

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT

-
Writ Petition No.20997 of 2008

Date: 5.8.2015

Between:

Dr.M. Tukaram,
S/o. M.Kasiram,
Giriraja Government College,
Nizamabad and others.

... Petitioners

And

The Registrar,
Telangana University,
Nizamabad and others.

... Respondents

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AND
THE HON'BLE SRI JUSTICE S.V. BHATT

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Writ Petition No.20997 of 2008

Order: (Per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This writ petition is filed by four petitioners under Article 226 of the Constitution of India, in public interest, against the selection and appointments of respondent Nos. 5 to 10 as Professors and Associate Professors in different subjects in 1st respondent-University.

2. It is not in dispute that the petitioners filed the instant writ petition in public interest. According to the petitioners, the appointments of respondent Nos. 5 to 10, were in total violation of eligibility criteria. It is not in dispute that the petitioners also participated in the selection process for the posts of Professors and Associate Professors in different subjects and they were not selected by the 1st respondent.

3. In this backdrop, at the outset, Mr. Deepak Bhattacharjee, learned counsel appearing for the 1st respondent-University raised a preliminary objection that a public interest litigation is not maintainable in service matters and the petitioners ought to have, if at all they were so interested, filed writ petitions for Quo Warranto. In support of this contention, he placed reliance upon the judgments of the Supreme Court

in **Girijesh Shrivastava and Others vs. State of Madhya Pradesh & Others**^[1], **Dattaraj Nathuji Thaware vs. State of Maharashtra and Others**^[2], **Bholanath Mukherjee & Others vs. Ramakrishna Mission Veivekananda Centenary College and Others**^[3] and **Madanlal vs. High Court of Jammu & Kashmir**^[4].

4. On the other hand, Mr. S. Satyam Reddy, learned Senior Counsel appearing for the petitioners submitted that the petitioners are not seeking any relief in their favour though they were not selected. In other words, he submitted that the petitioners are not seeking cancellation of the appointments of respondent Nos. 5 to 10 and seeking their appointment in the place of those respondents. He submitted that the petitioners are in the field of education and they are interested in the future and career of the students in this State. The students are forced to take education in the colleges where respondent Nos. 5 to 10 are working as Professors and Associate Professors. He submitted that only qualified persons can be appointed as Professors or Associate Professors and since ineligible persons are appointed, they have filed the instant writ petition, in public interest, challenging their appointments. He also submitted that the Universities being temples of knowledge and academic excellence, where students go in pursuit of knowledge and for acquiring degrees, need teachers of high academic caliber to disseminate quality education and training in backward area, and since all these norms are being flouted by appointing respondent Nos. 5 to 10, who are not holding even minimum required qualification and, therefore, the petition, in the nature of public interest is maintainable.

5. He invited our attention to some paragraphs in the petition and also the counter/reply affidavits in support of his contention that the writ in the nature of PIL is filed in the singular facts and circumstances of the case and prayed for over ruling the preliminary objection. .

6. The Supreme Court in **Girijesh Shrivastava's** case (supra-1), considered the question whether P.I.L. is maintainable in service matters and in paragraphs 14 to 17, observed thus:

14. However, the main argument by the appellants against entertaining WP (C) No. 1520/2001 and WP (C) No. 63/2002 is on the ground that a PIL in a service matter is not maintainable. This Court is of the opinion that there is considerable merit in that contention. It is common ground that dispute in this case is over selection and appointment which is a service matter.

15. In [Duryodhan Sahu \(Dr\) v. Jitendra Kumar Mishra](#) (1998) 7 SCC 273, a three- Judge Bench of this Court held a PIL is not maintainable in service matters. This Court, speaking through Srinivasan, J. explained the purpose of administrative tribunals created under [Article 323-A](#) in the backdrop of extraordinary jurisdiction of the High Courts under Articles 226 and 227. This Court held (SCC p. 281, para-18)

"18. If public interest litigations at the instance of strangers are allowed to be entertained by the (Administrative) Tribunal, the very object of speedy disposal of service matters would get defeated".

Same reasoning applies here as a public interest litigation has been filed when the entire dispute relates to selection and appointment.

16. In [B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Association](#) (2006) 11 SCC 731 (2), this Court held that in service matters only the non-appointees can assail the legality of the appointment procedure (See SCC p.755, para 51 of the Report).

