

GAHC010175752022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5721/2022

ABHIJIT MALAKAR AND ANR
S/O- LATE. GUNENDRA MALAKAR,
RESIDENT OF VILLAGE- DUDPATIL-VII,
P/O- LARSINPUR,
DISTRICT- CACHAR.

2: MAKSAL AHMED LASKAR
S/O- MAKBUL ALI LASKAR

RESIDENT OF DUDPATIL

P.S.- SILCHAR

P/O- HATICHERRA

DISTRICT- CACHAR

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, PANCHAYAT AND RURAL DEVELOPMENT, DISPUR,
GUWAHATI-6, ASSAM.

2:THE COMMISSIONER

PANCHAYAT AND RURAL DEPARTMENT TO THE GOVT. OF ASSAM
PANJABARI
JURIPAR
GUWAHATI-37.

3:THE DEPUTY COMMISSIONER
CACHAR
DIST.- CACHAR

ASSAM.

4:PROJECT DIRECTOR
DRDA
DIST. CACHAR
ASSAM.

5:BLOCK DEVELOPMENT OFFICER

BORKHOLA DEVELOPMENT BLOCK

BORKHOLA
DIST.- CACHAR
ASSAM

Advocate for the Petitioner : MR F Z MAZUMDER

Advocate for the Respondent : SC, P AND R.D.

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

JUDGMENT

Date : 16-03-2023

Heard Mr. F.Z. Mazumder, learned counsel for the petitioners; Mr. N.K. Debnath, learned Standing Counsel, Panchayat and Rural Development Department for the respondent nos. 1, 2 & 5; and Mr. C.K.S. Baruah, learned Junior Government Advocate, Assam for the respondent no. 3.

2. Having heard the learned counsel for the parties, more particularly, the learned counsel for the petitioner and having gone through the statements and averments made in the writ petition, this Court is of the view that the instant writ petition instituted by the two petitioners amounts to abuse of the process of the Court.

3. The two petitioners had earlier instituted a writ petition, W.P.[C] no.

2285/2018 seeking **inter alia** a direction to the respondent authorities to release forthwith an amount of ₹ 95,31,386/- against materials the petitioners claimed to have supplied to the respondent authorities in connection with the MGNREGA Scheme and also for a direction to initiate an investigation through the Central Bureau of Investigation [CBI] with regard to the payments made in connection with false bills submitted by unknown persons/proprietors for supply of materials under the MGNREGA Scheme in Borkhola Development Block, Cachar and for misuse of public money thereby.

4. After hearing the learned counsel for the parties and having gone through the materials on record brought by the parties through their pleadings on 09.06.2022, this Court did not entertain the writ petition.

5. To have a clear view of the subject-matter raised in this instant writ petition, it appears necessary to reproduce the contents of the entire order dated 09.06.2022 passed in the writ petition, W.P.[C] no. 2285/2018 :-

“ Heard Mr. F.Z. Mazumder, learned counsel for the petitioners; Mr. S. Dutta, learned Standing Counsel, Panchayat & Rural Development [P&RD] Department for the respondent nos. 1, 4 & 5; and Mr. N. Goswami, learned Junior Government Advocate, Assam for the respondent no. 2.

2. The 2 [two] petitioners have joined together to institute this writ petition seeking inter alia a direction to the respondent authorities to release forthwith an amount of ₹ 95,31,386/- against the materials the petitioners claimed to have supplied to the respondent authorities in connection with the MGNREGA Scheme and also for a direction to initiate an investigation through the Central Bureau of Investigation [CBI] with regard to the payment made in connection with false bills submitted by unknown persons/proprietors for supply of materials under the MGNREGA Scheme in Borkhola Development Block, Cachar and for misuse of public money thereby.

