

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 43 OF 2017

Bhagwan Jagannath Nitnaware .. Petitioner
V/s.
National Institute of Industrial
Engineering and ors. .. Respondents.

**WITH
PERJURY PETITION NO. 3 OF 2016**

Bhagwan Jagannath Nitnaware .. Petitioner
V/s.
Ms Karuna Jain, the Director,
National Institute of Industrial
Engineering and ors. .. Respondents.

Mr. Rajeshwar Ganesh Panchal, Mr. Mohan Rawat, Mr. Vijay Kurle,
Mr.Suresh Gamre, Mr Anil J. Mr. Pramod Yadav and Mr. Mahesh Shejole
for the Petitioner.

Mr. A.V. Bukhari, Senior Advocate with Mr. Burhan Bhukhari i/b Pinaz
C. Contractor For Respondent No.1.

N.R. Prajapati for Respondent No.2 -Union of India.

Dr. Milind Sathe, Senior Advocate with Mr. Ankit Lohia with Mr. Chetan
Shah i/b Interjuris for Respondent No.4.

**CORAM: DR. MANJULA CHELLUR, C.J.
AND M.S.SONAK, J.**

**Date of Reserving the Order : 14 November 2017.
Date of Pronouncing the Order : 04 December 2017.**

ORDER

1] Heard Mr. Rajeshwar Panchal for the petitioner. Mr. A.V. Bhukari
and Mr. Sathe for respondent Nos.1 and 4.

2] This petition was initially instituted as a writ petition but later on, the same was converted and registered as public interest litigation.

3] The petitioner was an employee of the National Institute of Industrial Engineering (NITIE). The disciplinary proceedings were initiated against the petitioner and after conduct of an enquiry, he was removed from service on 17th May 2013. It is the case of the petitioner that he is a 'whistle-blower' and has been victimised for exposing irregularities in the functioning of NITIE. There are proceedings pending to question the petitioner's removal from service from NITIE.

4] By this petition, the petitioner, has applied for the following reliefs not only against NITIE but also against Mr. Avidhesh M. Nathani, respondent No.4, who is advocate, who normally appears for NITIE.

“A) This Hon'ble Court be pleased to issue the writ of mandamus, order or direction or any other writ in the nature of mandamus directing the Respondents No.2 to 3 to investigate into the complaints made by the petitioner and accordingly take appropriate legal action or any other action in accordance with law against the office bearers in the 1st Respondent Institute for having caused the loss of crores of Rupees to public exchequer by way of indulging into financial irregularities.

B) This Hon'ble Court be pleased to issue the writ of mandamus, order or direction or any other writ in the nature of mandamus directing the Respondents No.1 and 2 to recover the illegal and overpayments made, under the disguise of legal fees, to the Respondent No.4 for having acted as Presenting Officer in the Disciplinary Proceedings against the petitioner and subsequent other proceedings arising out of the said Disciplinary Proceedings.

C) *This Hon'ble Court be pleased to issue the writ of mandamus, order or direction or any other writ in the nature of mandamus directing the Respondents No.1 to 2 to recover the public money illegally spent as legal expenses to defend the criminal case against the office bearers of the NITIE.*

D) *This Hon'ble Court be pleased to issue the writ of mandamus, order or direction or any other writ in the nature of mandamus directing the Respondents No.3 to investigate into financial irregularities committed by the office bearers of the NITIE and accordingly take the appropriate legal action including Disciplinary Proceedings against them for having failed to maintain absolute integrity and devotion to duty*

E) *This Hon'ble Court be pleased to issue the writ of mandamus, order or direction or any other writ in the nature of mandamus directing the Respondents No.1 to lay down and/or follow the same norms/rules in the matter of utilizing services of law officers/lawyers in the legal matters/litigation by or against the NITIE, as are applicable and followed by the Government of India in the legal matters/litigation by or against it, regard being had to the scheme of Art 16 in respect of Public Employment.*

Pass any other just and equitable relief as may be deemed fit, be granted in favour of the Petitioner.”

5] Mr. Panchal, at the outset, relies upon the decision of the Delhi High Court in **Aniruddha Bahal vs State** reported in (2010) 172 DLT 268 and the decision of the Hon'ble Supreme Court in **Vijay Shankar Pandey vs. Union of India** reported in (2014) 10 SCC 589 and some other decisions to contend that the petition of this nature is maintainable and the petitioner has *locus standi* to maintain the same. Mr. Panchal makes reference to certain provisions of Whistle-blowers Protection Act, 2011.

6] Mr. Panchal then submits that NITIE has unlawfully expended an amount of Rs.21,54671/- by way of legal fees and expenses to defend

the Officers of NITIE, against whom civil and criminal proceedings were initiated by the petitioner for acts of omissions and commissions on their part. Mr. Panchal submits that since the matters were filed against the Officers in their personal capacity, the NITIE was not at all justified in expending such a huge amount in the defence of such Officers. Mr. Panchal submits that this is a case of misuse of public money and in a sense, constitutes corruption.

