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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION No. 25 OF 2014

Premji Keshavji Chedda & Anr. ... Petitioners

Versus

Central Vigilance Commission & Ors. ... Respondent

Mr. Bhavik Manek i/b Rajendra Bhandari, for the Applicants /
Petitioners.

Mr. Divya Menon i/b Asim Vidyarthi, for the Respondent Nos. 2 to 4.

Dr. Birendra Saraf a/w P. N. Vora i/b M/s. Pramod Kumar & Co., for
Respondent Nos. 5 & 6.

CORAM : V. M. KANADE, &
Mr. P. R. BORA, JJ.

DATE : MARCH 3, 2017

PC.

1. Heard the learned counsel for the Petitioners as also the learned counsel appearing for the Respondents at length. By this Public Interest Litigation (for short "PIL"), the Petitioners are seeking writ of mandamus and directions to the Respondents to investigate the complaint of the Petitioners and take an appropriate action against the guilty persons, who had caused loss to the tune of Rs. 2.45 to the

Exchequer of Government of India, and also to constitute a team of investigatintg agency to monitor the investigation.

2. Brief facts, which are relevant for the purpose of deciding the PIL are as under:

. Respondent Nos. 5 and 6 are the Trusts, registered with the Charity Commissioner, Maharashtra State, Mumbai. Respondent Nos. 5 and 6 are carrying on religious activities, and have constructed several temples in Mumbai and Gujarat.

3. On 26.1.2001 there was an earthquake in district Kutch, southern Gujarat. As a result of the said earthquake, several buildings were damaged and there was loss of life and public property. Respondent No. 5 Trust had insured the temple by making payment of yearly premium. In the said earthquake, the temple constructed by Respondent Nos. 5 and 6 was also severely damaged. The total amount of insurance was about Rs. 30 crores. Respondent Nos. 5 and 6, however, claimed around Rs. 6 crores. Their claim was settled for Rs. 2.11 crores in November, 2001. A complaint was filed by the Petitioners alleging that the amount of insurance was claimed by Respondent Nos. 5 and 6 which was settled by Respondent No. 4

though there was no damage to the temple and it was a fictitious claim. The National Insurance Co. Ltd. (Respondent No. 4) made investigation and found that the complaint filed by the Petitioners was not correct. Thereafter again a complaint was filed with the Central Vigilance Commission (for short the “CVC”), who also made in depth study and inquired into the said complaint and by their report of 2005 closed the said complaint. The Petitioners again made a complaint in 2011. According to the Petitioners, the CVC informed him that it has examined the said complaint and forwarded to Respondent Nos. 2 and 3 with a direction to look into the matter and take action. Thereafter, the present PIL was filed on 18.2.2014. The learned counsel appearing on behalf of the Petitioners submitted that fictitious claim was made though there was no record to indicate that any damage was caused to the temple. It is submitted that, therefore, a criminal complaint may be lodged against Respondent Nos. 5 and 6 and it may be investigated by the police and monitored by this Court. It is his contention that the interest of the Central Government was affected due to false, fictitious and fraudulent claim, which was approved by one of the officials of Respondent No. 4.

4. On the other hand, the learned counsel Dr. Saraf appearing for Respondent Nos. 5 and 6 submitted that Petitioners had filed several such complaints against Respondent Nos. 5 and 6. He further submitted that the Petitioners are habitual black-mailers and they filed several complaints against several Trusts, in which Petitioners were involved in some manner. It is submitted that Petitioners are in a habit of filing the complaints against all these Trusts. The Respondents have annexed a letter dated 26.9.2016 which is written by those Trusts, mentioning therein how the Petitioners have harassed them by filing false and frivolous complaints.

5. We have perused the said letter dated 26.9.2016. From the aforesaid material, it does appear that the Petitioners are in the habit of filing complaints against the Trusts. We have therefore some doubt whether intention of the Petitioners is bona fide or complaints are filed just to harass the Trusts. We have perused the photographs, which are annexed to the reply, which indicate that the temple was damaged. It is a matter of common knowledge that in the year 2001 there was severe earthquake in Kutch and Gujrat and tremors of earthquake had reached upto Bombay. The earthquake was measured

6.9 on the Richter scale. According to the Petitioners, these photographs were not of the said temple and therefore, the National Insurance Co. made a factual verification. This Company in its report dated 22.4.2005 has stated that temple is severely damaged.