17. This view was very strongly expressed by this Court in *Dattaraj Nathuji Thaware v. State of Maharashtra* (2005) 1 SCC 590 by pointing out that despite the decision in **Duryodhan Sahu**, PILs in service matters "continue unabated". This Court opined that the High Courts should "throw out" such petitions in view of the decision in **Duryodhan Sahu** (SCC p.596, para-16)."

7. In **Dattaraj Nathuji Thaware's** case (supra-2), a similar

question was considered by the Supreme Court and in paragraphs 15 and 16, observed thus:

15. 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 vs. Prabhu](#), (1994 (2) SCC 481) and [Andhra Pradesh State Financial Corporation vs. 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 Buddhi Kota Subbarao \(Dr.\) v. K. Parasaran](#), (JT 1996 (7) SC 235)]. 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.

16. 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 a 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 a large number of cases, yet unmindful of the real intentions and objectives, 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 [Duryodhan Sahu \(Dr.\) v. Jitendra Kumar Mishra](#) (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 official documents. Apart from the sinister manner, if any, of getting such copies, the real brain or force behind such cases would get exposed to find out the truth and motive behind the petition. Whenever such frivolous pleas, as noted, 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 motive do not have the approval of the Courts.

8. In **Bholanath Mukherjee's** case (supra-3), the Supreme Court, once again dealt with almost similar situation and in that case, the allegation was that the respondent did not possess Ph.D Degree. He also did not possess 15 years of administrative experience at the time of his appointment and he has been appointed on the said basis merely because he is a monk at the Rama Krishna Mission. The very purpose, it was submitted, of prescribing minimum qualifications and method of selection for an important post like Principal of an educational institution has been defeated. While dealing with such contention, the Supreme Court in paragraphs 45 ad 46 observed thus:

45. We are unable to accept the aforesaid submission made by the learned counsel. As noticed in the earlier part of the judgment, the entire pleadings in the writ petition are founded on the personal grievance of the appellant-writ petitioners. The writ petitioners have not come before this Court as educationists. Merely because they are senior most teachers in the same institution, would not necessarily give rise to the presumption, that they had filed the writ petition in public interest. In our opinion, a pure and simple service dispute is sought to be camouflaged as a public interest litigation.

46. This Court on numerous occasions negated such efforts in disguising the personal grievances as public interest litigation. It is, however, not necessary to recapitulate the oft quoted caution, save and except the observations made by this Court in Gurpal Singh [2005 (5) SCC 136]. In SCC paras 10, 11 and 12 it is observed as follows: (SCC pp. 141-42)

"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 armoury 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 the 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 as to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies 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 "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 which provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in the recognition that ordinary marketplace 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 B. Singh \(Dr.\) v. Union of India](#), SCC p. 373, para 13.]

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. Since in service matters public interest litigation cannot be filed there is no scope for taking action for contempt, particularly, when the petition is itself not maintainable. In any event, by order dated 15-4-2002 this Court had stayed operation of the High Court's order."

9. In **Madanlal's** case (supra-4), the Supreme Court, while dealing with broad principles on which public interest litigation could be entertained, in paragraphs 8,9 and 15, observed thus:

"8. In this respect, it would be appropriate to refer to the compilation of guidelines to be followed for entertaining letters/petitions received in this Court as Public Interest Litigation based on Full Court decision dated 1.12.1988 with subsequent modifications based on Orders dated 19.8.1993 and 29.8.2003 of the then Hon'ble Chief Justice of India. Under the said guidelines, it has been specifically

stipulated as under:

“Cases falling under the following categories will not be entertained as Public Interest Litigation and these may be returned to the petitioners or filed in the PIL Cell, as the case may be:

1. xxxxxxxxxxxxxxxx

2. Service matter and those pertaining to Pension and Gratuity.”

9. That apart time and again this Court repeatedly held that in service matters Public Interest Litigation is not maintainable. We can profitably refer to a recent decision reported in Hari Bansh Lal v. Sahodar Prasad Mahto – (2010) 9 SCC 655 : (AIR 2010 SC 3515 : 2010 AIR SCW 5567). Paragraphs 14 and 15 : (of SCc) : (at Pp 8 and 9 of AIR, AIR SCW) are relevant which are as under:

“14. In Ashok Kumar Pandey v. State of W.B. (AIR 2004 SC 280 : 2003 AIR SCW 6105) this Court held thus: (SCC pp. 358 – 59 para 16) : (Para 16 of AIR, AIR SCW).

