

NEETU
v.
STATE OF PUNJAB AND ORS.

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JANUARY 8, 2007

[DR. ARIJIT PASAYAT AND S.H. KAPADIA, JJ.]

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Public Interest Litigation:

Writ petition before High Court—Filed by an unsuccessful candidate as public interest litigation—Challenging appointment of a candidate stated to have been made on basis of a false Scheduled Caste certificate—Proceeding to cancel said certificate stated to be already under progress—Held, when a particular person is object and target of a petition styled as PIL, Court has to be careful to see whether in the guise of public interest is really intended to unleash a private vendetta, personal grouse or some other mala fide object—Factors to be taken into consideration by Courts while entertaining a writ petition under PIL reiterated—PIL is service matters—Locus standi of petitioner—PIL—Copies of public documents annexed in such matters—F frivolous pleas to explain possession thereof to be dealt with seriously—Constitution of India—Article 226.

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Respondent no. 7, an unsuccessful candidate, filed a writ petition as a Public Interest Litigation before the High Court challenging the appointment of the appellant as Audit Inspector, Co-operative Societies, on the ground that she got the appointment on the basis of a Scheduled Caste certificate though she did not belong to Scheduled Caste but was married to a member of Scheduled Caste. The authorities concerned filed a reply stating that proceedings to cancel the said Scheduled Caste certificate were under progress and, therefore, the writ petition was pre-mature. The High Court set aside the appointment of the appellant.

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It was contended for the appellant that in service matters PIL was not maintainable and the writ petition was filed because of personal animosity and cannot be considered to be a public interest litigation.

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Allowing the appeal, the Court

HELD: 1.1. With regard to the scope of entertaining a petition styled

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- A as a public interest litigation and to see, *locus standi* of the petitioner particularly in matters involving service of an employee, as has been emphasized by this court in various cases, 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. 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 imposters and busy bodies or meddlesome interlopers impersonating as public-spirited holy men and must not allow its process to be abused for oblique considerations.

[Paras 5 and 10] [226-F-H, 227-A, 229-C]

- E *State of Maharashtra v. Prabhu*, [1994] 2 SCC 481; *Andhra Pradesh State Financial Corporation v. M/s GAR Re-Rolling Mills and Anr.*, AIR (1994) SC 2151; and *Dr. B.K. Subbarao v. Mr. K. Parasaran*, [1996] 7 JT 265, relied on.

- F 1.2. The other aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. Whenever frivolous pleas are taken to explain possession, the Court should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the Courts to filter out the frivolous petitions and dismiss them with costs so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the Courts. [Para 7] [227-G-H, 228-A-B]

- G *Ashok Kumar Pandey v. State of W.B.*, [2004] 3 SCC 349, relied on.

Report of Public Interest Law, USA 1976 by 'Council for Public Interest Law', referred to.

- H 1.3. When a particular person is the object and target of a petition

styled as PIL, the court has to be careful to see whether the attack in the guise of public interest is really intended to unleash a private vendetta, personal grouse or some other *mala fide* object. Therefore, in the instant case, the writ petition itself was not maintainable, and to that extent the High Court's order cannot be maintained. Though PIL is not to be entertained in service matters, that does not stand on the way of the officials from examining the question in the right perspective. In the present case admittedly the officials have initiated action. What action will be taken in such proceedings is not the subject matter of controversy in the present appeal. However, it shall not be construed as if this court has expressed any opinion on the merits of the proceedings stated to be pending. [Paras 12 and 13] [229-H, 230-A-C]

Dr. Duryodhan Sahu and Ors. v. Jitendra Kumar Mishra and Ors., AIR (1999) SC 114, relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 95 of 2007

From the final Judgment and Order dated 25.5.2004 of the High Court of Punjab and Haryana at Chandigarh in C.W.P. No. 14050/2003.

V.C. Mahajan, Sarwa Mitter, Amit Gupta, Adv. (for M/s. Mitter & Mitter Co.) for the Appellant.

Dinesh Verma, O.P. Kamboj, A.P. Mohanty, H.S. Munjral, Arun K. Sinha for the Respondent.

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J.: Leave granted.

