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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**

AND

THE HONOURABLE MR.JUSTICE **M.V.MURALIDARAN**

Writ Petition(MD)No.9088 of 2011

and

Miscellaneous Petition(MD)Nos.1 and 2 of 2011

P.Mayilrajaperumal

... Petitioner

Vs.

1.The Secretary to Government,  
Home (Transport) Department,  
Fort St. George,  
Chennai - 600 009.

2.The Commissioner,  
Transport Department,  
Chepauk,  
Chennai - 600 005.

3.The Managing Director,  
Tamil Nadu State Express Transport Corporation,  
Pallavan Salai,  
Chennai.

...Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for the issuance of a WRIT OF MANDAMUS forbearing the respondents from anyway operating the buses of the 3<sup>rd</sup> respondent Corporation by engaging the Driver-cum-Conductor or Driver beyond the period of 8 hours and consequently directing the respondents to engage two drivers for operating the buses of the third respondent Corporation.

For Petitioner : Mr.C.Jegannathan

For Respondents : Mr.M.Govindan  
Spl. Gov.t Pleader for R1 and R2

Mr.S.Baskaran for R3

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**ORDER**

(Judgment of the Court was delivered by M.V.MURALIDARAN, J)

The petitioner has come forward with this writ petition as Public Interest Litigation seeking a prayer for the issuance of a Writ of Mandamus forbearing the respondents from anyway operating the buses of the 3<sup>rd</sup> respondent Corporation by engaging the Driver-cum-Conductor or Driver beyond the period of 8 hours and consequently directing the respondents to engage two drivers for operating the buses of the third respondent Corporation.

2.The case of the petitioner is that the petitioner is a practicing Advocate and he is interested in the social service and hence, he has filed the above writ petition because of his travel experience. While he was travelling from Tutocorin to Chennai and after knowing the facts and other service conditions of Drivers of the third respondent Corporation, he found that the respondents are illegally operating the vehicle by engaging and compelling Drivers to drive the vehicle beyond 8 hours. Therefore, he collected several materials from the respondents corporation and filed the above writ petition as Public Interested Litigation.

3. It is the further case of the petitioner that the third respondent is a State Owned Corporation and the respondents are the appropriate authorities under the Motor Vehicles Act and also they are having the entire control of operation of the buses run by the third respondent Corporation. When the petitioner sought for information from the third respondent Corporation about the total number of buses operated under the third respondent Corporation, it was reported that under the State Express Transport Corporation, 910 buses were operating and as per the Rules of the respondent Corporation, the Drivers and Conductors have to work for 8 hours, as per service conditions. When the petitioner sought for some information under the Right to Information Act, this petitioner came to know that there are 553 accidents were taken place in the year 2009-2010 and there are 1533 persons, who are called as Driver-cum-Conductor are working under the respondent Corporation.

4.The further case of the petitioner is that recently, he travelled in one of the buses of the third respondent Corporation bearing route No.P.505 on 10.03.2011 from Tuticorin to Chennai and the said bus started at 6.00 p.m on 10.03.2011 and reached Chennai on the next day at about 7.00 a.m i.e., on 11.03.2011. He again travelled from Chennai to Tuticorin and the bus started at 6.00 p.m on 11.03.2011 and reached Tuticorin at about 7.00 a.m on 12.03.2011. During his travel, he found that both the Driver and Conductor, who operated the said bus, are the same persons. Therefore, the petitioner understood from the travel that on a particular day the Driver and Conductor, who are the same persons, are compelled to work continuously for more than 12 hours i.e.,

they driven bus from 06.00 p.m to 7.00 a.m.

5. When the petitioner sought for service conditions of the Drivers and Conductors from the third respondent Corporation, a detail furnished stating that the Drivers or Conductors should work 8 hours, but the third respondent is illegally compelled both the Drivers and Conductors to work beyond 8 hours continuously and they are directed to work more than 13 hours continuously in one trip. Therefore, he stated that as per the service conditions, the Drivers and Conductors should work for 8 hours, but the respondent Corporation has compelled to operate the bus continuously for 12 hours and hence, the abovesaid situation, accident had occurred.

