

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

CWP No. 17971 of 2017 (O&M)

Date of decision: 16.08.2017.

Navi Soch Welfare Society

..... Petitioner.

Versus

State of Punjab and others

..... Respondents.

**CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. Dilpreet Singh Gandhi, Advocate, for the petitioner.

S.S. SARON, J.

The petition has been filed in the nature of a public interest litigation under Article 226 of the Constitution of India seeking directions of this Court for quashing the order Annexure P1, which is a public notice issued by the Punjab School Education Board, and also for quashing Annexure P2, which relates to 'Conditions for Granting the Association'.

According to the petitioner, the 'conditions for granting association' (Annexure P2) to the schools do not confirm to the standards set by the Punjab School Education Board ('Board' - for short) for establishing schools by granting affiliation as per the norms/regulations fixed by the Board vide Annexure P3.

The petitioner - Navi Soch Welfare Society ('Society' - for short) is a registered Society under the Societies Registration Act. It was registered on 28.02.2017. The memorandum of its association and the nature of works it is undertaking has not been placed on the record.

Besides, there is no mention of its members and whether it has the necessary funds to indulge in this litigation.

In Bhartiya Homeopathy College v. Students Council of Homeopathy, (1998) 2 SCC 449, Hon'ble the Supreme Court considered the case where a petition had been filed by the Students' Council of Homeopathy, Medical College, Jaipur. In a dispute between the Rajasthan University and the appellant college at Alwar in the said case conducting B.H.M.S. degree course, keeping in view the unforeseen situation in which the students were placed on account of the Rajasthan Homeopathic Medicine Board not being in a position to conduct the B.H.M.S. degree examination passed an order dated 13.05.1995 to the effect that the examinations of II, III and final year B.H.M.S. students admitted in the Homeopathic Colleges at Bharatpur and Alwar be conducted by the University, without granting affiliation for these examinations. The examinations were to be conducted as per the existing syllabus of the University prescribed for these examinations. This was in order to avoid hardships to the students and also keeping in view the fact that the Rajasthan Homeopathy Board which was conducting the examinations for these two colleges had then been rendered ineligible for conducting the examinations and awarding degrees.

The Students' Council of the Homeopathic College filed a public interest litigation challenging the order of the Vice-Chancellor permitting the students in II, III and final year B.H.M.S. classes of the appellant colleges to appear at the examinations being conducted by the University of Rajasthan. The petition was dismissed by a learned Single

Judge of the Rajasthan High Court holding that the Students' Council of the Jaipur College had no *locus standi* to file a public interest litigation. In appeal, however, a Division Bench of the High Court set aside the order of the Vice-Chancellor and upheld the *locus* of the Students' Council of the Jaipur College to file such a petition.

The Supreme Court on the basis of the affidavit filed by the Students' Council disclosing its status and its constitution said that it did not disclose whether the Council was authorized to file the said litigation, and if so, by whom; whether it had the funds to indulge in the said litigation and whether it had the backing of a majority of its members for the said litigation.

Therefore, an NGO filing a public interest petition is liable to show (1) its status and its constitution; (2) it is liable to disclose whether it has been authorized to file such a litigation, and if so, (3) by whom; (4) whether it has the funds to indulge in such a litigation and (5) whether it has the backing of a majority of its members for such a litigation.

A Division Bench of this Court in Ajaib Singh and another v. the State of Punjab and others, (2013 - 4) PLR 367, in the context of the Maintainability of Public Interest Litigation Rules, 2010 ('Rules' - for short), framed by this Court, in consequence of the decision of Hon'ble the Supreme Court in State of Uttaranchal v. Balwant Singh Chauhal and others, AIR 2010 SC 2550, said that the other aspect which needed to be emphasized was that the 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. 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 had passed orders, etc. It could not imply merely writing a sentence that a person is residing in the State, is public-spirited and was thus, filing a PIL.

The Registry of this Court was directed that it must ensure strict compliance with the said Rules and would return petitions filed as PIL with objection (s) unless the parameters as provided for in the Rules were specified (sic. - satisfied). In fact, it was said that there was a mandate on the Registry as per clause 7 of the said Rules to verify the antecedents of the persons, Societies or Associations who invoke the jurisdiction on the cause of public interest and, if they are not satisfied with the antecedents, to return the petition. These aspects were emphasized because it was found that the Court was inundated with PILs which truly were no PILs in the sense the concept was envisaged. They were either personal angst, someone reading a newspaper and annexing a copy of the newspaper and making it a cause by making general allegations without any research about the subject or person who really had no experience or exposure about the subject matter sought to be raised. These, it was said, were in fact publicity interest litigations rather than PILs and wasting the judicial time.

The present petition which has been filed in the nature of a public interest litigation by the petitioner 'Navi Soch Welfare Society' is, therefore, liable to show its status and its Constitution; whether it has been authorized to file such a litigation, and if so, by whom; whether it has the

funds to indulge in such a litigation and whether it has the backing of a majority of its members for such a litigation. Besides, the petitioner is also liable to show what public interest the 'Navi Soch Welfare Society' has been espousing, the work done by it in that behalf, the particulars of any matter preferred by it as PIL earlier on which the Court had passed orders, etc.

A petitioner, filing a PIL, is also liable to submit that it is not a case of personal angst and that it had been filed by carrying out a research about the subject or cause that was being espoused.

The petitioner - 'Navi Soch Welfare Society', in the present case, has not shown as to who has authorized it to file the litigation and whether it has the funds to indulge in the litigation and whether it has the backing of a majority of its members for this litigation. In fact, the list of members is also not given.

The petition even otherwise that has been filed is improper inasmuch as quashing of the notice (Annexure P1), which is of 2011, has been prayed for. As regards the 'Conditions for Granting the Association' (Annexure P2), it is not shown as to under what legislative sanction, the same has been issued and under what law are the said conditions liable to be complied with and neither has it been shown as to where the said conditions are published or made known and represented that these are liable to be complied with. The norms/regulations that are placed on record as Annexure P3 are the Punjab School Education Board Regulations for Affiliation of Institutions, 1988. However, it is not shown as to which clause of the said Regulations has been infringed and, if so, by whom.

During the course of hearing, it was also informed by the learned counsel

for the petitioner that the petitioner - 'Navi Soch Welfare Society' has no concern with education.

In the aforesaid circumstances, learned counsel for the petitioner - 'Navi Soch Welfare Society' submits that for the present he may be allowed to withdraw the writ petition and after complying with the conditions for filing a PIL and also clarifying the position as to violation of law, he would file a fresh petition for which liberty may be granted.

Dismissed as withdrawn with liberty as prayed for.

(S.S. SARON)
JUDGE

(AVNEESH JHINGAN)
JUDGE

16.08.2017
Ramesh

Note: 1. Whether reasoned/speaking : Yes
2. Whether reportable : Yes