

HIGH COURT OF CHHATTISGARH, BILASPUR

WPIL No. 12 of 2016

Petitioner:

V. K. Jaiswal
S/O. B.P. Jaiswal,
Aged About 40 Years
By Profession- Advocate,
R/O. Opposite Manoj Enterprises, Mukti
Dham, P.S. Sarkanda, Bilaspur, Civil And
Revenue District Bilaspur (Chhattisgarh)

Versus

Respondents:

1. State Of Chhattisgarh
Through The Secretary, Revenue And
Disaster Management Department,
Mantralaya, Mahanadi Bhawan, New
Raipur, Raipur (Chhattisgarh)
2. Collector, Korba, District Korba (Chhattisgarh)
3. Sub Divisional Officer, Korba, District Korba
(Chhattisgarh)
4. Tahsildar, Korba, District Korba (Chhattisgarh)

Petitioner : Shri Awadh Tripathi, Advocate.

Respondents : Shri AS Kachhawaha, Addl. A.G.

Hon'ble Shri Justice Pritinker Diwaker

Hon'ble Shri Justice I.S. Uboweja

Order on Board by Shri Justice P. Diwaker

08/02/2016:

Heard on admission.

02. The petitioner, a practising lawyer, has filed the instant petition in the name and style of public interest litigation challenging the selection process of Naib Tehsildar through departmental promotion examination and also prayed for quashment of the appointment order dated 24.6.2015 whereby several revenue inspectors have been promoted as Naib Tehsildar. The petitioner has further prayed for direction to the State Government to issue fresh advertisement for conducting

departmental examination for promotion, and to restrain the training of Naib Tehsildar which is being conducted pursuant to their promotion order.

03. It is a settled legal position that public interest litigation is not maintainable in service matters except by way of writ of *quo warranto* for which appointment must be shown to be contrary to the statutory provisions. In absence of violation of statutory rules, the Court cannot go into the suitability or otherwise of a candidate for a particular appointment because choosing a suitable candidate is an administrative function. The High Court in exercise of its writ jurisdiction in a matter of this nature is required to determine at the outset as to whether a case has been made out for issuance of a writ of *certiorari* or *quo warranto*. The jurisdiction of the High Court to issue a writ of *quo warranto* is a limited one, it can only be issued when the appointment under challenge is shown to be contrary to the statutory rules.

04. The Hon'ble Apex Court further deprecated the practice of lawyers filing public interest litigations, more particularly in service matters. Public interest litigation cannot be invoked by a person or body of persons to satisfy his or its personal grudge and enmity. If such petitions are entertained, it would amount to abuse of process of the Court, preventing speedy remedy to other genuine petitioners from this Court. Personal interest cannot be enforced through the process of this Court in the garb of a public interest litigation. Public interest litigation contemplates legal proceedings for vindication or enforcement of fundamental rights of a group of persons or community which are not

able to enforce their fundamental rights on account of their incapacity, poverty or ignorance of law. A person invoking such jurisdiction of the Court must approach the Court for the vindication of the fundamental rights of affected persons and not for the purpose of vindication of his personal grudge or enmity. It is the duty of the Court to discourage such petitions and to ensure that the course of justice is not obstructed or polluted by unscrupulous litigants by invoking the extraordinary jurisdiction of this Court for personal matters under the garb of the public interest litigation.

05. Having thus examined the grievance of the petitioner raised in the present petition in light of the aforesaid principles of law for maintainability of a petition as public interest litigation, we are of the opinion that the instant petition is sans the basic elements of PIL, tantamount to abuse of process of the Court and wastage of the valuable judicial time. Therefore, the same is dismissed at the threshold for being not maintainable.

06. Needless to say, it is always open for the aggrieved parties to raise their grievance before the appropriate forum.

Sd/

(Pritinker Diwaker)

Judge

Sd/

(I.S. Uboweja)

Judge