3. The petitioner no. 1 is the proprietor of M/s Maa Kali Hardware & Suppliers

whereas the petitioner no. 2 is the proprietor of M/s Laskar Hardware & Suppliers. It is the claim of the petitioners that they had supplied materials for various constructions undertaken in Borkhola Development Block, District – Cachar under the MGNREGA Scheme. According to the petitioners, after supply of materials, they had submitted the final bills against those supplied materials through bills viz. Bill No. 558 dated 13.09.2016 for an amount of ₹ 1,92,874.00, Bill No. 559 dated 14.09.2016 for an amount of ₹ 1,92,874.00, Bill No. 560 dated 14.09.2016 for an amount of ₹ 1,93,964.00, Bill No. 561 dated 15.09.2016 for an amount of ₹ 1,98,300.00, Bill No. 562 dated 16.09.2016 for an amount of ₹ 1,07,720.00, Bill No. 735 dated 20.09.2016 for an amount of ₹ 1,86,494.00, Bill No. 738 dated 20.09.2016 for an amount of ₹ 73,320.00, Bill No. 62 dated 18.09.2016 for an amount of ₹ 1,08,420.00, Bill No. 63 dated 16.09.2016 for an amount of ₹ 1,08,490.00, Bill No. 64 dated 17.09.2016 for an amount of ₹ 1,97,512.00, Bill No. 554 dated 10.09.2016 for an amount of ₹ 1,99,494.00, Bill No. 555 dated 11.09.2016 for an amount of ₹ 56,290.00, Bill No. 573 dated 12.09.2016 for an amount of ₹ 52,010.00, Bill No. 572 dated 13.09.2016 for an amount of ₹ 1,94,956.00, Bill No. 571 dated 19.09.2016 for an amount of ₹ 1,94,956.00, Bill No. 752 dated 19.09.2016 for an amount of ₹ 1,78,200.00, Bill No. 754 dated 19.09.2016 for an amount of ₹ 1,78,200.00, Bill No. 756 dated 19.09.2016 for an amount of ₹ 1,58,400.00, Bill No. 757 dated 19.09.2016 for an amount of ₹ 1,49,229.00, Bill No. 760 dated 19.09.2016 for an amount of ₹ 1,83,843.00, Bill No. 763 dated 19.09.2016 for an amount of ₹ 1,83,843.00, Bill No. 765 dated 19.09.2016 for an amount ₹ 1,22,562.00, Bill No. 767 dated 19.09.2016 for an amount of ₹ 1,80,480.00, Bill No. 768 dated 19.09.2016 for an amount of ₹ 1,80,480.00, Bill No. 770 dated 19.09.2016 for an amount of ₹ 1,80,480.00, Bill No. 805 dated 30.01.2017 for an amount of ₹ 1,99,625.00, Bill No. 806 dated 30.01.2017 for an amount of ₹ 1,24,800.00, Bill No. 807 dated 30.01.2017 for an amount of ₹ 1,48,622.00, Bill No. 808 dated 30.01.2017 for an amount of ₹ 1,98,399.00, Bill No. 809 dated 30.01.2017 for an amount of ₹ 1,95,019.00, Bill No. 810 dated 30.01.2017 for an amount of ₹ 1,12,000.00, Bill No. 811 dated 30.01.2017 for an amount of ₹ 1,99,950.00, Bill No. 812 dated 30.01.2017 for an amount of ₹ 1,74,990.00, Bill No. 813 dated 25.01.2017 for an amount of ₹ 1,80,000.00, Bill No. 814 dated 25.01.2017 for an amount of ₹ 1,99,995.00, Bill No. 815 dated 25.01.2017 for an amount of ₹ 1,99,995.00, Bill No. 816 dated 25.01.2017 for an amount of ₹

1,44,010.00, Bill No. 817 dated 25.01.2017 for an amount of ₹ 1,35,000.00, Bill No. 714 dated 20.09.2016 for an amount of ₹ 1,73,745.00, Bill No. 718 dated 20.09.2016 for an amount of ₹ 1,73,745.00, Bill No. 719 dated 20.09.2016 for an amount of ₹ 1,73,745.00, Bill No. 742 dated 20.09.2016 for an amount of ₹ 63,450.00, Bill No. 556 dated 16.09.2016 for an amount of ₹ 1,07,236.00, Bill No. 733 dated 19.09.2016 for an amount of ₹ 97,666.00, Bill No. 781 dated 19.09.2016 for an amount of ₹ 1,53,784.00, Bill No. 65 dated 17.09.2016 for an amount of ₹ 1,92,512.00, Bill No. 66 dated 16.09.2016 for an amount of ₹ 1,00,640.00, Bill No. 549 dated 12.09.2016 for an amount of ₹ 1,93,170.00, Bill No. 553 dated 14.09.2016 for an amount of ₹ 1,45,060.00, Bill No. 786 dated 19.09.2016 for an amount of ₹ 1,81,420.00 & Bill No. 794 dated 20.09.2016 for an amount of ₹ 1,04,247.00.

