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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **LPA 543/2016**
SUDESH KUMAR

..... Appellant

Through Mr Prashant Katara, Adv.

versus

PAARDARSHITA PUBLIC WELFARE FOUNDATION & ANR

..... Respondent

Through Ms Biji Rajesh, Ms Eshita Baruah for
Mr Gaurang Kanth, Adv. for SDMC
Ms Prabhsahay Kaur, ASC for
GNCTD/R3

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% **21.10.2016**

CM 36465/2016 (exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

LPA 543/2016 & CM 36466/2016 (delay) & CM 36464/2016 (delay)

As there is a delay of 6 days in filing this Intra Court Appeal, this application for condonation of delay has been filed. Before issuing notice on the said application, we deem it appropriate to hear the parties on merits.

The appellant – Sudesh Kumar has impugned the order dated 09.08.2016 passed by the learned Single Judge dismissing the CM No.25111/2015. The appellant had filed the said application for dismissal of the writ petition on the ground of lack or absence of *locus standi* of the writ petitioner, namely, Paardarshita Public Welfare Foundation, a non-governmental organization (NGO).

It is apparent that the said NGO has filed the said writ petition

alleging that the appellant has raised unauthorized construction and encroached upon the public land adjacent to property bearing number 19, CSP, DDA Flats, Safdarjung Enclave, New Delhi.

The contention of the appellant is that the NGO does not have any reason to be aggrieved or initiate legal action for the alleged wrong as claimed.

We are not impressed with the said argument. There are cases in which writ petitions have been dismissed for the courts have felt and concluded that the petitioner invoking the writ jurisdiction has not come to the courts with clean hands or has obstructed or abused the process of law or the prayers made are completely unjustified and unacceptable.

Learned counsel for the appellant has relied upon the decision dated 20.10.2010 in W.P.(C) No. 6802/2010, Paardarshita Public Welfare Foundation v. UOI and Ors. in which the conduct of Paardarshita Public Welfare Foundation has been commented upon. We have gone through the said order which refers to the prayers made and the case law on the subject that the public interest litigation cannot be used as a tool of personal gain, private motive, political motive or any other oblique consideration. The said order would reflect and deal with the factual matrix as it had emerged in the said case.

Certainly the appellant cannot urge and argue that the writ court cannot examine whether a public wrong has been committed and remedy the wrong. It is the conduct and bonafides of the appellant which are under question in the writ petition. As long as the respondent NGO does not misuse the legal process, he cannot be ousted and prevented from agitating a genuine public wrong. The doctrine of *locus standi* has undergone a change

over a period of time. It is now more liberal and less legalistic.

In view of the aforesaid discussion, we see no reason to interfere with the impugned order. Accordingly, we are not inclined to issue notice to the unrepresented respondents on the application for condonation of delay. The application and consequently the appeal would be treated as dismissed. We clarify that we have not expressed any opinion on the merits of the case.

Learned counsel for the appellant has submitted that he has not made any unauthorized encroachment on public land.

Be that as it may, this aspect will be dealt with by the learned Single Judge.

The appeal is disposed of.

Pending CMs are also disposed of.

sSANJIV KHANNA, J

SUNITA GUPTA, J

OCTOBER 21, 2016/rd