

HIGH COURT OF CHHATTISGARH, BILASPUR

WPPIL No. 29 of 2016

- Goverdhan Sharma S/o Late Shri Laxman Prasad Sharma, Aged About 47 Years Corporator Ward No. 65 Sudhir Mukherjee Ward, Municipal Corporation, Raipur, R/o Near Kanjhouse Lakhenagar, Raipur Tahsil & District Raipur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through : The Secretary, General Administration Department And Urban Administration Development, Mahanadi Bhawan, Mantralaya, Naya Raipur, Tahsil & District Raipur (Chhattisgarh)
2. The Municipal Corporation, Raipur, Through : The Commissioner, Municipal Corporation, Raipur, Tahsil & District Raipur (Chhattisgarh)
3. The Commissioner, Municipal Corporation, Raipur, Tahsil & District Raipur (Chhattisgarh)
4. Shri Sharansh Mittal, The Commissioner, Municipal Corporation, Raipur, Tahsil & District Raipur (Chhattisgarh)

---- Respondent

For Petitioner	: Shri SC Verma, Advocate.
For Respondent/State	: Shri AS Kachhawaha, Addl.A.G.
For Respondent/ Municipal Corporation	: Shri Matin Siddiqui, Advocate.

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Inder Singh Uboweja

Order On Board By Justice Pritinker Diwaker

02/05/2016

This petition under Article 226 of the Constitution of India has been filed purportedly in public interest. By way of filing this petition, the petitioner, who is an elected corporator of Municipal Corporation, Raipur, is challenging the letter dated 20.1.2016 (Annexure P/1) issued

by the Joint Director directing the Municipal Corporations/Municipal Councils/Nagar Panchayats to issue appointment letters in favour of 254 selected Sub-Engineers. The petitioner has also challenged the entire select list (Annexure P/2) in respect of Municipal Corporation, Raipur and prayed for quashing of Annexures P/1 and P/2. Yet another relief which has been prayed for by the petitioner is about conducting enquiry in relation to documents Annexure P/1 and P/2 and then to take appropriate action against the responsible officers. The petitioner has also prayed for recovery of damages pursuant to so-called illegal selection of Sub-Engineers.

02. In sum and substance, the entire claim of the petitioner in this petition is that the selection of Sub-Engineers made by the local bodies is not in accordance with law, it is in complete contravention of CG Municipal Corporation Act, 1956 and CG Municipal Corporation (Officers and Employees Appointment and Service Condition) Rules, 2007. According to him, proper procedure for selection and appointment of Sub-Engineers has not been followed.

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. In the case in hand, the petitioner has not even prayed for issuance of writ of *quo warranto*.

04. The Hon'ble Apex Court further deprecated the practice of 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, which, in fact, relates to service matters, 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