

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO.84 OF 2013

Daksha Patrakar Sangh Rahuri
through: President
Rohidas S/o Dattaji Datir

Petitioner

Versus

The State of Maharashtra and others

Respondents

Mr. Amol S.Gandhi advocate for the petitioner

Mr. A.R. Kale, AGP for Respondent No.1 to 3

Mr. R.V. Naiknavare, advocate for respondent No.4

Mr. Rahul Karpe, advocate and

Mr. Sandip Deshmukh advocate for respondent No.5

CORAM : R.M. BORDE &
K.L. WADANE, JJ

(Date : 3rd August, 2016.)

PER COURT :-

1 On perusal of the affidavits in reply presented by the Municipal Council as well as the respondent No.5, we are satisfied that the instant petition is presented by the petitioner with a view to settle the personal vendetta against respondent No.5 Doctor. It is disclosed in the affidavit in reply presented by respondent No.5

that, the instant petition is motivated by personal vendetta. The petitioner, on earlier occasion also presented a false complaint against one Dr. Ashok Baburao Kusalkar and Dr. Sau Deepa Ashok Kusalkar. The concerned Doctors approached Police Authorities by presenting complaint on 13.6.2008 wherein, there are allegations made that, in order to settle the disputes raised in complaint, the petitioner was making demand of money. The news-paper reports dated 18.2.2014 and 25.2.2014 placed on record also disclose the blackmailing activities of the petitioner. We are thus satisfied that the instant petition is not a bonafide litigation and is presented for an oblique motive to harass respondent No.5 Doctor, for deriving certain financial benefits.

2 The complaint is made in respect of user of the road in front of the dispensary of respondent No.5 for parking the vehicles. Since respondent No.5 is running a dispensary, it is possible that the relatives of the patients may be parking vehicles on the street. However, such instances may not be sufficient for directing the demolition of the hospital.

3 In an affidavit in reply presented on behalf of the Municipal Council, it has been stated that no instance in respect of violation of the construction norms or regulations has been noticed and if

at all any irregularity in raising construction comes to the notice of the Municipal Council, appropriate steps are assured to be taken.

4 The Public Interest Litigations (PIL) are primarily aimed for redressal of the grievances of the public at large for providing relief to the needy class. The object of entertaining PIL is protecting the rights of the citizens and for redressal of just cause of the specified class. It is an obligation on an individual petitioner to approach the Court with clean hands and the object shall be to redress the grievances of a class/segment of the society. If there is any personal interest involved, the petitions are not likely to be entertained.

5 In the matter of *B. Singh Vs. Union of India reported in 2004 AIR Supreme Court 1923*, it is observed by the Supreme court that “when there is material to show that a petition styled as a public interest litigation is nothing but a camouflage to foster personal disputes or vendetta to bring to terms a person, not of ones liking, or gain publicity or a facade for blackmail, said petition has to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding the public interest aspect. Public Interest Litigation which has now come to occupy an important

field in the administration of law should not be “publicity interest litigation” or “private interest litigation” or “politics interest litigation” or the latest trend “paise income litigation.” It has been further observed that “a person acting bonafide and having sufficient interest in the proceedings of public interest litigation will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique, consideration. In the matter of T.N. Godavarman Thirumulpad Vs. Union of India and others reported in **2006(5) SCC 1777**, it is observed in paragraphs 24 and 25 thus :

24. It has been repeatedly held by this Court that none has a right to approach the Court as a public interest litigation and that Court must be careful to see that member of the public, who approaches the Court in public interest, is acting bona fide and not for any personal gain or private profit or political motivation or other oblique considerations. (See S.P. Gupta vs. Union of India and another (1981 Supp. SCC 87).

25. For the last few years, inflow of public interest litigation has increased manifold. A considerable judicial time is spent in dealing with such cases. A person acting bona fide alone can approach the court in public interest. Such a remedy is not open

to an unscrupulous person who acts, in fact, for someone else. The liberal rule of locus standi exercised in favour of bona fide public interest litigants has immensely helped the cause of justice. Such litigants have been instrumental in drawing attention of this Court and High Courts in matters of utmost importance and in securing orders and directions for many under-privileged such as, pavement dwellers, bonded labour, prisoners conditions, children, sexual harassment of girls and women, cases of communal riots, innocent killings torture, long custody in prison without trial or in communal riots, innocent killings torture, long custody in prison without trail or in the matters of environment, illegal stone quarries, illegal mining, pollution of air and water, clean fuel, hazardous and polluting industries or preservation of forest as in the Godavarmans case. While this Court has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly developed doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that courts should not allow its process to be abused by a mere busybody or a meddlesome interlopers or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration (See Janata Dal vs. H.S. Chowdhary & others (1992) 4 SCC 305).

6. Present Public Interest Litigation is an instance of abuse of

process of the Court. The Supreme Court has occasions where it dealt with identical cases and clearly set the principles that would govern the obligations of a litigant while approaching the court for redressal of any grievance and the consequences of abuse of the process of court. Those principles serialised in the judgment of the Supreme Court in the matter of Kishore Samrite Vs. State of U.P and others reported in **AIR 2012 SCW 5802**, are as below :

(i) Courts have, over the centuries, frowned upon litigants who, with intent to deceive and mislead the Courts, initiated proceedings without full disclosure of facts and came to the courts with 'unclean hands'. Courts have held that such litigants are neither entitled to be heard on the merits of the case nor entitled to any relief.

(ii) The people, who approach the Court for relief on an ex parte statement, are under a contract with the court that they would state the whole case fully and fairly to the court and where the litigant has broken such faith, the discretion of the court cannot be exercised in favour of such a litigant.

(iii) The obligation to approach the Court with clean hands is an absolute obligation and has repeatedly been reiterated by this Court.

(iv) Quests for personal gains have become so intense that those involved in litigation do

not hesitate to take shelter of falsehood and misrepresent and suppress facts in the court proceedings. Materialism, opportunism and malicious intent have over-shadowed the old ethos of litigative values for small gains.

(v) A litigant who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands is not entitled to any relief, interim or final.

(vi) The Court must ensure that its process is not abused and in order to prevent abuse of the process the Court, it would be justified even in insisting on furnishing of security and in cases of serious abuse, the Court would be duty bound to impose heavy costs.

(vii) Wherever a public interest is invoked, the Court must examine the petition carefully to ensure that there is genuine public interest involved. The stream of justice should not be allowed to be polluted by unscrupulous litigants.

(viii) The Court, especially the Supreme Court, has to maintain strictest vigilance over the abuse of the process of court and ordinarily meddlesome bystanders should not be granted "visa". Many societal pollutants create new problems of unredressed grievances and the Court should endure to take cases where the justice of the lis well-justifies it.

7 It is thus clear that the instant PIL presented by the petitioner is not a genuine litigation. In this view of the matter,

while dismissing the petition, we deem it appropriate to forfeit amount of Rs.25,000/- deposited by the petitioner in this Court.

8 Learned counsel appearing for respondent No.5 / Doctor voluntarily states that, he is not interested in the amount and the amount of costs be transferred to the account of High Court Bar Association Library. The Office is directed to transfer the amount deposited by the petitioner to the account of Library of the Advocates Association of High Court, Bench at Aurangabad.

(K.L. WADANE, J)

(R.M.BORDE, J)