

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.21817 of 2018

Jawaharlal Shanmugam

.. Petitioner

Vs.

1.The State of Tamil Nadu
Represented by
The Additional Chief Secretary
Department of Transport
Secretariat, Fort St. George
Chennai 600 009

2.The Secretary
Department of Local Administration
Secretariat, Fort St. George
Chennai - 600 009

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for a writ of mandamus, to consider the representation dated 27.11.2017 and thereby direct the respondents to ensure safety measures incorporated as per statutory rules and regulations in all government public transport buses operated in the State of Tamil Nadu and also direct the respondents to provide adequate infrastructural facilities at the bus terminus and bus shelters.

For Petitioner : Mr.M.Velmurugan

For Respondents: Mr.T.N.Rajagopalan,
Govt. Pleader

O R D E R

(Judgment of this Court was made by S.MANIKUMAR, J.)

Claiming himself to be a public interest litigant, petitioner, a resident of Thiruvannamiyur, Chennai, is stated to have sent a representation dated 27.11.2017, raising certain issues, which according to him, fall within the ambit, public interest. Issues, raised in the representation are as under:

" 1. I am wondering how the buses do not have left side wiper on the windscreen.

A. It is imperative that a driver of a bus needs to have a full clear view of the windscreen from left to right side without any obstruction to the view. Without a left wiper, during rains, the entire left side would become almost opaque and foggy, thereby disturbing the vision. It is all the more crucial that the left side of the bus is clearly visible during overtaking any small error in judgment could lead to a fatal accident. Even cars, small vans, mini buses and private omni buses have two wipers to help drivers but big Government buses are operating with a single wiper is definitely putting the driver into jeopardy of driving the vehicle.

B. In the above context, I wish to state that on 20.11.2017, I was returning from the Secretariat after attending an important meeting at the Dept of Health & Family Welfare, regarding my highly sensitive PIL case related to Hospital disaster management, chaired by the Principal Secretary. On my return to Tiruvannamur at 6.00 p.m from the Secretariat bus stop, I took the MTC bus route 102C Broadway to Chembancherry (Vehicle No.TN-01 N-9794, Bus No.CD 3399). To my surprise, the bus did not have the wiper in working condition in front of the driver (right side) and the wonderful driver was using all his experience to safely manoeuvre the vehicle. The motor driving the wiper is under repair and not rectified. This is totally unacceptable. I had my sympathy and empathy towards the wonderful driver and laud his efforts in driving such an unsafe vehicle.

C. The single wiper present in Govt buses are placed on the top of the windscreen and the arc of their wiping is very limited to zone of the driver's vision. As short person may find it even more difficult. Moreover, in many MTC and TNSTC buses the wiper length is small. Hardly 20-30% of the front zone is only covered. Kindly look at the arc created by the wiper in the photos attached. Strictly speaking, the wipers for right and left side should be at the bottom and fitted with a long wiping blade to ensure the entire zone of driver's vision is wiped clean.

2. The left side and the bottom of the windscreen is used for pasting stickers and posters, highlighting some government event, route numbers, name of

transport etc, thereby obstructing the view.

A. The windscreen is supposed to be neat and clean all the time. Windscreen cannot and should not be used as a medium to propagate any information. The usual accepted convention internationally is "A driver's windscreen must be kept clear from obstruction that interfere with vision". There is no need to have the front broad sticker of almost 6-8 inches in width to highlight the name of the transport at the base of the windscreen to its entire length. The driver should have a clear view of the edges from left to right and the distance between his vehicle and the vehicles in the front. A majority of the drivers due to this impediment in viewing use their experience and judgment. The driver sits at least 3-4 feet from the windscreen and it is very difficult to notice any small vehicle in the front and below the windscreen.

B. In SETC buses, there is no need to put such a broad sticker to highlight the name of origin and destination in Tamil and English to obstruct the view. This could feature on the top portion of the windscreen above the driver. Wonder why there should be fixed route stickers on buses. SETC buses have so many stickers highlighting all sorts of information.