6. Further, the case of the petitioner is that in the private buses, for the abovesaid situation, they were used two Drivers and two Conductors. But due to heavy fare in the private buses, people are using the State Owned Corporation buses. Hence, the life and limbs of the poor citizens and poor passengers travelling in the buses, are in peril and in high risk, because of the third respondent Corporation engaging the same Driver for the continuous period of 12 hours.

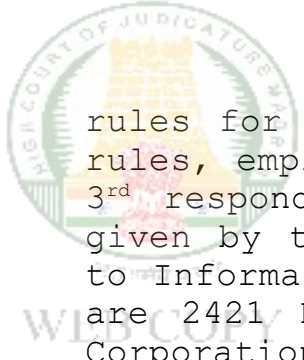
7. The petitioner further stated that recently he come across an article in 'The Hindu' published in Madurai edition on 10.07.2011 wherein the Honourable Mr. Justice A.R. Lakshmanan, Former Judge of the Honourable Supreme Court, have given a detailed survey of the road accidents and most of the accidents were taken place in the State of Tamil Nadu due to operation by the Driver and Conductor continuously. Apart from this, the petitioner also cited the report issued in 'Junior Vikatan' on 18.04.2010 that several accidents were taken place by engaging both Drivers-cum-Conductors in operating the buses. Therefore, the petitioner collected all the materials and filed this writ petition for the relief as stated supra.

8. No counter affidavit has been filed on behalf of the respondents.

9. Heard Mr. C. Jegannathan, learned counsel appearing for the petitioner and Mr. M. Govindan, learned Special Government Pleader appearing for the respondents 1 and 2 as well as Mr. S. Baskaran, learned Standing Counsel appearing for 3<sup>rd</sup> respondent.

10. This Court and the Hon'ble Apex Court very categorically held in various cases that no Public Interest Litigation Writ Petition is lie against in respect of service matters. Admittedly, in this case, the petitioner Mayilrajaperumal, who is a practicing Advocate and having interested in social service, has filed this present writ petition seeking the above prayer forbearing the respondents from anyway operating the buses of the 3<sup>rd</sup> respondent Corporation by engaging the Driver-cum-Conductor or Driver beyond the period of 8 hours and consequently directing the respondents to engage two drivers for operating the buses of the service respondents Corporation.

11. Being an advocate, the petitioner has no way connected with the service of the respondent Corporation. There is a service



rules for the 3<sup>rd</sup> respondent Corporation and as per the abovesaid rules, employees, namely, Driver-cum-Conductors are working in the 3<sup>rd</sup> respondent Corporation. Admittedly, as per the information given by the 3<sup>rd</sup> respondent Corporation on 25.02.2011 under Right to Information Act to the petitioner, it is made clear that there are 2421 Drivers and 2425 Conductors working in the respondent Corporation and totally 910 buses are running and the State Express Transport Corporation's buses are operating in 192 routes and the employees, namely, Drivers and Conductors are working 8 hours per day.

12. On verifying the above reply given under Right to Information Act to the petitioner, it is made clear that the work hours of the Driver-cum-Conductors of the respondent Corporation is eight hours. Thus being the case, how the petitioner has come to know that the Drivers-cum-Conductors are working beyond 8 hours.

13. Even assuming that the Drivers-cum-Conductors were permitted to work beyond 8 hours, they have to receive over time salary from the respondent Corporation. It is purely service matters and the Rules and Regulations were duly followed by the respondent Corporation for the employees and it is admitted fact that no employee come forward to file any writ petition before this Court for the above said prayer sought for by this petitioner.

14. It is well settled law that the service matters will be conducted only based on the service Rules and every individual employee is if any, violation of the service Rules in respect of the individual employee, that can be questioned only by the individual employees and no other person have been any right or *locus standi* to question the service Rules.

15. Thus, being the position, this petitioner being an Advocate have no role at all in this service matter in respect of the respondent Corporation and no Courts have directed the employer, namely, the respondent Corporation to fix the service of the particular employee either time duration or work mode.