7] Mr. Panchal further submits that respondent No.4, who was appointed as a Presenting Officer in the disciplinary proceedings against the petitioner has been overpaid to the extent of Rs.8,54,000/- and Rs.1,18,350/-. He submits that there is a schedule of fees prescribed for Presenting Officer, NITIE has overpaid respondent No.4. Mr. Panchal submits that this is also a case of misuse of public money and therefore corruption.

8] Finally, Mr. Panchal submits that there are financial irregularities in one of the department of NITIE. He submits that the irregularities are mainly in relation to purchase of material for establishment of Laboratory and if detail investigations are undertaken, it will be evident that there is a scam of approximately Rs.6,68 crores.

9] Mr. Panchal submits that the petitioner has taken an integrity pledge to rid India of Corruption and therefore, has *locus standi* to maintain the petition of this nature. He submits that in these circumstances, the reliefs as applied for in the petition are required to be granted.

10] The affidavits-in-reply have been filed on behalf of respondent Nos.1 and 4. It is pointed out that the petitioner is nothing but a disgruntled employee out to harass Officials of NITIE. It is pointed out that the petitioner has initiated several proceedings before several Courts making reckless allegations against the Officials of NITIE. It is pointed out that most of such proceedings have been dismissed. It is pointed out that the payments towards legal expenses are well within the prescribed limits and there are absolutely no *bonafides* in the institution of this petition. It is submitted that such a petition, can never be entertained as a public interest litigation. It is submitted that the very institution of such petition constitution of abuse of judicial process, since, the petitioner wants to block the respondent No.4 from appearing in matters against the petitioner. It is submitted that this petition has been filed with an oblique motive and therefore, may be dismissed with exemplary costs.

11] Mr. Bukhari and Mr. Sathe, by reference to the statements in the affidavits as well as documents accompanying the same have submitted that this petition is nothing but an abuse and the same may be dismissed with exemplary costs.

12] As noted earlier, there is no dispute that the petitioner has been removed from the services with effect from 17th May 2013. On his removal, the petitioner has instituted several proceedings to question his removal. The proceedings were instituted before this Court. When the same were dismissed with liberty to the petitioner to avail alternate remedy, review petitions were instituted. The matter is pending before the Labour Court. Practically every order made by the Labour Court is questioned by instituting proceedings. There are several legal

proceedings to question the eviction proceedings of the petitioner from the Official quarter allotted to the petitioner. NITIE naturally, is required to defend all such proceedings before various Courts and authorities.

13] As if this is not sufficient, the petitioner, instituted criminal proceedings against the Officials of NITIE. As a result, the Officials, had to take out proceedings to defend themselves. The material on record indicates that complains have been made by the petitioner to several authorities and series of proceedings have been launched by the petitioner. The payment figures towards legal expenses have been denied by the NITIE and the figures of actual payment made have been disclosed. The position that emerges is that the petitioner, has indeed, launched several prosecutions as well as civil cases not only against NITIE but also against its Officials at least *prima facie*, for certain acts of omissions and commissions in the discharge of their duties. Since, proceedings are pending we do not wish to make any observations in their regard. However, we are satisfied that there is absolutely no public interest involved in a petition of this nature and therefore, there is no reason to entertain the present petition as a public interest litigation. There is no case made out to entertain the petition even construing the same as a normal writ petition instituted by the petitioner.

14] The allegations of over payment to respondent No.4 are also denied. The record reveals that the petitioner, has instituted proceedings against the advocate, who appears for NITIE. Complaints have been made against the said advocate to the Bar Council and through this petition, there is a complaint that respondent No.4 has

been overpaid. Again, detailed affidavits have been filed pointing out that the figures stated by the petitioner are highly exaggerated and that the payments made are not only reasonable but consistent with the schedules. It is pointed out that the schedule upon which the petitioner places reliance are not at all applicable to the NITIE.

15] On basis of complaints by the petitioner, even the CBI held the joint surprise check on 12th Marc 2013. The memo of surprise check is placed on record. The memo does not suggest that any irregularities or scam as alleged by the petitioner. The petitioner has then made complaints under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and 7(1)(c)(d) of the Protection of Civil Rights Act, 1955 against the Officials of NITIE forcing them to seek bails or anticipatory bail. The petitioner has instituted several proceedings in relation to his removal from service and his eviction from the Official quarter. On one hand therefore, the petitioner, keeps on filing petitions and proceedings against the NITIE and on the other hand the petitioner, complains that NITIE spending large amounts for purposes of litigation. Such issues, hardly, fall in the realm of any public interest litigation.

16] The only reason which prompts us not to make any observations in this petition is because several proceedings initiated by the petitioner, particularly with regard to his removal from service are pending. However, we are satisfied that there is absolutely no public interest involved in this petition and the reliefs as applied for by the petitioner even otherwise cannot be granted. The petition is therefore, required to be dismissed.

17] The Perjury Petition No. 3 of 2016 seeks to initiate perjury proceedings against some of the respondents. Again, we find that this is not a fit case for entertaining such kind of application/petition at the behest of the petitioner. The perjury petition is also required to be dismissed.

18] The Public Interest Litigation as well as the Perjury Petition are therefore, dismissed. There shall however, be no order as to costs.

(CHIEF JUSTICE)

(M.S.SONAK, J.)