6. Perusal of all these documents indicate that though the Trusts had insured the temple for more than Rs. 30 crores, they had filed a claim for Rs. 4.5 crores and it was settled at Rs. 2.45 crores. The matter was also investigated and examined by CVC and also the officials of the National Insurance Co. Ltd. In our view, essentially, it cannot be said that the issue raised in the PIL is of any public interest. We have no manner of doubt that the Petitioners are in habit of filing false and frivolous complaints against various Trusts, and therefore, the contentions raised by the learned counsel appearing for the Petitioners are devoid of any merits or substance. We are, therefore, not inclined to entertain this PIL.

7. Moreover, the claim was allowed in November 2001 and the PIL has been filed in 2014. There is gross delay on the part of PIL- Petitioners in approaching this Court. The Apex Court in several judgments has observed that such litigations should be discouraged by

imposing heavy costs, since as a result of such false and frivolous litigations being filed, the time of the Court is wasted and other important matters cannot be taken up. We find that, very often, PIL – petitioners take an adversarial stand and continue to agitate the matter. Ideally speaking, the role of PIL – petitioners is only to bring the issue to the notice of the Court and thereafter assist the Court. However, we find that this PIL has been fought in an adversarial manner.

8. Recently, the Division Bench of this Court in the case of ***Ujwala J. Patil, Petitioner Vs. Slum Rehabilitation Authority & Ors, Respondents***¹ has considered the various judgments of the Apex Court, and awarded costs of Rs. 25,000/- on the petitioner therein. In para 13 of the judgment, the Division Bench has considered the observations made by Lord Denning in ***Rondel Vs. Worsley***² and similarly, the observations of the Apex Court in the case of ***Himachal Pradesh Scheduled Tribes Employees Federation & Anr. Vs. Himachal Pradesh Samanaya Varg Karmchari Kalyan Mahasangh & Ors.***³ In paragraph 31 and 32 the Supreme Court has observed as under:

1 2016(6) ALL MR 644.

2 (1966) 3 All E. R. 657 (CA)

3 (2013) 10 SCC 308

“31. When a statement is made before this Court it is, as a matter of course, assumed that it is made sincerely and is not an effort to over-reach the court. Numerous matters even involving momentous questions of law are very often disposed of by this Court on the basis of the statement made by the learned Counsel for the parties. The statement is accepted as it is assumed without doubt, to be honest, sincere, truthful, solemn and in the interest of justice. The statement by the counsel is not expected to be *flippant, mischievous, misleading and certainly not false*. This confidence in statements made by the learned Counsel is founded on the assumption that the counsel is aware that he is an officer of the Court.

32. Here we would like to allude to the words of Lord Denning, in the case of **Rendel v. Worsley** about the conduct expected of an Advocate:

"... As an advocate he is a minister of justice equally with the Judge.

.... I say 'all he *honourably* - can' because his duty is not only to his client. He has a duty to the Court which is *paramount*. **It is a mistake to suppose that he is the mouthpiece of his client to say what he wants: or his tool to do what he directs.** He is none of these things. He owes allegiance to a higher cause. It is the cause of

truth and justice. He must not consciously misstate the facts. **He must not knowingly conceal the truth.** He must not unjustly make a charge of fraud, that is, without evidence to support it. He must produce all the relevant authorities, even those that are against him. He must see that his client discloses, if ordered, the relevant documents, even those that are fatal to his case. **He must disregard the most specific instructions of his client, if they conflicts with his duty to the court.** The code which requires a Barrister to do all this is not a code of law. It is the code of honour."

In our opinion, the aforesaid dicta of Lord Denning is an apt exposition of the very high standard of moral, ethical and professional conduct expected to be maintained by members of the legal profession. We expect no less of an Advocate / Counsel in this country.