4. It transpires that the final bills were submitted during the years : 2016-2017. According to the petitioners, the total amount of all the bills was ₹ 95,31,386/-. During that period, a number of officials had submitted complaints alleging that irregularities had taken place in respect of supply of materials under the MGNREGA Scheme in the Borkhola Development Block. It was during that period, the bills of the petitioners which were uploaded for payment in the MIS [Management Information System], MGNREGA through the Programme Officer came to be frozen. By enclosing the final bills with the writ petition, the petitioners have asserted that they had supplied all the materials as indicated in the final bills. When the said amount has not been disbursed by the respondent authorities, the petitioners have approached this Court by this writ petition seeking inter alia a direction, as mentioned above.

5. It is submitted at the bar that the office of the Project Director, District Rural Development Authority [DRDA] is no longer in function.

6. Mr. Mazumder, learned counsel for the petitioners has submitted that there is no pleading in the writ petition as to why the petitioners have sought for an investigation by the Central Bureau of Investigation [CBI] and has, therefore, submitted that he is not pressing for the said. In so far as the claim of the petitioners regarding the alleged outstanding dues amounting to ₹ 95,31,386/-, he has submitted that the final bills annexed therewith go to show that receipts of those were duly acknowledged by the Accredited Engineer, Borkhola Development Block

and the Junior Engineer, Borkhola Development Block under their respective seals and signatures.

7. Mr. Dutta, learned Standing Counsel, P&RD Department has referred to the affidavit-in-opposition filed by the respondent no. 3 to submit that there are allegations that there was commission of forgery in raising and submitting the bills and there is no admission of liability on the part of the departmental authorities.

8. I have considered the submissions of the learned counsel for the parties and also perused the materials brought on record by the parties through their respective pleadings.

9. In the counter affidavit filed by the respondent no. 3, it has been categorically stated that the petitioners were never engaged by the respondent no. 5 to perform the supply works for rural constructions under Borkhola Development Block. The petitioner no. 2 had, however, undertaken some supply works in the year : 2015-2016 and all the payments with regard to his bills had been cleared and there was no outstanding bills for any supply works. It has been averred that the petitioners had submitted bills with forged signature of a Member of the concerned Anchalik Panchayat viz. Smt. Nirupama Malakar, who is incidentally the mother of the petitioner no. 1. The said Member had submitted that a letter dated 19.09.2017 wherein it was mentioned that the then Project Manager, DRDA, Cachar submitted some bills which were certified by forging her signature. Based on such complaint, the then Block Development Officer, Borkhola Development Block had filed a First Information Report [FIR] before the Officer InCharge, Silchar Police Station on 05.02.2018 against the petitioner no. 1 herein. It has been stated that the said FIR was lodged after making an enquiry by visiting the sites of work and making queries with the Village Monitoring Committees. The said FIR has been registered as Silchar Police Station Case no. 511/2018 for the offences under Sections 468/471/420, Indian Penal Code [IPC].

10. There has been denial about the veracity of the bills. It is noticed that the Block Development Officer in the FIR lodged against the petitioner no. 1 had stated that the then Accredited Engineer in a letter had stated that his signatures were taken under pressure. It is also reflected from a letter dated 08.02.2018 of the Block

Development Officer, Borkhola Development Block, which was addressed to the Project Director, DRDA, Cachar, Silchar that the 2 [two] petitioners had threatened the Engineers of the Block. The Accredited Engineer of the Block had requested for deletion of the material bills relating to the year : 2016- 2017 from the MIS as they were false and the same fact was intimated by the Project Director, DRDA, Cachar to the Commissioner of Panchayat & Rural Development [P&RD] Department by his letter dated 07.03.2018.

11. Mr. Mazumder, learned counsel for the petitioners has submitted that the Engineer and the Accredited Engineer for their vested interest had brought those allegations. In fact, the Member of the Anchalik Panchayat viz. Smti. Nirupama Malakar who is the mother of the petitioner no. 1, had later on resiled from her earlier version in a letter dated 09.11.2017 stating that she had never made any complaint against her son i.e. the petitioner no. 1. An enquiry was also caused by the Deputy Commissioner, Cachar into the alleged irregularities and an enquiry report had been submitted by the Deputy Commissioner, Cachar. In a letter dated 09.06.2013 written by the Deputy Commissioner, Cachar to the Commissioner, Panchayat & Rural Development [P&RD] Department, Assam, it was mentioned that in the enquiry caused through the Additional Deputy Commissioner, Silchar, Cachar, it was observed that the names of the vendors were deliberately changed against the schemes.

