

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

PUBLIC INTEREST LITIGATION NO. 55 OF 2016

Lok Jagar Foundation, Ahmednagar

.. PETITIONER

VERSUS

The State of Maharashtra
& others

.. RESPONDENTS

Mr. D.A. Bide, advocate for petitioner.
Mr. A.B. Girase, GP for the State.

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**CORAM : R.M. BORDE &
K. L. WADANE, JJ.
DATE : 8th JUNE, 2016.**

PER COURT :

1. Petitioner was directed to deposit sum of Rs. 25,000/- in order to demonstrate his bonafides. After hearing arguments for sometime, we are not inclined to admit the petition. Prima facie, we have reached the conclusion that the petition is ill-motivated and is a frivolous attempt to impeach the credibility of highly placed officials. Petitioner prima facie does not have any locus to challenge the appointments of the employees functioning in the Pollution Control Department.

2. In view of the judgment of the Hon'ble Supreme Court, no Public Interest Litigation is entertainable in service matters except wherein writ of quo warranto is asked for. In the instant matter, writ of quo warranto is neither asked nor the persons who are likely to be affected are made party. Reliance can be placed on a judgment in the matter of *Hari Bansh Lal Vs.*

Sahodar Prasad Mahto & others reported in **AIR 2010 SC 3515** and Ashok Kumar Pandey Vs. State of West Bengal reported in **(2004) 3 SCC 349**. The Hon'ble Supreme Court in the matter of Ashok Kumar Pandey Vs. State of West Bengal (supra) has observed in paragraph no. 16 as below :

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 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* 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.

3. In the matter of High Court of Gujarat and another Vs. Gujarat Kishan Mazdoor Panchayat and others reported in **(2003) 4 SCC 712**, the Hon'ble Apex Court has held that writ of quo warranto lies only when the appointment is contrary to the statutory provisions. As has been stated above, in the instant matter it has neither been demonstrated that the appointments are contrary to the statutory provisions nor the persons who are appointed are made party to the petition. Thus, in view of law laid down by the Hon'ble Supreme Court in the matters of Ashok Kumar Pandey and Hari Bansh Lal (supra), instant public interest litigation involving service matter is not entertainable, hence deserves to be dismissed.

4. In view of these facts, we hold that petitioner shall not be entitled to withdraw amount of Rs. 25,000/- which he has deposited and, said amount shall be transferred to the account of High Court Bar Association Library.

(K. L. WADANE)
JUDGE

(R. M. BORDE)
JUDGE

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