(emphasis supplied)

9. The Apex Court in *Balco Employees' Union Vs. Union of India*¹ observed that after taking cognizance of increasing instances of abuse of public interest litigation, the Court has devised number of strategies to ensure that the attractive brand name of public interest

¹ (2002) 2 SCC 333

litigation is not allowed to be used for suspicious products of mischief. One of the devise was restricting *locus standi* in PILs to individuals 'acting bona fide'. The second was imposition of an 'exemplary cost' as a deterrent against false and frivolous public interest litigations.

10. The Apex Court in ***Ashok Kumar Pandey Vs. State of W.B.***¹ after referring to several earlier decisions, held that the courts must do justice by promotion of good faith and prevent law from crafty invasions.

11. It must be noted that the Apex Court had an occasion to consider a PIL, which was filed against the Trust, in the case of ***Jaipur Shahar Hindu Vikas Samiti, Appellant Vs. State of Rajasthan & Ors., Respondents***². The Apex Court, in the said judgment observed in paragraphs 47 and 49 that the public trusts and religious institutions are governed by particular legislation which provide for a proper mechanism for adjudication of disputes relating to the properties of the trust and the management thereof. It is observed that it is not proper for the court to entertain such litigation and pass orders. In paragraphs 47 and 49 the Apex Court has observed as

1 (2004) 3 SCC 349

2 (2014) 5 Supreme Court Cases 530

under:

“47. The scope of Public Interest Litigation is very limited, particularly, in the matter of religious institutions. It is always better not to entertain this type of Public Interest Litigations simply on the basis of affidavits of the parties. The public trusts and religious institutions are governed by particular legislation which provide for a proper mechanism for adjudication of disputes relating to the properties of the trust and their management thereof. It is not proper for the Court to entertain such litigation and pass orders. It is also needless to mention that the forums cannot be misused by the rival groups in the guise of public interest litigation.

48 ...

49. The concept of Public Interest Litigation is a phenomenon which is evolved to bring justice to the reach of people who are handicapped by ignorance, indigence, illiteracy and other down trodden people. Through the Public Interest Litigation, the cause of several people who are not able to approach the Court is espoused. In the guise of Public Interest Litigation, we are coming across several cases where it is exploited for the benefit of certain individuals. The Courts have to be very cautious and careful while

entertaining Public Interest Litigation. The Judiciary should deal with the misuse of Public Interest Litigation with iron hand. If the Public Interest Litigation is permitted to be misused the very purpose for which it is conceived, namely to come to the rescue of the poor and down trodden will be defeated. The Courts should discourage the unjustified litigants at the initial stage itself and the person who misuses the forum should be made accountable for it. In the realm of Public Interest Litigation, the Courts while protecting the larger public interest involved, should at the same time have to look at the effective way in which the relief can be granted to the people, whose rights are adversely affected or at stake. When their interest can be protected and the controversy or the dispute can be adjudicated by a mechanism created under a particular statute, the parties should be relegated to the appropriate forum, instead of entertaining the writ petition filed as Public Interest Litigation.”

12. We must note here that we have come across several PILs, which are not only false and frivolous, but also actuated by malice and with intention of harassing the respondents. We have no manner of doubt that this is one such PIL, in which PIL – Petitioners

are in habit of harassing the trustees of several Trusts.

13. In our view, the Petitioners have no business to file this PIL, particularly after lapse of almost 10-12 years, and that too when investigation was made by the CVC (Respondent No. 1 herein) and the National Insurance Co. Ltd. (Respondent No.4 herein).

14. We, therefore dismiss the PIL. In our view, this is a fit case where exemplary costs should be imposed on the PIL – Petitioners, so that they are dissuaded in future from harassing innocent citizens. We therefore, impose costs of Rs. 25,000/-, which amount to be deposited within four weeks in this Court. If this amount is not deposited by the Petitioners, the same may be recovered as arrears of land revenue.

Sd/-
[Mr. P. R. BORA, J.]

Sd/-
[V. M. KANADE, J.]

Vinayak Halemth