16. Way back in 1998, in **Dr. Duryodhan Sahu and others vs. Jitendra Kumar Mishra and others**, reported in 1998 (7) SCC 273, the Hon'ble Supreme Court dealt with an issue, as to whether a Public Interest Writ Petition, at the instance of a stranger, could be entertained, by the Administrative Tribunal. After considering the decisions in *Jasbhai Motibhai Desai vs. Roshan Kumar Haji Bashir Ahmed and others* (1976) 1.S.C.C. 671, the law declared in *Chandra Kumar vs. Union of India* (1997) 3 SCC 261, and the provisions of the Administrative Tribunals Act, 1985, the Hon'ble Supreme Court held as follows:-

"18..... Section 3 (b) defines the word 'application' as an application made under Section 19. The latter Section refers to 'person aggrieved'. In order to bring a matter before the Tribunal, an application has to be made and the same can be made only



by a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal. We have already seen that the work 'order' has been defined in the explanation to sub-s. (1) of Section 19 so that all matters referred to in Section 3 (q) as service matters could be brought before the Tribunal. It in that context, Sections 14 and 15 are read, there is no doubt that a total stranger to the concerned service cannot make an application before the Tribunal. If public interest litigations at the instance of strangers are allowed to be entertained by the Tribunal the very object of speedy disposal of service matters would get defeated.

19. Our attention has been drawn to a judgement of the Orissa Administrative Tribunal in Smt. Amitarani Khuntia Versus State of Orissa 1996. (1) OLR (CSR)-2. The Tribunal after considering the provisions of the Act held that **a private citizen or a stranger having no existing right to any post and not intrinsically concerned with any service matter is not entitled to approach the Tribunal.** The following passage in the judgement is relevant:

**"....A reading of the aforesaid provisions would mean that an application for redressal of grievances could be filed only by a 'person aggrieved' within the meaning of the Act.**

Tribunals are constituted under Article 323 A of the Constitution of India. The above Article empowers the Parliament to enact law providing for adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or any local or other authority within the territory of India or under the control of the Government and such law shall specify the jurisdiction, powers and authority which may be exercised by each of the said Tribunals. **Thus, it follows that Administrative Tribunals are constituted for adjudication or trial of the disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts. Its jurisdiction and powers have been well-defined in the Act. It does not enjoy any plenary power."**

We agree with the above reasoning.

21. In the result, **we answer the first question in the negative and hold that the Administrative Tribunal constituted under the Act cannot entertain a public interest litigation at the instance of a total stranger."**



17. In **Ashok Kumar Pandey vs. State of W.B.**, reported in (2004) 3 SCC 349, the Apex Court at paragraphs 5 to 16, held as follows:-

"5. It is necessary to take note of the meaning of the expression "public interest litigation". In Stroud's Judicial Dictionary, Vol. 4 (4th Edn.), "public interest" is defined thus:

"Public interest.—(1) A matter of public or general interest 'does not mean that which is interesting as gratifying curiosity or a love of information or amusement; but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected'."

6. In Black's Law Dictionary (6th Edn.), "public interest" is defined as follows:

"Public interest.—Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interests of the particular localities, which may be affected by the matters in question. Interest shared by citizens generally in affairs of local, State or national Government."

7. In Janata Dal case (1992 (4) SCC 305 = 1993 SCC (Cri) 36) this Court considered the scope of public interest litigation. In para 53 of the said judgment, after considering what is public interest, this Court has laid down as follows: (SCC p. 331, para 53)

"The expression 'litigation' means a legal action including all proceedings therein initiated in a court of law with the purpose of enforcing a right or seeking a remedy. Therefore, lexically the expression 'PIL' means a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected."

8. In para 62 of the said judgment, it was pointed out as follows: (SCC p. 334)

"Be that as it may, it is needless to emphasise that the requirement of locus standi of a party to a litigation is mandatory; because the legal capacity of the party to any litigation whether in private or public action in relation to any specific remedy sought for has to be primarily ascertained at the threshold."

9. In para 98 of the said judgment, it has further been pointed out as follows: (SCC pp. 345-46)

"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 interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration."

10. In subsequent paras of the said judgment, it was observed as follows: (SCC p. 348, para 109)

"It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly a vexatious petition under the colour of PIL brought before the court for vindicating any personal grievance, deserves rejection at the threshold."

11. It is depressing to note that on account of such trumpery proceedings initiated before the courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and substantial rights and criminal cases in which persons sentenced to death facing the gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters – government or private, persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenus expecting their release from the detention orders etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no real public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity, break the queue muffling their faces by wearing the mask of public interest litigation and get



into the courts by filing vexatious and frivolous petitions of luxury litigants who have nothing to lose but trying to gain for nothing and thus criminally waste the valuable time of the courts and as a result of which the queue standing outside the doors of the courts never moves, which piquant situation creates frustration in the minds of the genuine litigants.

12. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity-seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be allowed to be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity-oriented or founded on personal vendetta. As indicated above, courts must be careful to see that a body of persons or member of public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives and try to bargain for a good deal as well to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.

13. The Council for Public Interest Law set up by the Ford Foundation in USA defined "public interest litigation" in its Report of Public Interest Law, USA, 1976 as follows:

"Public interest law is the name that has recently been given to efforts which provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in the recognition that ordinary marketplace for legal services fails to provide such services to significant segments of the population and to significant interests. Such groups and interests include the proper environmentalists, consumers, racial and ethnic minorities and others."

14. The court has to be satisfied about: (a) the credentials of the applicant; (b) the prima facie ~~comprehensiveness~~ or nature of information given by him; and (c) the information being not vague and indefinite. The information should show gravity and seriousness involved.



Court has to strike a balance between two conflicting interests: (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the executive and the legislature. The court has to act ruthlessly while dealing with imposters and busybodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of pro bono publico, though they have no interest of the public or even of their own to protect.

15. Courts must do justice by promotion of good faith, and prevent law from crafty invasions. Courts must maintain the social balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good. (See State of Maharashtra v. Prabhu (1994 (2) SCC 481 = 1994 SCC (L&S) 676) and A.P. State Financial Corpn. v. Gar Re-Rolling Mills (1994 (2) SCC 647 = AIR 1994 SC 2151. No litigant has a right to unlimited draught on the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as a licence to file misconceived and frivolous petitions. [See Buddhi Kota Subbarao (Dr) v. K. Parasaran (1996 (5) SCC 530 = 1996 SCC (Cri) 1038 = JT 1996 (7) SC 265] Today people rush to courts to file cases in profusion under this attractive name of public interest. Self-styled saviours who have no face or ground in the midst of public at large, of late, try to use such litigations to keep themselves busy and their names in circulation, despite having really become defunct in actual public life and try to smear and smirch the solemnity of court proceedings. They must really inspire confidence in courts and among the public, failing which such litigation should be axed with a heavy hand and dire consequences.

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, whereas only a minuscule percentage can legitimately be called as 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

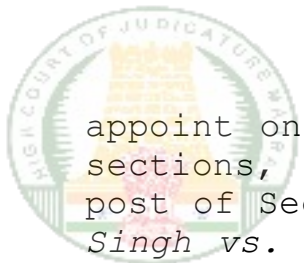


intentions and objectives, courts at times are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. **Though in Duryodhan Sahu (Dr) v. Jitendra Kumar Mishra (1998) 7 SCC 273, this Court held that in service matters PILs should not be entertained, the inflow of the 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.** This tendency is being slowly permitted to percolate for setting in motion criminal law jurisdiction, often unjustifiably just for gaining publicity and giving adverse publicity to their opponents. 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. Apart from the sinister manner, if any, of getting such copies, the real brain or force behind such cases would get exposed to find out whether it was a bona fide venture. Whenever such frivolous pleas are taken to explain possession, the court should do well not only to dismiss the petitions but also to impose exemplary costs, as it prima facie gives impression about oblique motives involved, and in most cases shows proxy litigation. Where the petitioner has not even a remote link with the issues involved, it becomes imperative for the court to lift the veil and uncover the real purpose of the petition and the real person behind it. 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."

18. In **Dr.B.Singh (Dr.) v. Union of India**, reported in **(2004) 3 SCC 363**, the Hon'ble Supreme Court decided the case on the same lines and held that PIL is not maintainable in service matters.

19. In **Gurpal Singh vs. State of Punjab**, reported in **JT 2005 (5) SC 389**, the Hon'ble Apex Court held that PIL is not maintainable in service matters.