3. The rear view mirrors of Govt buses are so small and round in shape and it is extremely difficult for the drivers to have a proper side view of the entire bus and other vehicles coming behind.

A. Being a small size mirror the drivers strain their neck to have a proper view. Moreover, in city buses, during the peak time the commuters tend to travel on the footboard and even protrude their body outside. The drivers would find it extremely difficult to have a proper view. It is dangerous to drive big buses without proper rear view mirrors. Moreover, the quality of the mirrors are so bad.

B. The big rear view mirrors should be placed in front of the buses for the drivers to have a clear view, as seen in the photos of private buses attached. This is the conventional method adopted in the developed and good developing countries.

4. Working Condition for the drivers in the cabin area.

A. Quite often when I travel, I prefer to sit in the

front portion close to the driver so that I could stretch my legs. The heat generated from the engine gets radiated due to poor insulating cover. This is causing enormous hardships for the driver and the passengers sitting in close proximity to the engine. During summer the situation is unbearable.

B. A good adjustable seat with cushion has to be provided for the convenience of the driver. The seats are in very bad condition.

C. The dashboard in front of the driver is in bad condition for a majority of MTC buses with wires hanging and not covered properly. Passengers sitting in the front would have a feeling if it is indeed safe to travel, looking at the condition of the dashboard.

D. The gear transmission lever rod in a few buses does not have the mount or knob to hold. Without a knob the driver has to use the handle rod to shift gears.

E. Majority of the buses give rattling noise with a bumpy ride, due to poor condition of suspension and shock absorbers.

5. The pathetic maintenance of Tiruvanmiyur bus terminus

A. Tiruvanmiyur bus terminus is situated below the road level. Even a few minutes of heavy downpour could flood the entire terminus making it difficult for the commuters to get inside.

B. There is a big patch of concrete driveway that has been severely damaged. The buses while entering into the terminus from the main road invariably has to pass through this damaged patch very carefully, so as to ensure the under chassis does not get hit. Equally, this big damaged patch could cause serious injuries to commuters if they do not visualise it while entering. In the evening time, it is almost dangerous.

C. Buses coming out of the bus terminus will have to climb a small gradient carefully so as to ensure the under Chassis is not hit.

D. The toilers provided inside the terminus are in a bad condition. Many male commuters and staff members use the compound wall surrounding the terminus for

urination. This is unhygienic and also gives a bad impression to the state of affairs. Even the approach path to the toilets is not good.

2. Contending inter alia that the said representation dated 27.11.2017, has not been responded, instant writ petition has been filed. In support of the prayer sought for, Mr.M.Velmurugan, learned counsel for the petitioner, drew the attention of this court to the photographs enclosed in the typed set of papers and made submissions. We have perused the same.

3. Heard Mr.M.Velmurugan, learned counsel for the petitioner.

4. Before going into the merits of the representation dated 27.11.2017, we deem it fit to consider few judgments of the Hon'ble Apex Court, on public interest litigations.

In S.P.Anand v. H.D.Deve Gowda reported in 1996 (6) SCC 734, the Hon'ble Supreme Court, at Paragraph 18, held as follows:

"It is of utmost importance that those who invoke this Court's jurisdiction seeking a waiver of the locus standi rule must exercise restraint in moving the Court by not plunging in areas wherein they are not well-versed. Such a litigant must not succumb to spasmodic sentiments and behave like a knight-errant roaming at will in pursuit of issues providing publicity. He must remember that as a person seeking to espouse a public cause, he owes it to the public as well as to the court that he does not rush to court without undertaking a research, even if he is qualified or competent to raise the issue. Besides, it must be remembered that a good cause can be lost if petitions are filed on half-baked information without proper research or by persons who are not qualified and competent to raise such issues as the rejection of such a petition may affect third party rights. Lastly, it must also be borne in mind that no one has a right to the waiver of the locus standi rule and the court should permit it only when it is satisfied that the carriage of proceedings is in the competent hands of a person who is genuinely concerned in public interest and is not moved by other extraneous considerations. So also the court must be careful to ensure that the process of the Court is not sought to be abused by a person who desires to persist with his point of view, almost carrying it to the point of obstinacy, by filling a series of petitions refusing to accept the Court's earlier decisions as concluding the point. We say this because when we drew the attention of the petitioner to earlier decisions of this Court, he

