

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.15262 of 2016

Date of decision: 10.11.2016.

Karamjit Singh Bhullar

..... Petitioner.

Versus

State of Punjab and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE S.S SARON
HON'BLE MS. JUSTICE LISA GILL

Present: Mr. Anoop Verma, Advocate, for the petitioner.

S.S SARON, J.

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the State of Punjab through its Secretary, Department of Home Affairs, Chandigarh (respondent No.1) to get investigation of the Canteen Purchase Scam regarding purchase of daily needs goods for the prisoners of twenty-eight Central Jails of Punjab conducted from the Central Bureau of Investigations (CBI) or some high level Special Investigation Team (SIT).

According to the petitioner, the jail authorities with the connivance of high profile officials have been running this racket in the purchase of daily needs for the Jail canteens in Punjab since long and have been purchasing unhygienic goods at higher prices from unapproved stores in grave violation of the Punjab Government Canteen Management Rules, 1965 ('the Canteen Rules' - for short), the Punjab Financial Rules ('the Financial Rules' - for short) and the instructions issued by the Government of Punjab from time to time; besides, without inviting any quotation or tenders. It is submitted that in the last three years purchases have been made of about Rs.100 crores in violation of the mandatory Canteen Rules.

The learned counsel for the petitioner states that the petitioner wants to expose before this Court a big 'Canteen Purchase Scam' going on all over the Central Jails of Punjab in purchasing unhygienic daily needs and canteen goods for the prisoners at very high rates from an unapproved store i.e. 'Metro Store', without calling any tender, E-tender, quotation and without comparison of the prices with other whole sellers in deliberate violations of the relevant provisions and the Canteen Rules as also in violation of the latest directions dated 13.03.2015 issued by the Punjab Government.

The petitioner states that he is an honest person and was appointed as Assistant Superintendent, Central Jail, Jalandhar at Kapurthala on 30.05.2013. As an intelligent officer his work and conduct was appreciated. He was given many commendation certificates and was even felicitated on Independence Day. During his duties he played a vital role to eliminate various evil activities from the society. It is submitted that the Ex-Additional Director General of Police (Prisons), Punjab (respondent No. 6) had also granted him Class-I certificate and cash rewards after appraising his services. Commendation certificates (Annexure P-1 colly.) that were granted to him have been placed on record.

The petitioner was assigned the charge of Welfare Officer at Central Jail, Kapurthala on 02.08.2014. Thereafter, he was posted at Central Jail, Faridkot. It is during his posting at Central Jail, Faridkot that he found embezzlement of crores of rupees being committed on procurement of daily needs material for Welfare Canteens across the Punjab. There were many irregularities in the purchases that were made. The authorities had been purchasing unhygienic expired goods from an unapproved store i.e. 'Metro store'. The purchases were made without inviting any tender/quotation from

any source for the purpose of rate comparison. The entire activity was in violation of the Punjab Government Canteen Rules; the Financial Rules and the directions issued by the Government from time to time.

The petitioner earlier filed Criminal Miscellaneous Petition No. M-11007 of 2016, which was withdrawn with liberty to avail appropriate remedy as available under the law, including the filing of a Public Interest Litigation (PIL). Accordingly, the said petition was dismissed as withdrawn by the learned Single Judge vide order dated 31.03.2016, giving the aforesaid liberty to the petitioner. It is thereafter that the present Public Interest Litigation has been filed.

In the matter of Public Interest Litigation, the provisions of the Maintainability of Public Interest Litigation Rules, 2010 ('PIL Rules' – for short) as framed by this Court are applicable. The said PIL Rules were considered by a Division Bench of this Court in **Ajaib Singh and another Vs. State of Punjab and others** 2013 (4) PLR 367. It was emphasized in the said case that a petitioner filing a PIL is to specifically disclose his credentials and his direct or indirect personal motive or interest involved in the case, if any, by way of an affidavit. The expression “specifically disclose his credentials,” it was held must naturally, imply that he has to set forth what he does for his living, what public interest he has been espousing, the work done by him in that behalf, the particulars of any matter preferred by him as PIL earlier on which the Court has passed orders, etc. It cannot imply merely writing a sentence that a person is residing in the State, is public-spirited and is, thus, filing a PIL.