20. In **Indian Consumers Welfare Council vs. Union of India and another**, reported in **2005 (3) L.W. 522**, the abovesaid Council, filed a public interest writ petition, challenging a notification, issued by the 2<sup>nd</sup> respondent therein, by which, applications were invited, from degree holders, with degree in education, and consequently, prayed for a direction to the respondent therein, to



appoint only those teachers, who were trained in teaching primary sections, for handling classes from 1<sup>st</sup> to 7<sup>th</sup> standards, to the post of Secondary Grade Teachers. Following the decision in *Gopal Singh vs. State of Punjab*, reported in 2005 J.T. [5] SC 389, the Hon'ble Apex Court ordered as follows:-

WEB COPY "This is a public interest litigation in respect of a service matter. It has been repeatedly held by the Supreme Court that no public interest litigation lies in service matters, the last decision being *Gopal Singh vs. State of Punjab* (2005 J.T. [5] SC 389. Accordingly, this writ petition is dismissed."

21. In **N.Veerasingam vs. Union of India**, reported in (2005) 2 MLJ 564, while considering a public interest litigation filed by a treasurer of a political party, praying to take action against Mrs.Lakshmi Pranesh, IAS, the fifth respondent therein, under the All India Services (Discipline and Appeal) Rules, 1969, for allegedly making allegations against a leader of a political party, following the above judgments of the Honourable Apex Court, a Hon'ble Division Bench of this Court held as follows:-

"It is settled law that no writ in the form of public interest litigation will lie under Article 226 of the Constitution in service matters. The petitioner has no locus standi to file the public interest litigation. The extraordinary powers of the High Court under Art.226 of the Constitution in matters of this kind is required to be used sparingly and only in extraordinary cases." "The service matters are essentially between the employer and the employee and it would be for the State to take action under the Service Rules and there is no question of any public interest involved in such matters."

"The petition is not only not maintainable either in law of facts but also would amount to abuse of the process of Court."

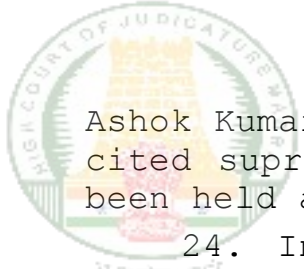
22. In **B.Srinivasa Reddy vs. Karnataka Urban Water Supply and Drainage Board Employees Association and others**, reported in 2006 (11) SCC 731, at paragraph 61, the Apex Court held that in service matters only the non appointees can assail the legality of the appointment procedure.

23. In **Neetu vs. State of Punjab**, reported in 2007 (10) SCC 614, the Hon'ble Apex Court held as follows:-

"The scope of entertaining a petition styled as a public interest litigation, locus standi of the petitioner particularly in matters involving service of an employee has been examined by this court in various cases."

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Referring to the decisions in *Dr.Duryodhan Sahu and others vs. Jitendra Kumar Mishra and others*, reported in 1998 (7) SCC 273 and



Ashok Kumar Pandey v. State of W.B reported in (2004 (3) SCC 349), cited supra, the Apex Court held that PIL in service matters has been held as not maintainable.

24. In **Seema Dharmdhere, Secretary, Maharashtra Public Service Commission vs. State of Maharashtra**, reported in 2008 (2) SCC 290, the Apex Court restated that PIL is not maintainable in service matters.

25. In **Hari Bansh Lal vs. Sahodar Prasad Mahto and others**, reported in 2010 (9) SCC 655, claiming himself as Vidyut Shramik Leader, a writ petition was filed before the High Court, challenging the appointment of Mr. Hari Bansh Lal, who was appointed, as the Chairman of Jharkand State Electricity Board. The High Court declared that his appointment was not only arbitrary, but also, contemptuous, and ultimately, quashed his appointment, which gave rise to an appeal, before the Apex Court. Addressing the issue, as to whether a public interest writ petition, is maintainable in service matters, following the earlier decisions in Dr. Duryodhan Sahu and others vs. Jitendra Kumar Mishra and others, reported in 1998 (7) SCC 273 and Ashok Kumar Pandey v. State of W.B reported in (2004 (3) SCC 349) and other decisions, the Hon'ble Supreme Court held as follows:-

PIL in service matters:

11) About maintainability of the Public Interest Litigation in service matters except for a writ of quo warranto, there are series of decisions of this Court laying down the principles to be followed. It is not seriously contended that the matter in issue is not a service matter. In fact, such objection was not raised and agitated before the High Court. Even otherwise, in view of the fact that the appellant herein was initially appointed and served in the State Electricity Board as a Member in terms of Section 5(4) and from among the Members of the Board, considering the qualifications specified in sub-section (4), the State Government, after getting a report from the vigilance department, appointed him as Chairman of the Board, it is impermissible to claim that the issue cannot be agitated under service jurisprudence.