2. Challenge in this appeal is to the order passed by a Division Bench of the Punjab and Haryana High Court allowing the writ petition filed by the respondent No.7 Daljit Singh, purportedly in public interest as a Public Interest Litigation (in short 'PIL'). Respondents 1 to 6 were official respondents in the writ petition. Grievance in the writ petition was that the appellant had got appointment as Audit Inspector, Co-operative Societies Ferozpur on the basis of Schedule Caste certificate though she was *not* member of any Scheduled Caste. It was averred that the appellant was

A married to Shri Jagminder Singh, member of the Scheduled Caste and it was on that basis aforesaid certificate had been obtained. It was stated that in spite of several complaints made to the authorities, no effective action was taken. The official respondents filed a reply to the effect that proceedings to cancel the scheduled caste certificate were under progress and, therefore, the writ petition was premature. The appellant filed a written statement stating that on account of her marriage with Jagminder Singh, she was to be considered as a member of the scheduled caste. It was pointed out that the writ petitioner was not qualified and only because of personal vendetta he had filed the writ petition styled as a PIL. The High Court by the impugned judgment issued a writ in the nature of *qua warranto* setting aside the appointment of the appellant.

3. In support of the appeal, learned counsel for the appellant submitted that in service matters, PIL is not maintainable. The writ petition was filed because of personal animosity and can by no stretch of imagination be considered to be a public interest litigation.

4. Learned counsel for the respondent No.7, on the other hand submitted that since the appellant was not entitled to a certificate to the effect that she belonged to any scheduled caste the authorities were bound to take action on his grievances.

5. The scope of entertaining a petition styled as a public interest litigation, *locus standi* of the petitioner particularly in matters involving service of an employee has been examined by this court in various cases. 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 imposters 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.

6. Courts must do justice by promotion of good faith, and prevent law from crafty invasions. Courts must maintain the social balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good. (See *State of Maharashtra v. Prabhu*, [1994] 2 SCC 481, and *Andhra Pradesh State Financial Corporation v. M/s GAR Re-Rolling Mills and Anr.*, AIR [1994] SC 2151). No litigant has a right to unlimited draught on the Court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as a licence to file misconceived and frivolous petitions. (See *Dr. B.K. Subbarao v. Mr. K. Parasaran*, (1996) 7 JT 265). Today people rush to Courts to file cases in profusion under this attractive name of public interest. They must inspire confidence in Courts and among the public.

7. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that Courts are flooded with large number of so called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in large number of cases, yet unmindful of the real intentions and objectives, High Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in *Dr. Duryodhan Sahu and Ors. v. Jitendra Kumar Mishra and Ors.*, AIR (1999) SC 114, this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the Courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the

A official documents. Whenever such frivolous pleas are taken to explain possession, the Court should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the Courts to filter out the frivolous petitions and dismiss them with costs as afore-stated so that the message goes in the right direction that petitions filed with oblique
B motive do not have the approval of the Courts.

8. The aforesaid position was highlighted in *Ashok Kumar Pandey v. State of W.B.*, [2004] 3 SCC 349.

C 9. It is depressing to note that on account of such trumpety proceedings initiated before the Courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are
D infringed and violated and whose grievance go unnoticed, un-represented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and substantial rights and criminal cases in which persons sentenced to death facing gallows under
E untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters - government or private, persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenu expecting their release from the detention orders etc. etc. are all standing in a long serpentine queue for years with the
F fond hope of getting into the Courts and having their grievances redressed, the busy bodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no real public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffing their faces by
G wearing the mask of public interest litigation and get into the Courts by filing vexatious and frivolous petitions of luxury litigants who have nothing to loose but trying to gain for nothing and thus criminally waste the valuable time of the Courts and as a result of which the queue standing outside the doors of the court never moves, which piquant situation creates frustration
H in the minds of the genuine litigants.

10. 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 redressal 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.

11. The Council for Public Interest Law set up by the Ford Foundation in USA defined the "public interest litigation" in its report of Public Interest Law, USA, 1976 as follows:

"Public Interest Law is the name that has recently been given to efforts provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in the recognition that ordinary market place for legal services fails to provide such services to significant segments of the population and to significant interests. Such groups and interests include the proper environmentalists, consumers, racial and ethnic minorities and others." (See : *Dr. B. Singh v. Union of India and Others*, [2004] 3 SCC 363).

12. When a particular person is the object and target of a petition styled as PIL, the court has to be careful to see whether the attack in the guise of public interest is really intended to unleash a private vendetta, personal grouse or some other *mala fide* object.

- A 13. Therefore, as rightly submitted by learned counsel for the appellant, writ petition itself was not maintainable, to that extent the High Court's order cannot be maintained. But it appears that the official respondents have already initiated action as regards the caste certificate. Though PIL is not to be entertained in service matters, that does not stand on the way of the officials from examining the question in the right perspective. In the present case admittedly the officials have initiated action. What action will be taken in such proceedings is not the subject matter of controversy in the present appeal. However, it shall not be construed as if we have expressed any opinion on the merits of the proceedings stated to be pending. The only issue which has been examined relates to the locus standi of the writ petitioner (respondent No.7) to file PIL.
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14. The appeal is allowed to the aforesaid extent but without any order as to costs.

R.P.

Appeal allowed.