12. The entire copy of the enquiry report so submitted by the Deputy Commissioner has not been placed on record. The respective contentions of the petitioners have given rise to a number of disputed questions of facts.

13. It has been settled by a long line of decisions that the jurisdiction of the High Court under Article 226 of the Constitution of India is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the Article. In this writ petition, though the petitioners have asserted that after they had supplied a number of materials in connection with construction works undertaken under the MGNREGA Scheme. But the orders against which those alleged supplies were made, are not part of the record. A glance at one of the alleged final bills, available at Page no. 32 of the case papers, has reflected that it did not bear any reference to any supply order but it was

certified under the seal and signature of the Accredited Engineer, Borkhola Development Block certifying that the materials were received in well and good conditions. The Accredited Engineer had, however, informed the higher authorities that he had to subscribe his signature under pressure. Further, the Commissioner, Panchayat & Rural Development [P&RD] Department nor the State Government in the Panchayat & Rural Development [P&RD] Department has expressly admitted liabilities against the final bills mentioned by the petitioners in this writ petition seeking invocation of the exercise of extra-ordinary and discretionary jurisdiction of this Court.

14. It is well settled that the exercise of the jurisdiction is discretionary and it is not to be exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it will be exercised subject to well recognition as self imposed limitations. In a writ petition under Article 226 of the Constitution, the High Court has jurisdiction to try issues both of fact and law. In the process, the Court has to consider as to what facts are in dispute and what facts are not in dispute and such a stage comes after the exchange of pleadings in the form of affidavits amongst the parties is complete. A writ petition is ordinarily decided on the basis of affidavits. A *lis* arising out of contractual matter is also not beyond the purview of the judicial review though such purview is limited and the discretionary writ jurisdiction in such matters is to be exercised on sound judicial principles. When a writ petition raises disputed questions of fact requiring appreciation of evidence, both oral and documentary, and for determination of such disputed questions of fact, examination of witnesses would be necessary then it may not be convenient to decide such disputes in a proceeding under Article 226 of the Constitution and then in such a case, the Court may decline to try a writ petition. Though no authority is required to be cited for such settled proposition of law, the decision of the Hon'ble Supreme Court of India in *Gunwant Kaur vs. Municipal Committee Bhatinda*, reported in [1969] 3 SCC 769; *Noble Resources Ltd. vs. State of Orissa and another*, reported in [2006] 10 SCC 236; and *State of Kerala and others vs. M.K. Jose*, reported in [2015] 9 SCC 433 can be referred to as references. It is also settled, as has been observed by a Constitution Bench of the Hon'ble Supreme Court of India in *Thansingh Nathmal vs. The Superintendent of Taxes, Dhubri and others*, reported

in *AIR 1964 SC 1419*, that the High Court in its jurisdiction under Article 226 of the Constitution does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The present one is such a case which would require determination of several disputed questions of facts through both oral and documentary evidence with examination of witnesses from the parties in a trial and the present writ proceeding is found to be not the proper and appropriate proceedings to determine such kind of disputed questions of facts.

15. A full bench of this Court in Writ Appeal No. 484/2005 [*Tamsher Ali and Ors. vs. State of Assam and Ors.*], and similar other 194 writ petitions reported in 2008 [4] *GLT 1 [FB]*, has observed that a writ petition involving contractual liability can be considered only in the event there is admission of liability certified by the respective Chief Engineer in the Works Department and in respect of other departments by the Head of the Departments. There is no admission of liability by the concerned Chief Engineer and/or by the Head of the Department in the case in hand.

16. Having regard to the scope and ambit of the power of judicial review in a case involving disputed questions of facts and the discussions made above with regard to the facts and circumstances obtaining in the case in hand, this Court is of the considered view that the disputes involved in this writ petition, as narrated above, cannot be decided in a writ proceeding. As a corollary, the writ petition is not to be entertained. It is accordingly not entertained. It is, however, observed that non-entertainment of this writ petition may not preclude the petitioner to take recourse to appropriate for proceedings before an appropriate forum as may be permitted under the law. There shall be no order as to cost.”

6. In the present writ petition, the petitioners have taken a plea that in the earlier writ petition, the entire Enquiry Report was not placed before the Court and on 15.07.2022, the petitioners submitted a Representation to the respondent no. 2 requesting the respondent no. 2 to take necessary action on the Enquiry Report and release their bill amounts in accordance with the findings arrived at in the enquiry. Making a grievance that the respondent

authorities had neither taken any action on the Enquiry Report nor had disposed of the Representation, the petitioners have approached this Court by the instant writ petition seeking **inter alia** a direction to the respondent no. 2 to take necessary action on the Enquiry Report and not to disburse the bill amounts to the vendors whose names were proposed and approved instead of the petitioners till the disposal of their Representation dated 15.07.2022.