The petitioner in his affidavit has stated that he was Assistant Superintendent, District Jail, Mansa and he has no direct or indirect personal

interest in the present PIL except the bona fide public interest as prayed in the writ petition; he earns Rs.50,000/- from the Government job (category C) and owns five acres of land in village Jand, Tehsil Patti, District Tarn Taran from which he is earning approximately Rs.2.00 lakhs annually; besides, he is having a residential plot of 10.5 marlas, the market value of which is approximately Rs.25.00 lakhs.

It has, however, not been disclosed in the said affidavit as to what public interest he has been espousing and the work done by him in that behalf; besides, the particulars of any matter preferred by him as PIL earlier on which the Court had passed orders. It is also to be noticed that the petitioner was placed under suspension by the Additional Director General of Police (Jails), Punjab, Chandigarh vide order dated 16.07.2015 (Annexure P-16) for violation of the Punjab Government Conduct Rules, 1966; besides, an inquiry relating to irregularities in the jail canteen was conducted by the Chief Welfare Officer (Jails), Punjab. The inquiry officer in terms of letter dated 10.12.2014 (Annexure P-2) asked the petitioner to appear before him. According to the petitioner, the Chief Welfare Officer, Jails, Punjab in fact had come to the Central Jail, Kapurthala, to conduct a routine inspection. It may also be noticed that case FIR No. 180 dated 30.07.2015 (Annexure P-19) for the offences punishable under Sections 384 and 506 of the Indian Penal Code; besides, Sections 27-A and 59 of the Narcotic Drugs and Psychotropic Substance Act, 1985 as also Sections 3 (1) and 13 (2) of the Prevention of Corruption Act, 1988 stands registered against the petitioner at Police Station Kotwali, Kapurthala.

Learned counsel for the petitioner submits that Criminal

Miscellaneous Petition No. M-27284 of 2015 (Annexure P-20) has been filed

under Section 482 of the Criminal Procedure Code for quashing the said FIR No. 180 dated 30.07.2015 (Annexure P-19). Notice has been issued in the said case against the respondents including Sh. Rajpal Meena, Additional Director General of Police (Prisons), Punjab and Sh. Lakhwinder Singh Jakhar, PPS, Superintendent Jail/Officiating Deputy Inspector General, Prison (Punjab) on 17.08.2015. A reference is made by the learned Counsel for the petitioner to a letter dated 28.01.2016, which is part of Annexure P-29, written by the petitioner seeking information under the Right to Information Act, 2005. In particular a mention has been made to the information sought at Sr. No. 1 thereof which is to the effect that the petitioner be informed as to whether any action had been taken against him from 30.05.2013 to 30.07.2015 against any kind of smuggling (like drugs etc.) in the jail or any charge-sheet or explanation letter had been issued or served and in case, it was issued/served then its copy, receipt be issued and in case not issued/served, then its information be issued in writing. In response to the said query, it is submitted by the office of Additional Director General of Police (Jails), Punjab, Chandigarh vide letter dated 26.02.2016 (Annexure P-29) that the information regarding the said query at serial No. 1 is, 'nil'. Therefore, what the petitioner seeks to project is that according to the information given by his department, there was no case/FIR against him as on 30.05.2013 on which date FIR No.180 dated 30.07.2015 (Annexure P-19) is stated to have been registered.

It may, however, be noticed that the information, which was sought was regarding issuing of charge-sheet and not regarding registration of FIR; besides, the FIR itself was registered on 30.07.2015. Therefore, the effect of the said letter dated 28.01.2016, which is part of Annexure P-29 and the reply dated 26.02.2016 (Annexure P-29) need not be gone into in the present

PIL petition. The fact remains that the petitioner is under suspension and an FIR also stands registered against him. Therefore, in the circumstances it cannot *per se* be said that the petitioner is acting *pro bono publico* in filing the present petition and in view of the FIR registered against him and also the fact that he has been suspended from his service, it can be said that it has been filed for private interests.

A person approaching the High Court by way of a PIL is to approach it for the vindication of rights of persons affected and not for the enforcement of personal interests, grudge or enmity. The Supreme Court deprecated the practice of filing PILs for vindication of personal interests.

