

106 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-10538-2017

Date of decision: 12.07.2017

Lokesh Devi

.... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE S.S.SARON

HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: None for the petitioner.

S.S.Saron, J.

The petitioner seeks quashing of the order dated 21.04.2017 (Annexure P-5) vide which the Additional Chief Secretary to Government of Haryana, Cooperation Department, Haryana Civil Secretariat, Chandigarh (respondent No.2) has given additional charge of the post of Assistant Registrar Cooperative Societies, Sonipat to Sh. Yashpal Dahiya, Assistant Registrar, Cooperative Societies, Panipat (respondent No.4). It is alleged that the giving of said charge is illegal, arbitrary and in violation of the policy/guidelines dated 07.04.1989 (Annexure P-6). A further prayer has been made for directing the official respondents to decide the legal notice dated 09.05.2017 (Annexure P-8) and direct the Additional Chief Secretary to Government of Haryana, Cooperation Department (respondent No.2) to give the charge of the post of the Assistant Registrar, Cooperative Societies, Sonipat, to any other officer in lieu of Sh. Yashpal Dahiya (respondent No.4).

This petition came up for hearing before a learned Single Judge of this Court on 16.05.2017 and the following order was passed:-

"Learned counsel states that the petitioner has challenged the order of the Government giving charge of the post of Assistant Registrar, Cooperative Societies, Sonapat to the respondent No.4. Learned counsel fairly accepts that the petitioner is not a claimant for the post and that he has no personal interest in the matter. When I pointed it out to him that in that case the petition would have to be treated as public interest litigation he prays that it may be referred to an appropriate Bench.

To be listed before the appropriate Bench after obtaining orders from Hon'ble the Chief Justice."

This is how the petition has been listed before this Bench. A perusal of the above order shows that the petitioner is not claiming the post of Assistant Registrar, Cooperative Societies at Sonipat, the additional charge of which has been given to Sh. Yashpal Dahiya (respondent No.4), for herself.

Apart from the question whether the petitioner has the *locus standi* to file such a petition, it may be noticed that the present petition relates to a service matter.

The question whether a writ petition in the nature of a public interest litigation in respect of a service matter at the behest of a third person is maintainable, is not *res integra*.

This aspect has been considered and it has been held by this Court in Mehar Singh v. State of Punjab and another CWP No.4839 of 2016 decided on 15.03.2016; Rashtriya Valmiki Sabha (Regd.) v. State of Punjab and others CWP No.23828 of 2015 decided on 03.10.2016 and Vikas Singh Rathee v. State of Haryana and others CWP No.19964 of 2016 decided on 24.09.2016 that a petition in the nature of a public interest litigation in service matters is not maintainable.

The judgments of the Supreme Court in R.K.Jain v. Union of India, AIR 1993 SC 1769, P.Sheshadri v. Mangati Gopal Reddy and others, (2011) 5 SCC 484, Partap Singh v. State of Haryana, (2002) 7 SCC 484 and Madan Lal v. High Court of J&K, (2014) 15 SCC 308 have unequivocally held that in service matters, a petition in the nature of a public interest litigation is not maintainable.

In Madan Lal's case (supra) reliance was placed on Hari Bansh Lal v. Sahodar Prasad Mahto, (2010) 9 SCC 655, and paras 14 and 15 from the said decision were quoted, which are as follows:-

14. In Ashok Kumar Pandey v. State of W.B., (2004) 3 SCC 349 this Court held thus: (SCC pp. 358-59, para 16)

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 where even a minuscule percentage can legitimately be called 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 are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilised for disposal of genuine cases. Though in Duryodhan Sahu v. Jitendra Kumar Mishra, (1998) 7 SCC 273 this Court held that in service matters PILs should not be entertained, the inflow of 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. 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. Whenever such frivolous pleas are taken to explain possession, the courts should do well not only to dismiss the petitions but also to impose exemplary costs. 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."

The same principles have been reiterated in the subsequent decisions, namely, B. Singh v. Union of India, (2004) 3 SCC 363, Dattaraj Nathuji

Thaware v. State of Maharashtra,
(2005) 1 SCC 590 and Gurpal Singh v.
State of Punjab, (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."

In view of the above it is apparent that a third person has no right to file a petition in the nature of a Public Interest Litigation in service matters.

Therefore, without going into the merits of the case, the present writ petition is liable to be dismissed on the ground that such a petition is not maintainable.

Accordingly, the writ petition is dismissed. The question whether the petitioner has the *locus standi* to file such a petition is kept open.

(S.S. SARON)
JUDGE

(AVNEESH JHINGAN)
JUDGE

12.07.2017
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Note:

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| 1. Whether the order is speaking/reasoned : | Yes |
| 2. Whether the order is reportable : | Yes |