

**HIGH COURT OF TRIPURA
AGARTALA
WP(C)(PIL) NO.1 OF 2023**

Shri Nikhil Ch. Debnath
Vs
The State of Tripura and ors.

**HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE ARINDAM LODH**

Present:

For the Petitioner(s)	: Mr. S.K Deb, Sr. Advocate. Mr. B. Chowdhury, Advocate. Mr. B. Debnath, Advocate.
For the Respondent(s)	: Mr. D. Bhattacharjee, G.A. Mr. S. Saha, Advocate.

04.01.2023

Order

The case of the petitioner herein is that he is a freelance journalist and he has filed the present Public Interest Litigation (*for short 'PIL'*) challenging the advertisement policy of the State of Tripura and the resolution/decisions purportedly adopted by Empowered Advertisement Committed adversely affecting the freedom of press. The advertisement policy vide Notification dated 20th May 2021 has conferred unbridled, uncanalised, and unregulated power upon the Advertisement Committee smacking of arbitrariness and unfairness.

Hence the petitioner herein by filing this present *PIL* has prayed for the following reliefs:-

"i) Issue a Rule calling upon the State respondents and each one of them to show cause as to

why the Notification dated, Agartala, the 20th May, 2021 shall not be quashed/set aside;

ii) Issue a Rule calling upon the State respondents and each one of them to show cause as to why the purported decision taken by the 1st Committed meeting held on 02.06.2021 shall not be quashed/set aside;

iii) Issue a Rule calling upon the State respondents and each one of them to show cause as to why the purported communication under No.F.65(10)-ICA/Advt/2021 dated 30th June, 2022 shall not be quashed/set aside;

iv) Issue a Rule calling upon the State respondents and each one of them to show cause as to why the purported decision taken by the 3rd Committee meeting held on 25.05.2022 shall not be quashed/set side.

v) Issue a Rule calling upon the State respondents and each one of them to show cause as to why a Writ of Mandamus and/or direction shall not be issued for framing an appropriate policy and/or take appropriate decision in the matter of issuing advertisement to the newspaper in fairness and without any arbitrariness;

vi) Issue a Rule calling upon the State respondents and each one of them to show cause as to why a Writ of Probation and/or in the nature thereof shall not be issued prohibiting/restraining the respondents and/or in the nature thereof shall not be issued prohibiting/restraining the respondents and/or each one of them from acting upon the Notification dated 20.05.2021, the Resolution of the 1st Committee meeting held on 02.06.2021, communication dated 30th June, 2022 and the alleged Resolution adopted on 25.05.2022;

vii) Call for records; and

viii) After hearing the parties be pleased to make the Rule absolute in terms of i), ii), iii), iv), v) & vi) above;

ix) In the interim an order in terms of i), ii), iii), iv), v) & vi) above during the pendency of this petition;"

Heard Mr. S.K. Deb, learned Sr. counsel assisted by Mr. B. Chowdhury, learned counsel, and Mr. B. Debnath, learned counsel appearing for the petitioner as well as Mr. D.

Bhattacharjee, learned G.A. assisted by Mr. S. Saha, learned counsel appearing for the respondents.

Mr. S.K. Deb, learned Sr. counsel appearing for the petitioner has contended that the policy framed by the Government with regard to releasing the advertisement is without application of mind. It is against the interest of the public and it is attacking the rights and liberties of the people by not providing the proper information as required under the newspaper publications. Thus learned Sr. counsel prayed to set aside the same on the ground that the guidelines are not properly framed.

Heard both sides and perused the evidence on record.

Prima facie, the impugned notification has been issued in the month of May 2021, and accordingly, the policy has been initiated. The petitioner herein has not explained as to why he has not filed the present *PIL* from May 2021 till December 2022 when he personally claims that he is an active journalist and in the interest of the public of Tripura he has taken up this assignment of filing the present *PIL*. Further, in the affidavit, there is no contention enlightening this Court to call for taking cognizance of the issuance of the said notification by the respondents jeopardizing the public interest. Thereafter, no such advertisement is placed before this Court to enlighten that by virtue of the said decision by the committee in releasing the said

advertisement; the object with regard to which the advertisement is released has been reached or not reached.

