

Chief Justice's Court

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 279 of 2025

Petitioner :- Varun Tyagi

Respondent :- State of U.P. and 7 others

Counsel for Petitioner :- Vikrant Rana

Counsel for Respondent :- Seema Agarwal, S.C., Manish Goyal with
Ravi Anand Agarwal, Vineet Pandey

Hon'ble Arun Bhansali, Chief Justice

Hon'ble Kshitij Shailendra, J.

1. Heard Shri Vikrant Rana, learned counsel for the petitioner, Ms. Seema Singh, learned Standing Counsel for the State respondents no. 1 and 6 and Shri Manish Goyal, learned Senior Counsel, assisted by Shri Ravi Anand Agarwal for the respondent nos. 2, 3 and 4 (U.P. Avas Evam Vikas Parishad and its officials).

2. The present petition in purported public interest has been filed by one Varun Tyagi, aged about 34 years, Resident of L/482, Shastri Nagar, Meerut praying for a writ of mandamus commanding the respondents to take appropriate action in respect of commercial properties constructed in residential area situated in Shastri Nagar, Meerut alleging the same to have been established without conversion of land use, sanction and approval from U.P. Avas Evam Vikas Parishad (in short 'the Parishad'). Further relief has been claimed restraining conduct of any business/trade/commercial activities in such premises and third relief is for getting ensured compliance of the directions issued by this Court in Writ-C No. 46342 of 2013 (U.P. Avas Evam Vikas Parishad Vs. State of U.P. and others).

3. When the petition was listed before this Court on 10.02.2025 at the first instance, learned counsel for the petitioner argued that action be taken against private respondents no. 7 and 8 who had constructed shops in residential area. The Court passed following order on the said date:-

- "1. Petitioner has filed the petition seeking action against respondent nos. 7 & 8.
2. Submissions have been made that the respondent nos. 7 & 8 have constructed shops in residential area.
3. When a query was made to the learned counsel for the petitioner regarding the petitioner targeting respondent nos. 7 & 8 only and distance between the petitioner's residence and the shops in question, it was submitted that they were at a distance of two kilometers and two and half kilometers from the residence.
4. In those circumstances, learned counsel for the petitioner is directed to place on record affidavit of the petitioner to indicate as to whether any shop in between the shops of respondent nos. 7 & 8 and petitioner's residence are there in the residential area or not.
5. Affidavit may be placed on record by the next date.
6. List on 24.02.2025 as fresh."

4. A supplementary affidavit and an application No. 2 of 2025 seeking impleadment of 220 establishments/institutions/shops including few schools, namely, Modern Public School, Mega Smart School, few banks, namely, Bank of Baroda, Canara Bank, State Bank of India, Indian Bank, Punjab National Bank, Indian Overseas Bank and Ujjivan Bank, few hospitals, namely, Santosh Hospital, Sunita Nursing Home, Jagdamba Hospital, Arjun Hospital, Ambey Hospital, Anandit Hospital, Shivam Nursing Home and Vedant Hospital have been filed annexing therewith photographs of such constructions and levelling allegations that all the said constructions have been raised in violation of building bye-laws.

5. Learned counsel for the petitioner raised submissions that since all the constructions have been raised in violation of the provisions contained under **U.P. Avas Evam Vikas Parishad Adhiniyam, 1965** and there is already an order dated 05.12.2014 passed by this Court in Writ-C No. 46342 of 2013, which has been upheld by the Hon'ble Supreme Court by order dated 17.12.2024 passed in Civil Appeal No. 14604 of 2024 arising out of SLP (C)

No. 36440 of 2014 and Civil Appeal No. 14605 of 2024 arising out of SLP (C) No. 1184 of 2015, reliefs claimed in the petition be granted. It is further urged that the petitioner and one Archit moved certain applications before the Parishad and also received information about nature of allotment and that Archit has filed a P.I.L. No. 1381 of 2022 which was adjourned by this court by order dated 05.08.2022 for want of clarity of photographs attached to the said petition, which is still pending without an order.

6. On the other hand, learned Standing Counsel for the State respondents as well as Shri Manish Goyal, learned Senior Counsel, appearing for the respondent nos. 2, 3 and 4, submit that as far as the order of this Court dated 05.12.2024 passed in Writ-C No. 46342 of 2013 and the order dated 17.12.2024 passed by Hon'ble Supreme Court in Civil Appeal No. 14604 of 2024 are concerned, the same are self explanatory and the directions contained therein would be taken care of. As far as merits of the present petition are concerned, submission is that the petitioner has not approached the Court with clean hands and he being a resident of a quite distant place from the establishments of the respondents no.7 and 8, against whom the petition was initially filed, is seeking a direction to demolish numerous constructions without any cogent basis and without producing sufficient material in support of his submissions. It is also urged that no public interest is involved in the present case and, therefore, the petition is liable to be dismissed.

