

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

CWP No. 1670 of 2017

Date of Decision: March 08, 2017

S.S. Sharma

.....Petitioner

Vs

State of Punjab and others

.....Respondents

**CORAM: *HON'BLE MR. JUSTICE S.S. SARON*
*HON'BLE MR. JUSTICE DARSHAN SINGH***

Present: Mr. Saurav Khurana, Advocate,
for the petitioner.

S.S. SARON, J.

The petition has been filed by the petitioner, namely S.S. Sharma, in the nature of a public interest litigation ('PIL'-for short) seeking quashing of the order dated 02.01.2017 (Annexure P-1 colly), whereby the Superintendents Grade-2, working in the Municipal Councils have been promoted as Secretaries and their posting orders have been made by the Secretary, Government of Punjab, Department of Local Government (respondent No. 1). A further prayer has been made for staying the said order (Annexure P-1) and also for staying the order dated 30.01.2017 (Annexure P-2) promoting Junior Engineers (Civil) and other draftsmen working in Municipal Councils have been

promoted as Assistant Corporation Engineers during the pendency of the petition. According to the petitioner, the said promotions and transfers in terms of order dated 02.01.2017 (Annexure P-1 colly) have been made in total violation of the Punjab Corporation Act, 1976, and Punjab Municipal Corporation Services (Recruitment and Condition of Services) Amendment Rules, 2015. It is further submitted that the same are also in violation of the decision of this Court in CWP No. 8083 of 1998.

The petitioner states that he is a social worker and has been doing many activities for the betterment of the society, therefore, he seeks intervention of this Court by filing the petition.

The Registry of this Court on the petition that has been filed raised several objections, which include:

- (1) Is the present Public Interest Litigation falling under the Maintainability of Public Interest Litigation Rules, 2010 ('Rules' for short)?
- (2) How the present writ (PIL) is maintainable under the 'Rules'?
- (3) Writ petition be filed according to the directions passed by a Division Bench of this Court in the case titled **Ajaib Singh and another Versus State of Punjab and others, 2013 (4) PLR 367**, which is available on the High Court Website.
- (4) Petitioner has 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.

- (5) The Registration Certificate of the society should be filed with the petition.
- (6) Income proof of the petitioner should be filed.
- (7) Has the petitioner approached the concerned authorities with a representation for redressal of his grievances?
- (8) Documentary proof be also attached regarding objection No. 4 to 7 mentioned above, with proper reply.

Learned counsel for the petitioner in reply to the same submitted that:

- (1) The 'Rules' have been complied with.
- (2) The present petition is maintainable as per the 'Rules'.
- (3) Directions passed by the Division Bench of this Court have been complied with.
- (4) Petitioner has specifically disclosed his credentials and his direct or indirect personal motive or interest involved in the present case by way of an affidavit.
- (5) The present petition is filed by an individual.
- (6) Income proof of the petitioner has been filed.
- (7) Petitioner has approached the respondents by way of filing representation.
- (8) Documents have been annexed as Annexure P-5.

According to the 'Rules', as per Clause 7, the Registry of the High Court is entitled to verify the antecedents of the persons, Societies or Associations, who invoke jurisdiction of this Court on the

cause of public interest. Besides, where the Registry has any doubt on such antecedents, an office note to the said effect is to be made and the Registry is not to accept the petitions, except the petitions which are received by post.

In **Ajaib Singh's case (supra)**, a Division Bench of this Court emphasized that the petitioner invoking the PIL jurisdiction of this Court has 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 said, 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 has nowhere indicated as to what he does for his living, what public interest he has been espousing, the work done by him in that behalf and the particulars of any matter preferred by him as PIL earlier. He has simply mentioned that he is a social worker and has been doing many activities for the betterment of the society. The said averment hardly satisfies the conditions of the 'Rules' or the parameters laid in **Ajaib Singh's case (supra)**. Therefore, we are of the considered opinion that the petitioner has no *locus standi* to file the present petition in the nature of a PIL.

Even otherwise, the petitioner seeks the invalidation of promotion and transfer orders of various Superintendents Grade-2, working in the Municipal Councils as Secretaries and their subsequent postings. The same is in the nature of a service matter. In respect of service matters, a PIL by a person not concerned with the service is not maintainable.

The Supreme Court in **R.K. Jain v. Union of India**, AIR 1993 SC 1769 held that the appointment of a Member of the Customs, Excise and Gold Control Appellate Tribunal is not to be gone into in a Public Interest Litigation and only in a proceedings initiated by an aggrieved person, it may be open to be considered. The writ petition was also not a writ of quo-warranto. It was held that in service jurisprudence it is a settled law that it is for the aggrieved person i.e. non-appointee to assail the legality of the offending action. A third party has no *locus standi* to canvass the legality or correctness of the action. Only public law declarations would be made at the behest of a petitioner, a public spirited person.

In **P. Seshadri v. S. Mangati Gopal Reddy & others**, (2011) 5 SCC 484 a writ petition raising disputes regarding service matter was filed before the High Court in the guise of a PIL by a person not concerned with the service, at the behest of persons hiding behind the veil. It was held that the writ petition was not maintainable and should not have been entertained and should have been dismissed at the threshold.

The Supreme Court in **Partap Singh v. State of Haryana** (2002) 7 SCC 484 in a Public Interest Litigation filed by a legislature questioning the validity, legality and propriety of selections made by the Haryana Public Service Commission and appointments made pursuant to the selection by the State Government to the posts of District Food and Supplies Controller held that the petitioner had no locus standi to maintain the petition as he himself was not a candidate for the said posts.

In **Madan Lal v. High Court of J&K**, (2014) 15 SCC 308 it was observed that the Supreme Court had repeatedly held that in service matters, a Public Interest Litigation is not maintainable. Reliance was placed and paras 14 and 15 from the decision in **Hari Bansh Lal v. Sahodar Prasad Mahto**, (2010) 9 SCC 655 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 aforestated 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 expect for a writ of quo warranto, public interest litigation is not maintainable in service matters.”

In the circumstances, as has already been noticed the petitioner has been unable to satisfy this Court with respect to his antecedents and credentials to file a PIL and even otherwise, a PIL in respect of the service matters has been repeatedly held to be not maintainable.

In the circumstances, the present petition is not maintainable at the behest of the petitioner and the same is accordingly dismissed.

(S.S. SARON)
JUDGE

(DARSHAN SINGH)
JUDGE

March 08, 2017
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Whether reasoned/ speaking : Yes/ No

Whether reportable : Yes/ No