16. 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 a large number of so-called public interest litigations where even a minuscule percentage can legitimately be called public interest litigations. Though the parameters of public interest litigations have been indicated by this court in a large number of cases, yet unmindful of the real intentions and objectives, 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 Duryodhan Sahu (Dr) v. Jitendra Kumar Mishra, (AIR 1999 SC 114:1998 AIR SCW 3467) 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 official documents. Whenever such frivolous pleas are taken to explain possession, the Courts 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 aforesaid so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the Courts.”

The same principles have been reiterated in the subsequent decisions, namely, B. Singh (Dr) v. Union of India (AIR 2004 SC 1923): 2004 AIR SCW 1494) Dattaraj Nathuji Thaware v. State of Maharashtra (AIR 2005 SC 540: 2005 AIR SCW 46) and Gural Singh v. State of Punjab, (AIR 2005 SC 2755:2005 AIR

15. The above principles make it clear that except for a writ of quo warranto, public interest litigation is not maintainable in service matters.”

10. In this backdrop, we examined the submissions advanced by Mr. S. Satyam Reddy, learned Senior Counsel, and particularly the case of respondent Nos. 5 and 6. In support of his submissions that none of the respondents were holding required qualifications at the time of their appointment, petitioners, in paragraphs-10 and 11 of the petition, have stated thus in respect of respondent Nos. 5 and 6:

“I submit that I have excellent educational background and Ph.D degrees with sufficient research experience, as such I am fully qualified for the post of Professor and Associate Professor in Commerce in the first respondent University. Accordingly I have applied for the post of Professor and Associate Professor in Commerce. However the first respondent University did not issue even a call letter to me for the post of Professor, but I was called for interview for the post of Associate Professor vide letter No.164/Admn./TU/Rect-2008, dated 15/02/2008. The petitioner attended interview on 25/02/2008 at Hyderabad but no questions were asked and the interview was over in 3 minutes. In fact, when the so-called interviews were in progress, it was being rumoured that the interview was only a formality and that the selections were already made for extraneous considerations. The petitioner was surprised to know that one Dr. T. Satyanarayana Chary, the 5th respondent was selected as Associate Professor in Commerce. The said Dr. T. Satyanarayana Chary has never worked in any recognized college and in fact, he was working in a private college, viz., Alluri Institute of Management and thereafter, in the year 2003, he was employed by the Institute of Public Enterprise, Osmania University on contract basis in an allied faculty i.e., Public Enterprise which is not relevant to the Commerce faculty. He has no regular teaching experience, no research guideship and not attended any orientation programmes and refresher courses and faculty development programme. His appointment was not ratified by the University. Yet, he was selected. Curiously, the interviews were held on 25/02/2008 and the said Dr. T. Satyanarayana Chary joined the University as Associate Professor on 27/02/2008. It is not known as to when the University finalized the selections and sent the offer of appointment and how the said Dr. T. Satyanarayana Chary could join on 27/02/2008 at Nizamabad. It is pertinent to submit here that the interviews were held at 03:00 PM on 25/02/2008 at Hyderabad. It is obvious that the whole selection process is pre-determined and farce. I submit that a comparison with the qualification and experience of Dr. T. Satyanarayana Chary with the petitioner, it would be clear that he has been selected for extraneous consideration, even without having required qualifications.

“11. Similarly, compared with the 2nd petitioner, the qualifications and experience of the 6th respondent are as follows:

The 6th respondent, Dr. Shiva Shanker is having Ph.D. Degree in Geography and he is not having Ph.D. Degree in Mass Communications. He secured only 55% marks in NCJ and he is the only one candidate called for the interview and selected and appointed as Professor in Mass Communications. Dr. Shiva Shanker was previously appointed as Assistant Professor in Mass Communications in Telangana University in 2007 with a condition that he has to complete his Ph.D. degree in Mass Communication, within a period of 3 years. But, within a span of one year, even before obtaining Ph.D., in Mass Communications he was appointed as Professor in Mass Communications in March, 2008. Thereafter, he was appointed as Professor, he was made Registrar of the University, Executive Member and also holding other 11 posts in the University.”

