

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

CWP-217 of 2017

Date of Decision:- 12.01.2017

Jaswant Sarpal

... Petitioner

Versus

State of Punjab and others

... Respondents

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

Present:- Mr. K.P.S.Sandhu, Advocate,
for the petitioner.

S.S.SARON, J.

This petition has been filed by the petitioner stating it to be in the nature of public interest. The petitioner prays for directions being issued to the State of Punjab through Director Health, Department of Health and Family Welfare, Chandigarh-respondent No.1 or any other independent agency to conduct an enquiry into the racket going on in Civil Hospital, Amritsar. It is alleged that one Rakesh Sharma an Oph. Officer is posing and impersonating himself to be a doctor and has been performing the duties of a doctor, besides, has been indulging in various illegal activities such as selling medicines, blood to a private medical store running in the name of Bhandari Medical Store. It is further prayed for taking action against him and also against the erring officers working at Civil Hospital, Amritsar.

The petitioner submits that the present petition is being filed in the nature of public interest as larger public interest is involved as public

servants are playing with the fundamental rights of the people specially health of the poor public coming for treatment at Civil Hospital, Amritsar. It is submitted that the petitioner has no personal interest in this petition and the petition is according to him is according to the Maintainability of the Public Interest Litigation Rules, 2010 ('Rules' - for short).

The petitioner sought information under the Right to Information Act vide application (Annexure R-1) to know whether there was any person by the name of Dr. Rakesh Sharma working at Civil Hospital, Amritsar and performing various surgeries in the hospital as per reports being published on various occasions in the newspapers particularly in newspapers, 'Dainik Bhaskar' and 'Amritsar Savera'. The petitioner received information from the Civil Medical Officer, Civil Hospital, Amritsar vide letter dated 21.4.2016 (Annexure P-2) informing him that there was no doctor by the name of Rakesh Sharma working at Civil Hospital, Amritsar.

The petitioner then through his Advocate served a legal notice dated 25.05.2016 (Annexure P-3) for taking action against Rakesh Sharma as he was prefixing doctor against his name and performing duties of a doctor at Civil Hospital, Amritsar.

The petitioner in support of his case has also placed on record news cuttings of 'Amritsar Savera' dated 25.04.2016 (Annexure P-5), 'Dainik Bhaskar' dated 23.02.2016 (Annexure P-6) and of 'Dainik Bhaskar' dated 26.01.2016 (Annexure P-7). In the said newspapers cuttings photographs of Dr. Rakesh Sharma are appearing and in which he claims himself to be a doctor. Therefore, it is submitted that legal action is liable to

be initiated against him.

We have given our thoughtful consideration to the submissions made by learned counsel for the petitioner and perused the records.

The petitioner has primarily alleged that one Rakesh Sharma who is an Opth. Officer at the Civil Hospital, Amritsar poses and personates himself to be a doctor and holds out representations in the Press that he is a doctor by pre-fixing his name also as a doctor. In this manner, he is playing with the life of innocent people and making huge money; besides, indulging in malpractices.

At the time of filing the writ petition the Registry of this Court raised objections as to how the petition was maintainable under the Rules; besides, the petition be filed keeping in view the judgment of a Division Bench of this Court in case **Ajaib Singh and Another v. The State of Punjab and Others** (2013 - 4) PLR 367 which was available on the High Court website. The petitioner in response to all the objections stated that these had already been removed and the petition be listed.

Learned counsel for the petitioner submits that an affidavit regarding the above objections was also filed, removing all the objections.

We have perused the affidavit dated 21.11.2016 of the petitioner in which he has stated that the present petition was being filed in public interest against the respondents because larger public interest was involved. Moreover, the fundamental rights of the general public were involved. Besides, the petitioner had no personal interest in the public interest litigation and the petition was according to the Rules. Therefore, it was maintainable under Clause 6 of the Rules and was as per the Ajaib Singh's case (Supra). It is further stated that the petitioner has been running

his own business but his income was less than the taxable limit under the Income Tax Act. It is further stated that the petition was being filed by him in person, so no registration certificate of a 'Society' was required. Besides, he had approached the concerned authorities by serving a legal notice (Annexure P-3) and reply (Annexure P-4) to it had been received.