7. Having heard learned counsel for the parties, we find that the allegations levelled against the respondent nos. 7 and 8 in the present writ petition are to the effect that they were allotted plots on 19.12.1979 and 02.10.2021 by the Parishad wherefrom they are running bakery/confectionery shops though the plots had been allotted for residential purposes. Issue of traffic jam has also been

sought to be raised on account of existence of shops of respondent nos. 7 and 8.

8. Admittedly, pursuant to applications moved by the petitioner and one Archit, a P.I.L. No. 1381 of 2022 is pending before this Court without any substantive order passed therein, rather pointing out flaw in filing of the petition.

9. In the application seeking impleadment of 220 establishments/institutions/shops or in the supplementary affidavit filed in these proceedings, no details have been given as to since when the said 220 establishments/ institutions/shops exist in the locality and what is the nature of allotments made in their favour. The affidavits lack necessary particulars which persuade this Court not to permit impleadment of any of the 220 establishments/institutions/shops or even to call upon them to address the Court. The proposed respondents, in absence of necessary material before the Court, neither appear to be necessary nor proper parties to this petition so as to invite response from them. The application No. 2 of 2025 seeking impleadment is, therefore, **rejected**.

10. As far as the order of this Court in Writ-C No. 36342 of 2013, as upheld by the Hon'ble Supreme Court is concerned, we find that the said writ petition was filed by the Avas Vikas Parishad against State of U.P. and 4 others, allegations wherein were levelled against one Veer Singh, occupant of plot No. 661/6, Type-Residential, located in Bhoomi Vikas, Grisathan Yojna No. 7, Sector No. 6, Phast-1st, Shashtri Nagar, Meerut that was allotted to him in 1986 and certain deeds etc were also executed in between the Parishad and him. Allegations were also levelled against one Vinod Arora, attorney of Veer Singh to the effect that commercial constructions had been raised over the plot allotted by the Parishad

but without getting any map sanctioned from it. This Court, by order dated 05.12.2014, directed the District Magistrate and Chief Secretary, U.P. Government to launch proceedings for demolition and also take action against the officials of the Parishad. Certain general directions were also issued.

11. When the order dated 05.12.2014 was carried by the concerned private respondents of the said writ petition before the Hon'ble Supreme Court, following directions were issued by the Supreme Court in paragraph no. 21 of its order dated 17.12.2024:-

"21. Therefore, in the larger public interest, we are inclined to issue the following directions, in addition to the directives issued by this Court in Re: Directions in the matter of demolition of structures (supra):

(i) While issuing the building planning permission, an undertaking be obtained from the builder/applicant, as the case may be, to the effect that possession of the building will be entrusted and/or handed over to the owners/beneficiaries only after obtaining completion/occupation certificate from the authorities concerned.

(ii) The builder/developer/owner shall cause to be displayed at the construction site, a copy of the approved plan during the entire period of construction and the authorities concerned shall inspect the premises periodically and maintain a record of such inspection in their official records.

(iii) Upon conducting personal inspection and being satisfied that the building is constructed in accordance with the building planning permission given and there is no deviation in such construction in any manner, the completion/occupation certificate in respect of residential / commercial building, be issued by the authority concerned to the parties concerned, without causing undue delay. If any deviation is noticed, action must be taken in accordance with the Act and the process of issuance of completion/occupation certificate should be deferred, unless and until the deviations pointed out are completely rectified.

(iv) All the necessary service connections, such as, Electricity, water supply, sewerage connection, etc., shall be given by the service provider/Board to the buildings only after the production of the completion/occupation certificate.

(v) Even after issuance of completion certificate, deviation/violation if any contrary to the planning permission brought to the notice of the authority immediate steps be taken by the said authority concerned, in accordance

with law, against the builder/owner/occupant; and the official, who is responsible for issuance of wrongful completion /occupation certificate shall be proceeded departmentally forthwith.

(vi) No permission/licence to conduct any business/trade must be given by any authorities including local bodies of States/Union Territories in any unauthorized building irrespective of it being residential or commercial building.

(vii) The development must be in conformity with the zonal plan and usage. Any modification to such zonal plan and usage must be taken by strictly following the rules in place and in consideration of the larger public interest and the impact on the environment.

