

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (C) NO. 406 OF 2016

Muritram Sahu, S/o Late C.R. Sahu, aged about 65 years, R/o C-1, C-2, HIG 15 Koshawadi, M.P. Nagar, Korba, P.S. City Kotwali, Chowki Rampur, ITI Korba, Civil and Revenue District Korba (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Department of Home Affairs (Police), New Raipur Mantralaya, New Raipur, Civil and Revenue District Raipur (C.G.)
2. The Director General of Police, Raipur, Civil and Revenue District Raipur (C.G.)
3. The Inspector General of Police, Range Korba, Civil and Revenue District Korba (C.G.)
4. Superintendent of Police, Korba, Civil and Revenue District Korba (C.G.)
5. District Magistrate, Korba, Civil and Revenue District Korba (C.G.)
6. Station House Officer, Police Station Kotwali, Korba, Civil and Revenue District Korba (C.G.)
7. Superintending Engineer (ET & I-II), CSPGCL, KTPS, Korba East, Korba (C.G.)
8. Girdhari Lal Sahu, S/o Shri Bhaunath Sahu, Plant Assistant Grade-I, through Superintending Engineer (ET & I-II), CSPGCL, KTPS, Korba East, Korba (C.G.)

... Respondents

For Petitioner	:	Mr. Punit Ruparel, Advocate.
For Respondent-State	:	Mr. Satish Gupta, Government Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/02/2016

1. The present writ petition has been filed by a person who is nowhere directly or indirectly connected with the cause of action alleged in the present writ petition.
2. According to the Petitioner, Respondent No.8 is said to have defrauded the officers of the State Electricity Board in getting employment on false and fake documents and for which a departmental enquiry was also instituted and where the charges have also been proved. However,

the Respondent authorities without taking any coercive measures against Respondent No.8 have permitted him to seek voluntary retirement which has also been allowed by them.

3. Counsel for the Petitioner submits that he has also filed a complaint before the police authorities and made repeated requests but no action has been taken by them.

4. Perusal of the writ petition and the relief sought itself shows that the Petitioner in the present writ petition has not shown as to what fundamental right of the Petitioner has been infringed and how he has been adversely affected by the action on the part of the Respondent authorities. So far as non-initiation of criminal proceedings against Respondent No.8 by the police authorities is concerned, if the police authorities have failed to take any action, the Petitioner would be at liberty to file appropriate complaint case against Respondent No.8.

5. A writ petition in the matter should have been filed by a person whose right has got infringed by any action on the part of the Respondent authorities. In the instant case the Petitioner has failed to demonstrate as to what fundamental right of his has been infringed or any adverse action against the Petitioner has been taken by the Respondents. In the light of the Petitioner not being able to show as to what fundamental right of his has been infringed, this Court is not inclined to entertain the present petition.

6. Existence of a legal right is the foundation of the exercise of jurisdiction under Article 226 of the Constitution of India. Legal right that can be enforced under this Article must ordinarily be the right of the petitioner himself. The right to maintain such a petition postulates a personal right which must be subsisting. Such persons only whose rights are directly and substantially invaded or are in imminent danger of being so invaded can approach the Court. Only a person who has been

prejudicially affected by an act or omission of an authority can file a writ. In order to have locus standi the petitioner should normally be a 'person aggrieved'. The legal position on locus standi as it stands at present has been restated by the Supreme Court in 2002 (1) SCC 33 (Gulam Qadir v. Special Tribunal) wherein it has been held as under:-

“There is no dispute regarding the legal proposition that the rights under Article 226 of the Constitution of India can be enforced only by an aggrieved person except in the case where the writ prayed for is for habeas corpus or quo warranto. Another exception in the general rule is the filing of a writ petition in public interest. The existence of the legal right of the petitioner which is alleged to have been violated is the foundation for invoking the jurisdiction of the High Court under the aforesaid article... If a person approaching the Court can satisfy that the impugned action is likely to adversely affect his right which is shown to be having source in some statutory provision, the petition filed by such a person cannot be rejected on the ground of his not having the locus standi.”

7. The writ petition is dismissed.

Sd/-
(P. Sam Koshy)
Judge