In **State of M.P. v. Narmada Bachao Andolan**, (2011) 7 SCC 639, it was held by the Supreme Court that the standard of expectation of civic responsibility required of a petitioner in a PIL is higher than that of an applicant who strives to realize personal ends. The courts expect a public interest litigant to discharge high standards of responsibility. Negligent use or use for oblique motives is extraneous to the PIL process. For were a litigant to act for other oblique considerations, the application would be rejected at the threshold. Measuring the seriousness of the PIL petitioner and to see whether she/he is actually a champion of the cause of the individual or the group being represented, is the responsibility of the Court, to ensure that the party's procedural behaviour remains that of an adequate "champion" of the public cause.

In, **Kansing Kalusing Thakore v. Rabari Maganbhai Vashrambhai**, (2006) 12 SCC 360, the respondents before the Supreme Court who had filed the PIL before the High Court, it was observed, sought to ventilate/redress their personal grievances inasmuch as they were able to hold

clout in Village Rasana Nana and were enjoying illegal possession in several lands contained under Survey Nos. 125 and 126. The appellants, in the said case, were deliberately not made parties to the writ petition allegedly filed in public interest. It was a matter of record that the writ petitioners, in the said case, were the people who encroached upon the land sought to be granted to the appellants therein and hence having no legal right to continue their illegal occupancy, devised means to approach the High Court in alleged public interest. This, it was observed, would be evident from the affidavit of the Deputy Collector filed on 24-3-2005. The maintainability of the writ petition at the instance of the respondents was specifically raised before the High Court and was in issue; however, it was observed that it was unfortunately not decided by the High Court. The High Court, in the opinion of the Supreme Court, ought to have decided the maintainability of the PIL maintained at the instance of the encroachers and land-grabbers and rejected the writ petitions at the threshold. It was observed that the Supreme Court in a catena of decisions held that only a person acting bona fide and having sufficient interest in the proceeding of PIL would alone have the *locus standi* and could 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 or any oblique consideration. The High Court, it was held, ought to have rejected the writ petition at the threshold as had been observed by the Supreme Court in **Janata Dal v. H.S. Chowdhary** (1992) 4 SCC 305. In the opinion of the Supreme Court, the writ petition filed by the respondents was not aimed at the redressal of genuine public wrong or public injury but was founded on personal vendetta. It was held that it is the duty of the High Court not to allow such process to be abused for oblique considerations and the

petitions filed by such busy bodies deserve to be thrown out by rejection at the threshold and in appropriate cases with exemplary costs.

In **Subhash Kumar v. State of Bihar** (1991) 1 SCC 598, it was held that a petition under Article 32 of the Constitution for the prevention of pollution is maintainable at the instance of affected persons or even by a group of social workers or journalists. But recourse to proceeding under Article 32 of the Constitution should be taken by a person genuinely interested in the protection of society on behalf of the community. 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 under Article 32, were entertained it would amount to abuse of process of the court, preventing speedy remedy to other genuine petitioners. Personal interest, it was held, cannot be enforced through the process of the Supreme Court under Article 32 of the Constitution in the garb of a public interest litigation.

Therefore, the petition at the behest of the petitioner who is under litigation with his department is not to be allowed to lightly litigate by way of Public Interest Litigation and espouse his own cause and satisfy his personal grudge and enmity.

During the course of hearing, the learned counsel for the petitioner submitted that an application was submitted to the SHO Police Station Kotwali, City Kapurthala on 06.10.2016 complaining against the purchases made without tender, E-tender, quotation and in violation of the Canteen Rules and the Punjab Financial Rules as also the Punjab Government order dated 13.03.2015. In case such an application has been made, the petitioner may pursue the same in accordance with law. However, no ground is made out for

entertaining the Public Interest Litigation at the behest of the petitioner, for which he has no *locus standi*.

In the facts and circumstances, the writ petition is not maintainable and is accordingly dismissed.

(S.S SARON)
JUDGE

(LISA GILL)
JUDGE

10.11.2016
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Whether speaking/reasoned : *Yes/No.*

Whether reportable : *Yes/No.*