12) **We have already pointed out that the person who approached the High Court by way of a Public Interest Litigation is not a competitor or eligible to be considered as a Member or Chairman of the Board but according to him, he is a Vidyut Shramik Leader. Either before the High Court or in this Court, he has not placed any material or highlighted on what way he is suitable and eligible for that post.**



subsequent decisions, namely, Dr. B. Singh vs. Union of India and Others, (2004) 3 SCC 363, Dattaraj Nathuji Thaware vs. State of Maharashtra and Others, (2005) 1 SCC 590 and Gurpal Singh vs. State of Punjab and Others, (2005) 5 SCC 136.

15) The above principles make it clear that except for a writ of quo warranto, Public Interest Litigation is not maintainable in service matters.

26. In **Girjesh Shrivastava and others vs. State of Madhya Pradesh and others**, reported in **2010 (10) SCC 707**, appointments were challenged in PIL, on the grounds of contravention of rules, regarding reservation of ex-servicemen. The High Court allowed the writ petition and ordered cancellation of appointments, and dismissed the review petitions also. While considering the issue, as to whether the matter ought to have been taken, as service dispute and not PIL, the Hon'ble Supreme Court, after considering a catena of decisions, at paragraphs 14 to 19 has held as follows:-

14. **However, the main argument by the appellants against entertaining WP (C) 1520/2001 and WP (C) 63/2002 is on the ground that a PIL in a service matter is not maintainable.** This Court is of the opinion that there is considerable merit in that contention.

15. It is common ground that dispute in this case is over selection and appointment which is a service matter.

16. In the case of Dr. Duryodhan Sahu and others vs. Jitendra Kumar Mishra and others (1998) 7 SCC 273, a three judge Bench of this Court held a PIL is not maintainable in service matters. This Court, speaking through Srinivasan, J. explained the purpose of administrative tribunals created under Article 323-A in the backdrop of extraordinary jurisdiction of the High Courts under Articles 226 and 227. This Court held "if public interest litigations at the instance of strangers are allowed to be entertained by the (Administrative) Tribunal, the very object of speedy disposal of service matters would get defeated" (para 18). Same reasoning applies here as a Public Interest Litigation has been filed when the entire dispute relates to selection and appointment.

17. In **B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Association and others**, reported in (2006) 11 SCC 731 (II), this Court held that in service matters only the non-appointees can assail the legality of the appointment procedure (See para 61, page 755 of the report).

18. This view was very strongly expressed by this



Court in *Dattaraj Nathuji Thaware v. State of Maharashtra and others*, reported in (2005) 1 SCC 590, by pointing out that despite the decision in *Duryodhan Sahu* (supra), PILs in service matters 'continue unabated'. This Court opined that High Courts should 'throw out' such petitions in view of the decision in *Duryodhan Sahu* (supra) (Para 16, page 596).

19. Same principles have been reiterated in *Ashok Kumar Pandey v. State of W.B.*, reported in (2004) 3 SCC 349, at page 358 (Para 16).

27. In **Soma Velandi vs. Dr. Anthony Elangovan**, reported in **2010 (4) CTC 8**, following *Gurpal Singh vs. State of Punjab*, reported in *JT 2005 (5) SC 389*, a Hon'ble Division Bench held that PIL is not maintainable in service matters.

28. In **Bholanath Mukherjee and others vs. Ramakrishna Mission Vivekananda Centenary College and others**, reported in **2011 (5) SCC 464**, before the Hon'ble Supreme Court, a direction to set aside the appointment of the 3<sup>rd</sup> respondent therein, as Principal, was sought for, as the 3<sup>rd</sup> respondent was junior, to them, and did not have the requisite qualification. Reiterating the legal position that PIL is not maintainable in service matters, the Hon'ble Apex Court declined to entertain the challenge to the notices issued to Ramakrishna Mission to reconstitute the committees.