Rule 6 of the Rules envisages that ordinarily, Public Interest Litigation (PIL) may be entertained on any subject of vital public importance, such as: (a) Bonded Labour matters; (b) Neglected Children; (c) Petitions from riot victims; (d) Petitions complaining of harassment or torture of persons belonging Scheduled Castes, Scheduled Tribes and other Backward Classes by the others or by the police; (e) Petitions pertaining to environmental pollution, disturbance of ecological balance, forest and wild life; (f) Petitioners complaining violation of human rights. In terms of Rule 7 of the Rules, the Registry is entitled to verify the antecedents of a person, society or an association who invokes the jurisdiction of the High Court on the cause of public interest. Where the Registry has any doubt on such antecedents, an office note to this effect is to be put up, except on the petitions which are received by post.

The effect of the said Rules has been considered by Division Bench of this Court in Ajaib Singh's case (Supra). It was inter alia emphasized 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” 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 by writing a sentence that a person is residing in the State, is public-spirited and is, thus, filing a PIL.

The petitioner has not specifically mentioned as to what he is doing for a living except that he is carrying on business for his livelihood. However, the nature of business has not been specified; besides there is no mention of what public interest he has espoused earlier or any work done by him in that behalf or any other matter preferred by him as PIL earlier on which the Court has passed orders. Therefore, the requirements for invoking the PIL jurisdiction of this Court have not been met by the petitioner and we are of the view that the petitioner has no *locus standi* to file such a petition.

Even otherwise, the grievance of the petitioner is that one person by the name of Rakesh Sharma, who according to the reply (Annexure P-4) of Senior Medical Officer I/C Civil, Hospital, Amritsar is working in the hospital and his duty is to assist eye surgeon in OPD and OT is prefixing 'Dr.' before his name in newspapers and represent himself as such. The petitioner in this regard has only placed newspapers cuttings.

In **Samant N. Balakrishna etc. Vs. George Fernandez and others**, AIR 1969 SC 1201 it has been laid down by the Hon'ble Supreme Court that a news item without any further proof of what had actually happened through witnesses is of no value. It is the best secondary evidence. It is well known that reporters collect information and pass it on to the editor who edits the news item and then publishes it. In this process, the truth might get perverted or garbled. Such news items cannot be said to

prove themselves although they may be taken into account with other evidence, if the other evidence is forcible. A fact has first to be alleged and proved and then newspaper reports can be taken in support of it but not independently.

In **Ravinder Kumar Sharma v. State of Assam**, (1999) 7 SCC 435, it was held by the Supreme Court that the presumption of genuineness attached under Section 81 of the Evidence Act to newspaper reports cannot be treated as proof of the facts stated therein. Besides, in **S.A. Khan v. Ch. Bhajan Lal**, (1993) 3 SCC 151, it was observed that a newspaper report is a hearsay secondary evidence which cannot be relied upon unless proved by evidence *aliunde*.

Therefore, not much reliance can be placed on the newspaper report that the petitioner has placed reliance upon in support of his case.

It may also be noticed that the allegations of the petitioner are that one Rakesh Sharma is impersonating himself as a doctor and holding out incorrect representation in this regard. For the said purpose, the petitioner has other remedies under the law including that of initiating proceedings against a person who falsely personates himself as a doctor.

In the circumstances, the petitioner may, if so advised, initiate legal action in accordance with the law by way of other appropriate proceedings. However, the present writ petition for conducting an inquiry as to whether Rakesh Sharma an Opth. Officer at Civil Hospital, Amritsar is a doctor or not or is posing himself to be a doctor would not be maintainable in this Court and that too at an initial stage when the matter can be considered and dealt with by other forums, which the petitioner may invoke.

In the circumstances, there is no merit in the petition and the same is accordingly dismissed.

(S.S.SARON)
JUDGE

January 12, 2017
mohan

(DARSHAN SINGH)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No