

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

CWP-7295 of 2017 (O&M)
Date of Decision:- 11.05.2017

Environment and Health Protection Society, Punjab (Regd.)

... Petitioner

Versus

State of Punjab and others

... Respondents

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

Present:- Mr. Naresh Kaushik, Advocate,
for the petitioner.

S.S.Saron, J.

The petition has been filed by the Environment and Health Protection Society, Punjab (Regd.), Ludhiana ('Society' - for short) through its President Sh. Gurcharanjit under Articles 226 and 227 of the Constitution of India for directing respondents No.3 to 6 not to release new industrial power connection in the residential zone area covered under notified residential town planning and building schemes areas of Shimlapuri and New Shimlapuri, Ludhiana and also residential area as per Notified Master Plan of Ludhiana City by wrongly interpreting Circular No.49 of 2016 of the Department of Power, Government of Punjab (respondent No.3). A further prayer has been made to disconnect the industrial electricity connection issued without obtaining NOC/CLU (No Objection Certificate/Change of Land Use) from the concerned Municipal, Town Planning Department and the Pollution Control Board Authority by wrong

interpretation of aforesaid Circular No.49 of 2016 of the Department of Power, Government of Punjab (respondent No.3) in the notified residential area of Shimlapuri, Ludhiana.

The petitioner, it is submitted, is a Registered society registered under the Societies Registration Act. It is stated that the petitioner-Society is acting for the protection of environment and public health by adopting legal procedure by filing civil suits as well as Public Interest Litigations before the Civil Courts, Executive Authorities and this Court. It has been working since 1998. It has members belonging mostly of Shimlapuri, New Shimlapuri, New Janta Nagar and other areas of the Ludhiana.

At the time of filing the petition, the Registry of this Court *inter alia* raised objections to the effect as to whether the Public Interest Litigation that had been filed fell under the Maintainability of Public Interest Litigation Rules, 2010 ('Rules'-for short); besides how the present Public Interest Litigation was maintainable in terms of Clause 6 of the Rules. It was also emphasized that the petition be filed according to the directions passed by a Division Bench of this Court in Ajaib Singh v. State of Punjab and others (2013 - 4) PLR, 367. The Registry of this Court also informed the petitioner that it was required to specifically disclose its credentials and its direct or indirect personal motive or interest involved in the case, if any, by way of an affidavit. The petitioner was also asked to furnish Registration Certificate of its Society, income proof of the petitioner -Society was also asked to be filed.

The petitioner in response to the objections that were raised merely re-filed the petition stating; "Re-filed after compliances". In the index page of the petition four notes have been put and note No.4 (iii) is to

the effect that the Society has no regular income and no donation has ever been received from any person for any purpose. The Society has no bank balance, bank account, property, cash in hand, liability, assets, loan etc. It is further stated that as and when the Society decides to take any matter, its members mutually take the responsibility to take their part in the said matter and they bear all the expenses for fulfilling their responsibility from their personal pocket.

Sh. Gurcharanjit, President of the petitioner-Society had earlier as an Executive Member of the petitioner-Society filed CWP No.18274 of 1996 which was for directing the Punjab State Electricity Board, Patiala and Municipal Corporation, Ludhiana (respondents No.2 and 3 in the said petition) not to release any new industrial connection in the residential area without obtaining the consent from the Punjab Pollution Control Board. Written statement was filed by the Punjab State Electricity Board and the Municipal Corporation, Ludhiana. This Court referred to instructions No.41 in the said case which showed that for checking water/air pollution, it had been decided to impose certain restrictions on the release of connections to the Industrial Units and they were required to install equipment for control of Air/Water Pollution. It was stated that the actual connection/extension was released to the Industrial Units only on the submission of clearance certificate from the Punjab Pollution Control Board. It was further stated that installation of adequate pollution control equipment had been made applicable to all industries which fell under the red category and no extension was admissible even where the load was less than 20 KW. It was also stated that if any industry violated the Rules/Instructions issued by the Punjab Pollution Control Board in that case the

Punjab State Electricity Board would be at liberty to disconnect the connection and same was not to be released till the compliance was made by the concerned industry. The said averments made by the Punjab State Electricity Board in the said case were not controverted. Accordingly, for the reasons recorded, no merit was found in the petition and the same was dismissed vide order dated 10.11.1997 (Annexure P-4).