11. He invited our attention to the appointment letter dated 29.1.2007 of respondent No.6 and submitted that he was appointed subject to the condition that he should obtain Ph.D., in the concerned subject, i.e., Mass Communication, within a period of three years from the date of his joining duty. He submits that respondent No.6 holds Ph.D. in Commerce and he did not obtain Ph.D. in Mass Communications within three years from the date of his appointment.

12. In reply to this allegation, 1st respondent-University in paragraph-14 has clearly stated that respondent No.6 has done his Ph.D. in the subject relating to Mass Communications and Journalism and the title of his Thesis was “Geographical Disparities in the growth of Mass Media - A study of Indian Television and its impact in Andhra Pradesh”. From the subject of thesis, it is clear that the Ph.D. done by the 6th respondent, was in Mass Media. As a matter of fact this could not be disputed by learned Senior Counsel appearing for the petitioners.

13. Similarly, in case of respondent No.5, the University in paragraph-13 stated thus:

13. I respectfully submit that, the contention of the petitioner no.1 that Dr. T. Satyanarayana Chary, who is the respondent No.5 had never worked in any recognized college. He was working in a private college viz., Alluri Institute of Management and thereafter in the year 2003, he was employed by the Institute of Enterprise, Osmania University, Hyderabad on

contract basis is another wild allegation being levelled against him. I submit that Dr. T. Satyanarayana Chary had worked in Kavitha U.G. and P.G. college at Khammam from August, 1995 to December 1999 and in Alluri Institute of Management at Warangal from January, 2000 to May, 2004 in the capacity of Assistant Professor on a 'regular and full time' basis with pay scales of Rs.3300-175-3600 and 8000-275-13000 respectively. He worked as Assistant Professor in the Institute of Public Enterprise, Osmania University, Hyderabad from June, 2004 to February, 2008 which is one of the pioneer institute in South India and its importance is widely recognized and the Institute of Public Enterprise is an autonomous body under the control of the Indian Council for Social Sciences and Research (I.C.S.S.R.) which is considered as most prestigious organization in the third world countries. I submit that the contention of the petitioner No.1 that Dr. T. Satyanarayana Chary, the respondent No.5 has joined the duty on 27.2.2008 for his duty at Nizamabad is also incorrect as he joined the duty on 3.3.2008, after his selection was ratified by the Executive Council of the University. The contention of the petitioner No.1 that the selection process is pre-determined and false is nothing but wild allegations without any iota of truth. The allegation of extraneous or any other consideration is being attached for selecting a suitable candidate is also absolutely false. The Selection Committee after evaluating the standards of the candidate has recommended the appointment of Dr. T. Satyanarayana Chary.

14. From a perusal of the contents of this paragraph, it is clear that the allegations made by the petitioners against this respondent are baseless and unfounded and are patently false.

15. Mr. Deepak Bhattacharjee, learned counsel for the University submitted that they have demonstrated in their affidavits, in detail, in respect of all the respondents, and according to the University, they all held required qualifications for their appointments as Professors and Associate Professors.

16. Similarly, Mr. K. Lakshman, learned counsel appearing for respondent Nos. 5 to 10 submits that they have stated in their counter affidavit, all the details regarding their qualifications and experience and he submitted that they all held the required qualifications and experience at the time of their appointment.

17. We have not examined the case of each of the respondents,

though Mr. Satyam Reddy, learned Senior Counsel wanted us to do so.

We make it clear that we did not examine the case of each of the respondents in view of the fact that we are satisfied, on the basis of the materials placed on record in respect of respondent Nos. 5 and 6, and the judgments of the Supreme Court, that the instant writ petition in the nature of Public Interest, is not maintainable. It is a settled proposition of law by the Supreme Court that Public Interest Litigation in service matters is not maintainable.

18. In the circumstances, we dismiss the writ petition.

19. Consequently, the miscellaneous applications also stand closed. No costs.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

5th August, 2015

Pnb

[\[1\]](#) (2010) 10 Supreme Court Cases 707

[\[2\]](#) (2005) 1 Supreme Court Cases 590

[\[3\]](#) (2011) 5 Supreme Court Cases 464

[\[4\]](#) AIR 2014 SC 3434