The present petitioner in his affidavit has referred to one Subal Kr. Dey and stated that, the said person as petitioner had filed a petition bearing No. WP(C) No.203 of 2014 challenging the Newspaper Policy of 2009 and this High Court repealed the same vide judgment dated 16.08.2015. Here it is also pertinent to mention that this Court recollects that the said Subal Kr. Dey who is the Owner, Editor, Printer, and Publisher of Syandan Patrika as petitioner No.2 also filed one writ petition titled as WP(C) No.857 of 2022 for non-considering his newspaper publication for empanelling and providing Government advertisement on the ground of not having a proper circulation as per the Audit Bureau of Circulation. However the same was withdrawn on the request of the learned Sr. counsel representing the petitioners vide order dated 30.09.2022. In that said order, this Court observed thus:-

"This Court feels that providing advertisement in any newspaper is the prerogative of the customer and here the State-Government is the customer and it is for the State Government to pick and choose the newspaper of its choice depending on its various parameter including the nature of advertisement which would serve the purpose in reaching to the reader of the said newspaper.

It is seen from the record that the petitioner newspaper is the ownership newspaper company and Abhishek Dey is not competent to file the representation before the concerned authorities."

The petitioner cannot depend his *PIL* on the writ petition/representation filed by someone else. The petitioner

herein has to establish his own *prima facie* case. If a petition is a *PIL*, he has to make out the cause of the said *PIL*. He has to establish that the said litigation is in the public interest and how the public interest is prejudiced. In this instant *PIL*, this is not explained and the petitioner is simply referring to the writ petition of someone else. As mentioned herein above, one of the writ petition filed by said Subal Kr. Dey who is the Owner, Editor, Printer, and Publisher of Syandan Patrika was already dismissed as withdrawn. With regard to this, the present petitioner herein has suppressed the said fact in his affidavit where he has referred to the representations and grievances of Subal Kr. Dey.

The Hon'ble Supreme Court in its landmark judgment passed in ***State of Uttaranchal Vs. Balwant Singh Chaufal and ors.***, reported in ***(2010) 3 SCC 402*** dated ***01.18.2010***, held that *the Public Interest Litigation, which has been in existence in our country for more than four decades, has a glorious record, This Court and the High Courts by their judicial creativity and craftsmanship have passed a number of directions in the larger public interest in consonance with the inherent spirits of the Constitution. The conditions of marginalized and vulnerable section of society have significantly improved on account of Courts directions in the PIL* and issued the following directions ad infra:-

" (1) *The courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.*

(2) *Instead of every individual judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy of the Rules prepared by the High Court is sent to the Secretary General of this court immediately thereafter.*

(3) *The courts should prima facie verify the credentials of the petitioner before entertaining a P.I.L.*

(4) *The court should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.*

(5) *The court should be fully satisfied that substantial public interest is involved before entertaining the petition.*

(6) *The court should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.*

(7) *The courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation.*

(8) *The court should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations.*

In view of the following principles laid down by the Hon'ble Supreme Court in ***State of Uttaranchal Vs. Balwant Singh Chaufal(supra)***, and the discussions made herein above, this Court is of the view that the instant *PIL* has not followed the said principles and no public interest is involved in this instant petition.

In view of the above, this Court prima facie feels that this instant *PIL* is devoid of any merit and it cannot be treated as *PIL*. This Court feels that the petitioner has filed the present petition at the instigation of some vested interested person. The petition filed attracts laches for challenging the notification dated 20.05.2021 in December 2022. The petitioner herein has not also revealed about the dismissal of the WP(C) No.857 of 2022 dated 30.09.2022. Hence the present writ petition is also liable to be dismissed for the reasons mentioned above. Accordingly, the same stands dismissed. For wasting the time of the Court, this Court directs the petitioner not to venture into such recourse in future and while dismissing this instant *PIL*, a cost of Rs.25,000/- (*Rupees Twenty Five Thousand only*) is imposed upon the petitioner which is to be deposited in the account of the Tripura High Court Employees Association within one month from today. A copy is marked to the President of the Tripura High Court Employees Association.

JUDGE

CHIEF JUSTICE (ACTING)