29. Though the present writ petition has been filed by a practicing advocate, we wish to incorporate the views of the Hon'ble Apex Court, while entertaining Public Interest Writ Petition, in **Ayaaubkhan Noorkhan Pathan vs. State of Maharashtra and others**, reported in **2013 (4) SCC 465**. At paragraphs 14 and 15, the Apex Court, observed as follows:-

14. This Court has consistently cautioned the courts against entertaining public interest litigation filed by unscrupulous persons, as such meddlers do not hesitate to abuse the process of the court. The right of effective access to justice, which has emerged with the new social rights regime, must be used to serve basic human rights, which purport to guarantee legal rights and, therefore, a workable remedy within the framework of the judicial system must be provided. Whenever any public interest is invoked, the court must examine the case to ensure that there is in fact, genuine public interest involved. The court must maintain strict vigilance to ensure that there is no abuse of the process of court and that, "ordinarily meddlesome bystanders are not granted a Visa. Many societal pollutants create new problems of non-redressed grievances, and the court should make an earnest



endeavour to take up those cases, where the subjective purpose of the lis justifies the need for it. (Vide: P.S.R. Sadhanantham v. Arunachalam & Anr., AIR 1980 SC 856; Dalip Singh v. State of U.P. & Ors., (2010) 2 SCC 114; State of Uttaranchal v. Balwant Singh Chaufal & Ors., (2010) 3 SCC 402; and Amar Singh v. Union of India & Ors., (2011) 7 SCC 69)

**15. Even as regards the filing of a Public Interest Litigation, this Court has consistently held that such a course of action is not permissible so far as service matters are concerned.** (Vide: Dr. Duryodhan Sahu & Ors. v. Jitendra Kumar Mishra & Ors., AIR 1999 SC 114; Dattaraj Natthuji Thaware v. State of Maharashtra, AIR 2005 SC 540; and Neetu v. State of Punjab & Ors., AIR 2007 SC 758)

**30. In Tmt.Sumathi and four others vs. State, rep. by the Chief Secretary to the Government of Tamil Nadu, Chennai and 15 others (W.P.No.25704/2013, Decided on 13.03.2014), a Hon'ble Division Bench of this Court, held that PIL is not maintainable in service matters.**

**31. In a latest decision in Tmt.P.Lakshmi vs. State, rep. by the Chief Secretary, (W.P.No.25704/2013 Decided on 13.03.2014), the Hon'ble First Bench of this Court, held that writ petition is not maintainable in service matters.**

32. Learned counsel for the petitioner has relied on a Full Bench decision of the Punjab and Haryana High Court, reported in 2005 (3) SLJ 354. As observed earlier, when there is clear pronouncement of law declared by the Supreme Court, on the issue as to whether a public interest litigation is maintainable in service matters, under Article 141 of the Constitution of India, the decision is binding on all courts.

33. At this juncture, we deem it is necessary to extract Article 141 of the Constitution of India, which reads as follows:-

**141. Law declared by Supreme Court to be binding on all courts.--** The law declared by the Supreme Court shall be binding on all courts within the territory of India.

34. When PIL is not maintainable in service matters, and time and again been reiterated, by the Hon'ble Supreme Court, in a series of decisions, extracted supra, with due respect, the decision rendered by the Punjab and Haryana High Court in **Jaskaran Singh Brar vs State Of Punjab And Ors., (2005 (3) SLJ 354 P & H)**, has no binding effect.



35. In view of the above, the present writ petition filed by a practicing advocate, to forbear the respondents from anyway operating the buses of the 3<sup>rd</sup> respondent Corporation by engaging the Driver-cum-Conductor or Driver beyond the period of 8 hours and consequently to direct the respondents to engage two drivers for operating the buses of the third respondent Corporation, is not maintainable in law. The Writ Petition is dismissed accordingly. No costs. Consequently, M.P(MD)Nos.1 and 2 of 2011 are closed.

Sd/-  
Assistant Registrar (AS)

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,  
Home (Transport) Department,  
Fort St. George,  
Chennai - 600 009.
- 2.The Commissioner,  
Transport Department,  
Chepauk, Chennai - 600 005.
- 3.The Managing Director,  
Tamil Nadu State Express Transport Corporation,  
Pallavan Salai, Chennai.

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 50949

skn

JA-PV-05.10.2016/16P:5C

Writ Petition(MD)No.9088 of 2011  
and  
Miscellaneous Petition(MD)Nos.1 and 2 of 2011  
07.09.2016