(viii) Whenever any request is made by the respective authority under the planning department/local body for co-operation from another department to take action against any unauthorized construction, the latter shall render immediate assistance and co-operation and any delay or dereliction would be viewed seriously. The States/UT must also take disciplinary action against the erring officials once it is brought to their knowledge.

(ix) In the event of any application/appeal/revision being filed by the owner or builder against the non-issuance of completion certificate or for regularisation of unauthorised construction or rectification of deviation etc., the same shall be disposed of by the authority concerned, including the pending appeals/revisions, as expeditiously as possible, in any event not later than 90 days as statutorily provided.

(x) If the authorities strictly adhere to the earlier directions issued by this court and those being passed today, they would have deterrent effect and the quantum of litigation before the Tribunal/Courts relating to house/building constructions would come down drastically. Hence, necessary instructions should be issued by all the State/UT Governments in the form of Circular to all concerned with a warning that all directions must be scrupulously followed and failure to do so will be viewed seriously, with departmental action being initiated against the erring officials as per law.

(xi) Banks/financial institutions shall sanction loan against any building as a security only after verifying the completion/occupation certificate issued to a building on production of the same by the parties concerned.

(xii) The violation of any of the directions would lead to initiation of contempt proceedings in addition to the prosecution under the respective laws.

12. The Hon'ble Supreme Court, as regards the case before it, issued following directions in paragraph no. 22 of its order:-

"22. As far as the present case is concerned, we pass the following orders:

(i)The order of the High Court shall stand confirmed.

(ii)The appellants are directed to vacate and handover the vacant premises to the respondent authorities within a period of three months from the date of receipt of a copy of this judgment.

(iii)On such surrender, the respondent authorities shall take steps to demolish the unauthorised construction made on the subject property, within a period of two weeks therefrom.

(iv)All the authorities shall provide necessary assistance to the Respondent No.1 to execute the order of the High Court in its letter and spirit.

(v)Appropriate criminal as well as departmental action shall be taken against the erring officials/persons concerned in line with the order of the High Court and a report shall be filed before this Court.

(vi)The amount deposited by the appellants in SLP (C)No. 36440 of 2014 be refunded to them, along with accrued interest."

13. We are of the view that the order of this Court in Writ-C No. 36342 of 2013 and that of Hon'ble Supreme Court in Civil Appeal No. 14604 of 2024 arising out of SLP (C) No. 36440 of 2014 and Civil Appeal No. 14605 of 2024 arising out of SLP (C) No. 1184 of 2015 are self speaking and would take their own course as per the directions contained therein.

14. However, the question before us in the present P.I.L. is as to whether, at the instance of the petitioner, any action can be directed to be taken either against the respondent nos. 7 and 8 who were not parties to the previous litigation or against those 220 establishments/institutions/shops whose impleadment has been sought in these proceedings.

15. In **Kushum Lata versus Union of India an others : (2006) 6 SCC 180**, the Hon'ble Supreme Court held thus:-

"5. When there is material to show that a petition styled as a public interest litigation is nothing but a camouflage to foster

personal disputes, said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. **Public Interest Litigation which has now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "private interest litigation" or "politics interest litigation" or the latest trend "paaise income litigation".** The High Court has found that the case at hand belongs to the second category. If not properly regulated and abuse averted, it becomes also a tool in unscrupulous hands to release vendetta and wreck vengeance, as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of knight errant borne out of wishful thinking. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. The Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. These aspects were highlighted by this Court in *The Janta Dal v. H.S. Chowdhary* (1992 (4) SCC 305) and *Kazi Lhendup Dorji vs. Central Bureau of Investigation*, (1994 Supp (2) SCC 116). 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 also with a clean heart, clean mind and clean objective. (See *Ramjas Foundation vs. Union of India*, (AIR 1993 SC 852) and *K.R. Srinivas v. R.M. Premchand*, (1994 (6) SCC 620)."

(emphasis by us)

16. The Hon'ble Apex Court, in **State of Uttaranchal versus Balwant Singh Chaufal and Ors. : (2010) 3 SCC 402**, laid down the following guidelines relating to Public Interest Litigation:-

181..... In order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions:-

(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 PIL.

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

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

(6) The Courts 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 Courts 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."

(emphasis by us)

17. In Jaipur Shahar Hindu Vikas Samiti versus State of Rajasthan and others : (2014) 5 SCC 530, the Hon'ble Apex Court has observed as under :-

"49. The concept of public interest litigation is a phenomenon which is evolved to bring justice to the reach of people who are handicapped by ignorance, indigence, illiteracy and other downtrodden people. Through the public interest litigation, the cause of several people who are not able to approach the court is espoused. In the guise of public interest litigation, we are coming across several cases where it is exploited for the benefit of certain individuals. The courts have to be very cautious and careful while entertaining public interest litigation. The judiciary should deal with the misuse of public interest litigation with iron hand. If the public interest litigation is permitted to be

misused the very purpose for which it is conceived, namely, to come to the rescue of the poor and downtrodden will be defeated. The courts should discourage the unjustified litigants at the initial stage itself and the person who misuses the forum should be made accountable for it.
....."

