

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

**CWP No. 7238 of 2017 (O&M)
Date of decision: 27.04.2017.**

Sawasathay Shiksha Sahyog Sangthan Petitioner.

Versus

State of Haryana and others Respondents.

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

Present: Mr. Virendra Rana, Advocate, for
Mr. Trishu Singh, Advocate, for the petitioner.

S.S. SARON, J.

The petition has been filed by petitioner - Sawasathay Shiksha Sahyog Sangthan ('Sangthan' - for short) under Articles 226/227 of the Constitution of India alleging that respondents No.6 to 15 are indulging in profiteering and open loot in the name of education by illegally taking annual fee, akin to capitation fee/donations; besides, charging for books and stationery and increasing the fee beyond permissible limits every year.

On the last date of hearing, learned counsel for the petitioner - 'Sangthan' had taken time to show the nature of activity that the petitioner - 'Sangthan' was conducting and earlier public interest petitions filed by it.

In response, CM No.6155-CWP of 2017 has been filed seeking exemption from filing certified copies of documents Annexures P23 to P42 and for permission to place on record true copies of Annexures P23 to P39 and photocopies of Annexures P40 to P42, respectively, in order to show

that it has pursued public interest causes and also carried out other activities in public interest.

In Bhartiya Homeopathy College, Bharatpur v. Students' Council of Homeopathy Medical College, Jaipur and others, (1998) 2 SCC 449, the Students' Council of Homeopathic College at Jaipur filed a public interest litigation challenging the order of the Vice-Chancellor of the Rajasthan University permitting the students in second, third and final year B.H.M.S. classes of the appellant colleges in the said case to appear at the examinations being conducted by the University of Rajasthan. The petition was dismissed by a learned Single Judge of the 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 upheld the *locus standi* of the Students' Council of the Jaipur College to file such a petition. Hon'ble the Supreme Court observed that the affidavit filed by the Students' Council disclosing its status and Constitution 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, the petitioner - 'Sangthan' is liable to show and disclose whether the 'Sangthan', which is filing the petition, has been authorized to file the present petition and, if so, by whom; besides, whether it has the funds to indulge in the litigation and whether it has the backing of majority of its members for the litigation.

The petitioner - 'Sangthan' has submitted a list of its members by way of affidavit of Mr. Brij Pal, President of the 'Sangthan'. The list comprises of fifteen members; besides, certificate of registration of the 'Sangthan' dated 02.07.2014 (Annexure P23) and Constitution (Annexure P24) of the 'Sangthan' have been placed on record. The Memorandum (Annexure P25) mentioning the 'aims and objectives' of the 'Sangthan' has also been placed on record.

It is to be noticed that in the Constitution (Annexure P24) under para 4 relating to 'Membership' sub-para (3) thereof envisages that the members shall subscribe to entry membership fee, annual subscription and shall not be in arrears of any kind of fee/subscription and the eligibility of the members to attend the annual general meetings shall be subject to clearance of all dues including the membership fee and annual subscription.

During the course of hearing, learned counsel for the petitioner informed that though entry fee for membership is Rs.1100/-, however, he is unable to show annual membership fee of the members and whether it has been collected and, if so, whether it is being deposited in a bank. Bank statement (at pages 334 to 340 of the paper book) has been filed, which shows that on 02.03.2017 the 'Sangthan' had Rs.4,209/- in its credit. The said amount in our view is insufficient to indulge in this litigation.

The petitioner - 'Sangthan' had earlier filed a writ petition, i.e. CWP No. 10637 of 2015, which was disposed of on 17.08.2016 (Annexure P38). A perusal of the order dated 17.08.2016 (Annexure P38) shows that none appeared for the petitioner and none had appeared for it for the last

three dates. The writ petition was disposed of by this Court as having been rendered infructuous. Besides, the 'Sangthan' was stated to be an intervenor in the case of 'Haryana Progressive Schools Conference (Regd.) v. Union of India and others', CWP No. 4925 of 2014, decided on 01.04.2015. However, the issue whether it had *locus standi* to indulge in the litigation was not gone into.

A Division Bench of this Court in Ajaib Singh and another v. State of Punjab and others, (2013-4) PLR 367, has referred to the provisions of the Maintainability of Public Interest Litigation Rules, 2010 ('Rules' - for short), which lays down the guidelines for entertaining a public interest petition. It is stated that the nature of grievance set out in the said petition did not fall within the defined Clauses of para-6 where a PIL may be ordinarily entertained. In fact, the nature of grievance in the said case, it was observed, was a cause on which many PILs were filed, was really in the nature of allegations against the municipal authorities for failure to perform their statutory duties. It was 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', it was observed, *inter alia* implies that the petitioner has to set forth what he has been doing 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 is, thus,

filing a PIL. The Registry was directed to ensure strict compliance with the Rules and to return the petitions filed as PIL with objection (s) unless the parameters, as mentioned in the judgment, were specified. It was held 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 jurisdiction on the cause of public interest and, if they are not satisfied with the antecedents, to return the petition.

When the present petition was filed, the Registry raised objections including that the writ petition be filed according to the directions passed by a Division Bench of this Court in Ajaib Singh's case (supra), the judgment of which is available on the High Court website. The petitioner was also asked to specifically disclose its credentials and its direct and indirect personal motive or interest involved in the case, if any, by way of an affidavit. However, the petitioner, in response to objection (1), stated, "education is covered under PIL Rule". In the end, a note has been put by learned counsel for the petitioner to the effect, "Kindly put up as it is before the Hon'ble Bench". However, in accordance with the Rules, for maintaining a petition nothing has been spelled out. Besides, the matter regarding education fee is subject matter of consideration in other connected petitions.

In the circumstances, for the present, we are unable to accept the contention of learned counsel for the petitioner that the petitioner has *locus standi* to file the present petition. In case, in future the petitioner - 'Sangthan' is able to organize its affairs and maintain its account, the

question of *locus standi* may be reconsidered.

For the foregoing reasons, the petition is dismissed for want of *locus standi* to file the present petition.

(S.S. SARON)
JUDGE

(DARSHAN SINGH)
JUDGE

27.04.2017
Ramesh

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