7. As can be noticed from the judgment and order dated 09.06.2022, this Court had already observed that as regards the claim of the petitioners for disbursal of the amount of ₹ 95,31,386/- on the basis of final bills submitted by them there were several disputed questions of fact which would require adjudication on the basis of evidence to be led in a full-fledged trial and a writ proceeding under Article 226 of the Constitution of India was not a proper and appropriate proceeding to determine such disputed questions of fact. Through the prayers made in this writ petition seem to be innocuous at first blush but they are not so if one looks at the prayer made in the Representation submitted by the two petitioners jointly on 15.07.2022. On the basis of the Representation stated to have submitted by the petitioners on 15.07.2022, the petitioners have sought, in the considered view of this Court, to re-open a subject-matter in an indirect manner after the petitioners had failed to achieve their ends in the direct manner with the dismissal of the writ petition, W.P.[C] no. 2285/2018 by the judgment and order dated 09.06.2022. The said fact is clearly evident from the prayer made in the Representation dated 15.07.2022. For ready reference, the prayer made in the Representation dated 15.07.2022 is quoted herein below :

“Therefore we fervently request you to take necessary action to release bill, an

amount of ₹ 95,31,386/- against the materials supply in connection with the MGNREGA Scheme under Borkhola Development Block in the financial year of 2016 – 2017 in accordance with the enquiry report which submitted to you vide letter dated 9th June 2020.”

8. This Court is of the view that since the earlier writ petition, W.P.[C] no. 2285/2018 with a prayer for a direction to the respondent authorities to release forthwith an amount of ₹ 95,31,386/- was dismissed by the judgment and order dated 09.06.2022, the second endeavour made by the same petitioners through the same learned counsel seeking the same relief in an indirect manner by filing another writ petition i.e. the instant writ petition is misconceived and an abuse of the process of the court. This Court in the judgment and order dated 09.06.2022 had clearly observed that the non-entertainment of the writ petition would not preclude the petitioner to take recourse to appropriate proceedings before an appropriate forum as may be permitted under the law as regards the claims of the petitioners in respect of ₹ 95,31,386/-, meaning thereby, another writ petition with the same prayer made in an indirect manner before this Court would not be permitted.

9. It is noted that the petitioners in this writ petition have contended that there was violation of administrative fair play and natural justice as the respondent no. 2 i.e. Commissioner, Panchayat and Rural Development, Assam has failed deliberately to take necessary action on the Enquiry Report and to dispose of the Representation of the petitioners in accordance with the Enquiry Report. Noticeably, in the previous writ petition preferred by the same petitioners herein, W.P.[C] no. 2285/2018, the Commissioner, Panchayat and Rural Development, Assam was not a party-respondent. The previous writ petition was preferred when the respondent authorities in the Panchayat and

Rural Development Department did not disburse the final bill amount of ₹ 95,31,386/-. After the previous writ petition, W.P.[C] no. 2285/2018 was not entertained by the judgment and order dated 09.06.2022, the petitioners had chosen to approach the Commissioner, Panchayat and Rural Development, Assam by their Representation dated 15.07.2022, who was not a party respondent in the writ petition, W.P.[C] no. 2285/2018 renewing the same prayer for disbursal of the amount of ₹ 95,31,386/-. In the judgment and order dated 09.06.2022, this Court had clearly observed that the petitioners' claim of ₹ 95,31,386/- was found to be disputed requiring determination of several disputed question of facts through oral and documentary evidence with examination of witnesses from the parties in a trial. Despite being aware of the said observations, the petitioners had approached another authority i.e. Commissioner, Panchayat and Rural Development, Assam subsequently with the same claim, instead of taking recourse to appropriate proceeding before the appropriate forum.

10. At this juncture, it is apposite to refer to following observations made by the Hon'ble Supreme Court of India in few of the decision referred herein.