brushed them aside, without so much as showing willingness to deal with them and without giving them a second look, as having become stale and irrelevant by passage of time and challenged their correctness on the specious plea that they needed reconsideration. Except for saying that they needed reconsideration he had no answer to the correctness of the decisions. Such a casual approach to considered decisions of this Court even by a person well-versed in law would not be countenanced. Instead, as pointed out earlier, he referred to decisions having no bearing on the question, like the decisions on cow slaughter cases, freedom of speech and expressssion, uniform civil code, etc., we need say no more except to point out that indiscriminate of this important lever of public interest litigation would blunt the lever itself."

In *Balco Employees' Union (Regd.) v. Union of India* reported in 2002 (2) SCC 333, the Hon'ble Supreme Court, held that,

"Public interest litigation, or PIL as it is more commonly known, entered the Indian judicial process in 1970. It will not be incorrect to say that it is primarily the judges who have innovated this type of litigation as there was a dire need for it. At that stage, it was intended to vindicate public interest where fundamental and other rights of the people who were poor, ignorant or in socially or economically disadvantageous position and were unable to seek legal redress were required to be espoused. PIL was not meant to be adversial in nature and was to be a cooperative and collaborative effort of the parties and the court so as to secure justice for the poor and the weaker sections of the community who were not in a position to protect their own interests. Public interest litigation was intended to mean nothing more than what words themselves said viz. "litigation in the interest of the public."

In *Ashok Kumar Pandey v. State of W.B.*, reported in 2004 (3) SCC 349, the Hon'ble Apex Court, after considering few decisions, on the aspect of public interest litigation, observed as follows:

"4. When there is material to show that a petition styled as a public interest litigation is nothing but a camouflage to foster personal disputes, said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. Public Interest Litigation which has now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "private interest litigation" or "politics interest litigation" or the latest trend "paise income litigation". If not

properly regulated and abuse averted it becomes also a tool in unscrupulous hands to release vendetta and wreck vengeance, as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of knight errant or poke ones into for a probe. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. These aspects were highlighted by this Court in *The Janta Dal v. H.S. Chowdhary* [1992 (4) SCC 305] and *Kazi Lhendup Dorji vs. Central Bureau of Investigation* (1994 Supp (2) SCC 116). A writ petitioner who comes to the Court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective. See *Ramjas Foundation v. Union of India* (AIR 1993 SC 852) and *K.R. Srinivas v. R.M. Premchand* (1994 (6) SCC 620).

5. It is necessary to take note of the meaning of expression 'public interest litigation'. In *Strouds Judicial Dictionary*, Volume 4 (IV Edition), 'Public Interest' is defined thus:

"Public Interest (1) a matter of public or general interest does not mean that which is interesting as gratifying curiosity or a love of information or amusement but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected."

6. In *Black's Law Dictionary* (Sixth Edition), "public interest" is defined as follows :

"Public Interest something in which the public, or some interest by which their legal rights or liabilities are affected. It does not mean anything the particular localities, which may be affected by the matters in question. Interest shared by national government...."

7. In *Janata Dal* case (supra) this Court considered the scope of public interest litigation. In para 52 of the said judgment, after considering what is public interest, has laid down as follows :

"The expression 'litigation' means a legal action including all proceedings therein initiated in a Court

of law for the enforcement of right or seeking a remedy. Therefore, lexically the expression "PIL" means the legal action initiated in a Court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected."