(emphasis by us)

18. In **Tehseen Poonawalla vs. Union of India and another (2018) 6 SCC 72**, the Hon'ble Supreme Court, while dealing with the object of a public interest litigation and its mis-utilization by persons with personal agenda, observed as under:

97. Yet over time, it has been realised that this jurisdiction is capable of being and has been brazenly mis-utilised by persons with a personal agenda. At one end of that spectrum are those cases where public interest petitions are motivated by a desire to seek publicity. At the other end of the spectrum are petitions which have been instituted at the behest of business or political rivals to settle scores behind the facade of a public interest litigation. The true face of the litigant behind the façade is seldom unravelled.
.....

98. The misuse of public interest litigation is a serious matter of concern for the judicial process. Both this court and the High Courts are flooded with litigation and are burdened by arrears. Frivolous or motivated petitions, ostensibly invoking the public interest detract from the time and attention which courts must devote to genuine causes. This court has a long list of pending cases where the personal liberty of citizens is involved. Those who await trial or the resolution of appeals against orders of conviction have a legitimate expectation of early justice. It is a travesty of justice for the resources of the legal system to be consumed by an avalanche of misdirected petitions purportedly filed in the public interest which, upon due scrutiny, are found to promote a personal, business or political agenda. This has spawned an industry of vested interests in litigation. There is a grave danger that if this state of affairs is allowed to continue, it would seriously denude the efficacy of the judicial system by detracting from the ability of the court to devote its time and resources to cases which legitimately require attention. Worse still, such petitions pose a grave danger to the credibility of the judicial process. This has the propensity of endangering the credibility of other institutions and undermining public faith in democracy and the rule of law. This will happen when the agency of the court is utilised to settle extra-judicial scores. Business rivalries have to be resolved in a competitive market for goods and services. Political rivalries have to be resolved in the great hall of

democracy when the electorate votes its representatives in and out of office. Courts resolve disputes about legal rights and entitlements. Courts protect the rule of law. There is a danger that the judicial process will be reduced to a charade, if disputes beyond the ken of legal parameters occupy the judicial space."

(emphasis by us)

19. We may mention here that the present writ petition was initially filed claiming a general relief seeking action in respect of commercial activities existing in the locality, however, only two private persons, being respondent nos. 7 and 8 were impleaded. Later on, when this Court, on 10.02.2025, made a pointed query to the learned counsel for the petitioner explaining the distance between the petitioner's residence and shops of respondent nos. 7 and 8, it was submitted before us that they were at a distance of two Kms and two and half Kms from petitioner's residence. This fact was noted in our order dated 10.02.2025, already quoted above. It is only after such query that the petitioner filed an application seeking impleadment of 220 establishments/ institutions/ shops and, therefore, the clear attempt is to somehow get a direction for eliminating the existence of $2 + 220 = 222$ establishments/ institutions/ shops including banks and hospitals etc. Such an attempt is nothing but an apparent abuse on the part of the petitioner who has approached this Court by not raising any issue of public welfare, rather the attempt is to cause damage to large number of persons having their establishments etc and also other institutions like banks and hospitals etc, which are operational in larger public interest.

20. We do not find it a fit case to issue any such direction, as prayed for in the present petition, as we are satisfied that no element of public interest is involved in seeking demolition of constructions which include schools, hospitals, nursing homes and

various other commercial establishments existing since years and decades. The issue could have been different, had it been a case where certain government properties were encroached upon by certain persons and sufficient material was there before this Court to get the encroachments removed for serving any public welfare purpose. However, the present one is not the case of like nature and, therefore, no direction can be issued. We are also satisfied that the present petition has not been filed bona fide but with an oblique motive to settle scores with persons against whom action has been sought. Writ jurisdiction could be exercised had there been any real and genuine public interest involved and not merely an adventure of knight errant borne out of wishful thinking. Filing of this petition in purported public interest is an apparent misuse of process of law and against the ratio laid down in the precedents noted above.

21. The petition is, accordingly, **dismissed**, however without imposing any cost.

Order Date :- 18.4.2025

AKShukla/-

(Kshitij Shailendra, J) (Arun Bhansali, CJ)