11. In *Prestige Lights Ltd. vs. SBI*, reported in [2007] 8 SCC 449, the Hon'ble Supreme Court of India has held that in exercising power under Article 226 of the Constitution of India the High Court is not just a court of law, but is also a court of equity and a person who invokes the High Court's jurisdiction under Article 226 of the Constitution is duty-bound to place all the facts before the Court without any reservation. If there is suppression of material facts or twisted facts have been placed before the High Court then it will be fully justified in refusing to entertain a petition filed under Article 226 of the

Constitution.

12. In *K.D. Sharma vs. SAIL*, reported in [2008] 12 SCC 481, the Hon'ble Supreme Court of India has held that the jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary and it is imperative that the petitioner approaching the writ court must come with clean hands and put forward all the facts before the Court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the Court, his petition may be dismissed at the threshold without considering the merits of the claim.

13. In *Kishore Samrite vs. State of Uttar Pradesh and others*, reported in [2013] 2 SCC 398, the Hon'ble Supreme Court of India has observed as under :

“Abuse of the process of Court :

31. Now, we shall deal with the question whether both or any of the petitioners in Civil Writ Petition Nos. 111 of 2011 and 125 of 2011 are guilty of suppression of material facts, not approaching the Court with clean hands, and thereby abusing the process of Court. Before we dwell upon the facts and circumstances of the case in hand, let us refer to some case law which would help us in dealing with the present situation with greater precision.

32. The cases of abuse of the process of court and such allied matters have been arising before the Courts consistently. This Court has had many occasions where it dealt with the cases of this kind and it has clearly stated the principles that would govern the obligations of a litigant while approaching the court for redressal of any grievance and the consequences of abuse of process of court. We may recapitulate and state some of the principles. It is difficult to state such principles exhaustively and with such accuracy that would uniformly apply to a

variety of cases. These are:

32.1. Courts have, over the centuries, frowned upon litigants who, with intent to deceive and mislead the Courts, initiated proceedings without full disclosure of facts and came to the courts with 'unclean hands'. Courts have held that such litigants are neither entitled to be heard on the merits of the case nor entitled to any relief.

32.2. The people, who approach the Court for relief on an ex parte statement, are under a contract with the court that they would state the whole case fully and fairly to the court and where the litigant has broken such faith, the discretion of the court cannot be exercised in favour of such a litigant.

32.3. The obligation to approach the Court with clean hands is an absolute obligation and has repeatedly been reiterated by this Court.

32.4. Quests for personal gains have become so intense that those involved in litigation do not hesitate to take shelter of falsehood and misrepresent and suppress facts in the court proceedings. Materialism, opportunism and malicious intent have overshadowed the old ethos of litigative values for small gains.

32.5. A litigant who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands is not entitled to any relief, interim or final.

32.6. The Court must ensure that its process is not abused and in order to prevent abuse of process of court, it would be justified even in insisting on furnishing of security and in cases of serious abuse, the Court would be duty-bound to impose heavy costs.

32.7. Wherever a public interest is invoked, the Court must examine the petition carefully to ensure that there is genuine public interest involved. The stream of justice should not be allowed to be polluted by unscrupulous litigants.

32.8. The Court, especially the Supreme Court, has to maintain strictest vigilance

over the abuse of process of court and ordinarily meddlesome bystanders should not be granted “visa”. Many societal pollutants create new problems of unredressed grievances and the Court should endure to take cases where the justice of the lis well justifies it. [Refer : Dalip Singh vs. State of U.P., reported in [2010] 2 SCC 114; Amar Singh vs. Union of India, reported in [2011] 7 SCC 69; and State of Uttaranchal vs. Balwant Singh Chaufal, reported in [2010] 3 SCC 402].

14. It is the consistent view that a totally misconceived petition amounts to an abuse of the process of Court and such a litigant is not required to be dealt with lightly if the petition is filed to achieve an ulterior purpose. The wide jurisdiction of the Court under Article 226 of the Constitution of India is not to be permitted by an unscrupulous litigant as a source for abusing the process of law. In the light of these settled principles, if the facts of the case in hand are examined, then it is evident that the writ petition filed by the two petitioners is clearly misconceived amounting to an abuse of the process of court as they have filed the writ petition for an ulterior purpose and such petitioners cannot be permitted to go free.

15. Having considered the entire facts and circumstances of the case, the Court deems it fit and appropriate to dismiss the instant writ petition by imposing a cost of Rs. 25,000/- on the petitioners. The cost imposed is to be deposited by the petitioners before the Registry of this Court within a period of 2 [two] weeks from today. On deposit of the amount, the amount is to be transferred to the Assam State Legal Services Authority.

JUDGE

Comparing Assistant