The filing of the said petition by the petitioner-Society would not confer any *locus standi* on it to file a Public Interest Litigation. In fact Hon'ble the Supreme Court in State of Uttaranchal v. Balwant Singh Chauhan AIR 2010 SC 2550 which was decided on 18.01.2010 i.e. after the earlier petition filed by the petitioner-Society had been dismissed, *inter alia* held that instead of any individual Judge devising his own procedure for dealing with a Public Interest Litigation, it would be appropriate for each High Court to properly formulate rules for encouraging genuine Public Interest Litigations and discouraging those filed with oblique motives. It was said that the High Courts, which had not yet framed rules should do so within three months. The Registrar General of each High Court was directed to ensure that a copy of the rules prepared by the High Court was sent to the Secretary General of the Supreme Court immediately thereafter. It was said that the Court should *prima facie* verify the credentials of the petitioner before entertaining a Public Interest Litigation. Besides, the Courts should be *prima facie* satisfied regarding the correctness of contents of the petition before entertaining it. Further, the Court should be fully satisfied that substantial public interest was involved before entertaining the petition. The Courts were also to ensure that the petitions which involved larger public interest, gravity and urgency must be given priority

over other petitions. Besides, the Courts before entertaining the Public Interest Litigation were asked to ensure that it was aimed at redressal of genuine public harm or public injury. The Courts were to ensure that there was no personal gain, private motive or oblique motive behind filing such Public Interest Litigations. Lastly, the Courts were also asked to ensure that petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by imposing similar novel methods to curb frivolous petitions and petitions filed for extraneous considerations.

It is in consequence of the said judgment that the Rules have been framed. The petitioner-Society in terms of the said Rules is to satisfy the conditions as provided for therein. The Rules were considered by a Division Bench of this Court in Ajaib Singh v. State of Punjab (supra), it was said that a petitioner filing a Public Interest Litigation has to specifically disclose his credentials and 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 did for his living, what public interest he had been espousing, the work done by him in that behalf, the particulars of any matter preferred by him as Public Interest Litigation earlier on which the Court had passed orders etc. It could not imply merely writing a sentence that a person was residing in the State, was public spirited and was thus filing a Public Interest Litigation.

The petitioner in support of its petition has filed an affidavit in which the objects for which the Society was formed are mentioned and earlier petitions that were filed are mentioned. Besides, general averments

regarding rendering of legal advice are mentioned; however, there is no mention as to what public cause it has espoused or the work done by it in that behalf.

Even otherwise, Hon'ble the Supreme Court in Bhartiya Homoeopathy College v. Students Council of Homeopathy (1998) 2 SCC 449 considered the case of the Students Council of Homoeopathy College at Jaipur, which had filed a Public Interest Litigation challenging the order of the Vice Chancellor permitting students in IInd, IIIrd and final year of B.H.M.S. classes of the appellants-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. A Division Bench of the Rajasthan High Court, in appeal, however, 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. Hon'ble the Supreme Court held that Students' Council did not disclose whether the Council was authorised 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 it. Therefore, the Council was liable to show as to whether it had been authorized to file such a litigation and if so by whom; whether it had the funds to indulge in the litigation and whether it had the backing of a majority of its members for it.

In the present petition, no list of members of the petitioner-Society has been disclosed; there is no resolution book or proceeding books that is shown to have been maintained; insofar as funds are concerned, note 4 (iii) of the index and also the affidavit that has been filed clearly states

that the petitioner-Society has no funds or regular income. Therefore, it can be said that it does not have the funds to indulge in such a litigation.

In the circumstances, the petitioner is not to be lightly allowed to pursue such a litigation. The petitioner may carry out necessary amendments as it deems fit in its activity so as to fall within the required parameters for filing such a petition. However, for the present, we hold that petitioner - Society has no *locus standi* to file such a petition.

Accordingly, the present civil writ petition is dismissed for want of *locus standi* to file it.

(S.S.SARON)
JUDGE

(DARSHAN SINGH)
JUDGE

May 11, 2017
mohan

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