

(109)

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

**CWP (PIL) No.7328 of 2017
Date of decision: 07.04.2017**

Sudarshan Sharma

.....Petitioner

Versus

Union of India and others

.....Respondents

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

Present: Mr. Avnish Mittal, Advocate for petitioner.

S.S. Saron, J.

The petitioner Sudarshan Sharma has filed the present petition under Articles 226/227 of the Constitution of India seeking a direction for directing the respondents, in the larger public interest, to get Deoxyribonucleic acid (DNA) tests done of the half burnt bone ashes of the martyrs Shaheed Bhagat Singh, Rajguru and Sukhdev, which are lying preserved and displayed at the Shaheed-e-Azam Bhagat Singh Museum, Khatkar Kalan, Distt. Shaheed Bhagat Singh Nagar (respondent No.5) as the faith, myth and belief of every true citizen that the same are actually of the martyrs and not that of an animal, is involved.

The Shaheed-e-Azam Bhagat Singh Museum was inaugurated at the ancestral village Khatkar Kalan, District Shaheed Bhagat Singh Nagar of Shaheed Bhagat Singh on 23.03.1981 on his 50th Martyrdom Anniversary. The Museum is commemorative tribute to Shaheed-e-Azam

and his compatriots who raised a banner of revolt against the British Empire for freedom. Photographs, mementos and other materials relating to the great martyrs and revolutionaries have been preserved. The museum also has burnt bone ashes and blood-stained newspapers which are preserved and are displayed.

The petitioner has highlighted that the preservation of the half burnt bone ashes of the martyrs is of larger public importance involving the faith, myth and belief of every true citizens to believe that the same are actually that of the martyrs Shaheed Bhagat Singh, Rajguru and Sukhdev. It is submitted that under the Indian Museum Rules, 1970 framed under the Indian Museum Act, 1910, the museum is not to accept any object as gift or on loan unless it is satisfied that the object is worthy of display in the museum. The petitioner, it is stated, has great respect for the freedom fighters and martyrs. He has undertaken a research and was shocked, besides, pained to know from various research articles, books, library records that the bone ashes of the martyrs displayed at Shaheed-e-Azam Bhagat Singh Museum at Khakar Kalan were not of the martyrs but of some animal. Such revelations were reported in a book titled, "Martyrdom of Shaheed Bhagat Singh, Some Hidden Facts" by K.S. Kooner and Dr. G.S. Sindhra. These research articles, books, library record and various newspapers are based on the statement of V.M. Smith, the then Superintendent of Police of CID Punjab who recorded these facts in a diary which depicts the facts at the time of the martyrdom of Shaheed Bhagat

Singh, Rajguru and Sukhdev. After receiving the information under the Right to Information Act, 2005, the petitioner submitted a number of representations dated 16.02.2017, 06.09.2016, 06.09.2016, 06.09.2016 and 24.06.2016 (Annexures P1 to P5) requesting the respondents' authorities to verify the bone ashes of Shaheed Bhagat Singh, Rajguru and Sukhdev preserved at the Bhagat Singh Memorial at Khatkar Kalan by getting DNA tests done. The submissions of the said representations according to the petitioner shows his zeal to know the scientific truth which every true citizens of India equally have for the great freedom fighters and martyrs.

According to the petitioner he has vide letter dated 16.11.2016 (Annexure P6) received photocopy of a diary maintained by V.W. Smith, then Superintendent of Police, C.I.D. at Lahore regarding the 'Saunders murder' case. The petitioner submits that he has also been granted permission (Annexure P-9) on 08.03.2017 to reproduce British Library record obtained by him. In terms of the material (Annexures P-7 and P-8) that has been received, it is submitted that the same would show that the actual execution was carried out and remains were cremated secretly at the banks of Beas river and further the ashes and burnt bones of the executed persons were consigned to the river. V.M. Smith, it is submitted, in his diary doubted the half burnt bones and recorded the same to be that of an animal. The truth could only be revealed if DNA tests were conducted. The ashes that are kept in the museum may be of some animal. Therefore, the DNA test would clear the picture.

We have given our thoughtful consideration to the matter.

The petitioner is stated to be a Chartered Accountant by profession, researcher and actively involved in the various social activities. He has been Honorary Secretary of Libra College of Law, Dehradun in the State of Uttarakhand. It is submitted that the College was donated the dioramas depicting court scene and hanging scene of great martyrs Shaheed Bhagat Singh, Rajguru and Sukhdev by the Hon'ble Supreme Court of India, which were then displayed in the museum of Hon'ble Supreme Court of India. The petitioner being a Chartered Accountant and researcher has sufficient resources and means. He does not have any direct or indirect personal motive or interest in the present case except the zeal to salute, honour and thank the great souls i.e. martyrs Shaheed Bhagat Singh, Rajguru and Sukhdev.

The present petition has been filed in the nature of Public Interest Litigation stating to be espousing a public cause for verifying the bone ashes of the great martyrs which are displayed in the Shaheed-e-Azam Museum at Khatkar Kalan, District Shaheed Bhagat Singh Nagar.

This Court has framed the Maintainability of Public Interest Litigation Rules, 2010 ('Rules' – for short), which are to be adhered to and followed by persons filing PILs. The Rules were considered by a Division Bench of this Court in Ajaib Singh versus State of Punjab (2013 - 4) PLR 367. It was held that a petitioner filing a PIL 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 though has stated that he is a Chartered Accountant, therefore, he is earning his livelihood from the same; however, he has failed to mention as to what public interest he has been espousing and the work done by him in that behalf. Therefore, for the failure of the petitioner to mention and indicate as to what public cause he has been espousing, we are satisfied that he has no *locus standi* to file the petition in the nature of public interest.

Even otherwise, to get DNA tests conducted of the bone ashes of the martyrs on the basis of a diary being maintained in the British Library would be quite inappropriate. It may be good work for the historians and researchers; however, in a Court of Law it is difficult to go into this aspect so as to accept its veracity and genuineness. The references which the petitioner has made to the diary that he has obtained are to the effect that the remains of the martyrs were cremated secretly at the banks of river Beas and the ashes and burnt bones were consigned in the river. However, it is a well known fact that the cremation of the martyrs was done on banks of river

Sutlej at Hussainiwala, District Ferozepur where there is a National Martyrs Museum Memorial and a 'Samadhi' (cenotaph). The cremation was not done on the banks of river Beas, as is the case set up by the petitioner on the basis of the copy of a diary that he is stated to have obtained. Therefore, in the circumstances, this Court is not to go into the authenticity or correctness of the diary or its contents and on the basis of the same, get DNA tests done so as to verify whether the bone ashes of the martyrs Shaheed Bhagat Singh, Rajguru and Sukhdev displayed at the Shaheed-e-Azam Bhagat Singh Museum at Khatkar Kalan, District Shaheed Bhagat Singh Nagar are genuine or otherwise.

Consequently, the petitioner having no locus standi and even otherwise there being nothing on merit, the petition is dismissed.

(S.S. SARON)
JUDGE

07.04.2017
sunil yadav

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No