None of the members of the crew or their Associations or family members have come forward to put forth any grievance or deficiency in providing preventive/protective measures. She submits that permitting these chartered flights is the policy decision of the Government, keeping in mind the humane and diplomatic relationships with other countries, and is not liable to be questioned in the present petition. She further submits that several Circulars/Guidelines have been issued by the various Ministries concerned, including Ministry of Health and Family Welfare, Ministry of Civil Aviation and the Ministry of Home Affairs. Detailed Guidelines have been made to ensure that the Airlines take all precautions and measures to minimise the exposure of COVID-19 to the pilots and cabin crew. It is also submitted that strict instructions have been issued to Air India to ensure that they comply with the Guidelines in letter and spirit. In keeping with these Guidelines, protective gear is being issued to the crew on board and other health measures are also being strictly adhered to. Learned ASG has drawn the attention of the Court to various Circulars issued, with regard to the measures that have to be mandatorily followed by Air India, before the flights are operated.

11. The stand of respondent no.1 - Air India is that COVID-19 is an unprecedented calamity, which has posed enormous difficulties for travelling of public and created peculiar problems for the aviation industry.

It is, however, categorically stated by the learned counsel that Air India has been strictly complying with all Guidelines/Circulars/Advisories issued by the Ministry of Health and Family Welfare, Directorate of Civil Aviation as well as those issued by the State Governments, from time to time and are following the necessary protocol. It is submitted that MOH Circular dated 23.03.2020 stipulates the steps to be taken by the crew on landing from an international flight at Indian stations. DGCA Circular dated 23.03.2020 quotes and reiterates Instructions of the MOH Circular mentioned above.

DGCA Circular dated 17.03.2020 lays down the detailed process for disinfecting the aircraft, precautions to be taken by the crew and airport

operators. It is submitted that in terms of the said Circular, PPEs are being provided to the crew and the petitioner is incorrect in its submission that no

such safety kits are being provided. DGCA has issued a Circular on social distancing and the Circular lays down the norms of social distancing to be

followed by Airlines and Airport Operators. Learned counsel points out that on 18.03.2020, Air India has issued a Circular informing all its cabin crew

that in order to enhance the level of protective equipment, one Hazmat suit set would be provided to every crew on board all flights, which will consist

of one hazmat suit, one goggles, one pair of gloves, one mask and one pair of shoe cover. This is in addition to the gloves and masks already placed on

board.

12. The DGCA Circular dated 23.03.2020 clearly requires the crew landing at Indian airports after the International flights to clear the health

screening at the respective airports. In case a crew member is found to be showing symptoms, the crew has to declare the same to the Airport Health

Official and follow the isolation process as directed by the APHO. In case any member is found to be a positive case of COVID-19, the entire crew

has to be de-rostered for minimum 14 days and follow the process of home isolation.

13. Learned counsel further points out that consolidated Guidelines have been issued by the Ministry of Health and Family Welfare with regard to

Home Quarantine and the said Guidelines are being meticulously followed by Air India. All the crew members and ground staff are also being

apprised and sensitised about the social distancing and home isolation/ Quarantine norms. It is thus argued that the petition is without any basis and is

filed on mere presumptions, without verifying the true facts.

14. Having heard the learned ASG and the learned counsel for Air India, we are satisfied that requisite measures have been and are being undertaken

by the respective Ministries of the Government of India as well as Air India. The Circulars shown to us are not only with respect to the protective kits

such as the PPEs which are to be mandatorily issued to the crew on board, but also lay down Guidelines relating to screening and testing of these

crew members, once they land at the Indian Airports, as also with respect to

measures and precautions to be taken during home isolation/quarantine.

We have no doubt in mind that the Circulars have been issued after deliberations at the highest level and with the consultation and advice of the

experts in the field. The petitioner has placed no material before us to come to any contrary conclusion so as to disbelieve the stand taken by the

respondents.

15. COVID-19 is an unprecedented pandemic and calamity and of enormous magnitude and the Government is taking all necessary steps to ensure

protection of its airline crew members and as assured by the Learned ASG, would continue to do so, as the safety of the pilots and the crew members

who are helping out in the rescue operation in the present day circumstances is certainly a matter of concern to the Government and to the Court as

well as of every citizen of this Country. Needless to state that these people are doing a humongous job in serving the humanity and need to be

applauded. We also find merit in the stand of the Government that at this stage it is not possible to quarantine the crew members in hotels or separate

buildings due to logistic issues and looking at the population of our country and the magnitude of the pandemic, home quarantine is the best possible

measure, at least for the present.

16. In view of the stand taken by the respondents as well as the various Circulars/Advisories issued by the concerned Ministries, we do not find any

reason to interfere and issue any directions to the respondents as sought by the petitioner.

17. At this stage, learned counsel for the petitioner submits that the petitioner has some suggestions on the issues flagged by him, which could be of

some use to the Government and the airlines. The respondents have no objection to the petitioner giving any useful suggestions in this regard. The

petitioner is at liberty to make whatever suggestions he thinks are concrete and useful in handling the issues raised in the petition. The petitioner is also

at liberty to bring to the notice of the concerned Ministry in case any genuine grievance arises in future and he is in a position to substantiate the same.

18. The suggestions can be forwarded to the concerned Ministries through electronic mode on the email address that would be provided by the

respondents. Respondents will look into the proposal/suggestions given by the petitioner as expeditiously as possible and the decision taken be

communicated to the petitioner.

19. The petition is accordingly dismissed with the aforesaid liberty.