8. In paras 60, 61 and 62 of the said judgment, it was pointed out as follows:

"Be that as it may, it is needless to emphasis that the requirement of locus standi of a party to a litigation is mandatory, because the legal capacity of the party to any litigation whether in private or public action in relation to any specific remedy sought for has to be primarily ascertained at the threshold."

9. In para 96 of the said judgment, it has further been pointed out as follows:

"While this Court has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly developed doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that Courts should not allow its process to be abused by a mere busy body or a meddlesome interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration."

10. In subsequent paras of the said judgment, it was observed as follows:

"109. It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have as locus standi and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly a vexatious petition under the colour of PIL, brought before the Court for vindicating any personal grievance, deserves rejection at the threshold".

11. It is depressing to note that on account of such trumpery proceedings initiated before the Courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievance go unnoticed, un-represented and unheard; yet we cannot avoid but express our opinion that while genuine

litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters - government or private, persons awaiting the disposal of cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenu expecting their release from the detention orders etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, the busy bodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffing their faces by wearing the mask of public interest litigation and get into the Courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the Courts and as a result of which the queue standing outside the doors of the court never moves, which piquant situation creates frustration in the minds of the genuine litigants and resultantly they loose faith in the administration of our judicial system.

12. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such

busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.

13. The Council for Public Interest Law set up by the Ford Foundation in USA defined the "public interest litigation" in its report of Public Interest Law, USA, 1976 as follows:

"Public Interest Law is the name that has recently been given to efforts provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in the recognition that ordinary market place for legal services fails to provide such services to significant segments of the population and to significant interests. Such groups and interests include the proper environmentalists, consumers, racial and ethnic minorities and others."

14. The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike balance between two conflicting interests; (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the Court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature. The Court has to act ruthlessly while dealing with imposters and busy bodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of Pro Bono Publico, though they have no interest of the public or even of their own to protect.

15. Courts must do justice by promotion of good faith, and prevent law from crafty invasions. Courts must maintain the social balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good. (See State of Maharashtra v. Prabhu [(1994 (2) SCC 481)] and Andra Pradesh State Financial Corporation v. M/s.GAR Re-Rolling Mills and Another [AIR 1994 SC 2151]. No litigant has a right to unlimited drought on the Court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as a licence to file misconceived and frivolous petitions.

[See *Buddhi Kota Subbarao (Dr.) v. K.Parasaran*, (1996) 7 JT 265]. Today people rush to Courts to file cases in profusion under this attractive name of public interest. They must inspire confidence in Courts and among the public.

16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that Courts are flooded with large number of so called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in large number of cases, yet unmindful of the real intentions and objectives, Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in *Dr.Duryodhan Sahu and Ors., v. Jitendra Kumar Mishra and Ors.*, (AIR 1999 SC 114), this Court held that in service matters PILs should not be entertained, the inflow of so- called PILs involving service matters continues unabated in the Courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the Court should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the Courts to filter out the frivolous petitions and dismiss them with costs as afore-stated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the Courts.

17.

18. In *S.P.Gupta v. Union of India* [1981 Supp. SCC 87], it was emphatically pointed out that the relaxation of the rule of locus standi in the field of PIL does not give any right to a busybody or meddlesome interloper to approach the Court under the guise of a public interest litigant. He has also left the following note of caution: (SCC p.219, para 24)

"But we must be careful to see that the member of the public, who approaches the court in cases of this kind, is acting bona fide and not for personal gain or

private profit or political motivation or other oblique consideration. The court must not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain a political objective."

19. In *State of H.P. vs. A Parent of a Student of Medical College, Simla and Ors.* (1985 (3) SCC 169), it has been said that public interest litigation is a weapon which has to be used with great care and circumspection.

20. Khalid, J. in his separate supplementing judgment in *Sachidanand Pandey vs. State of W.B.*, (1987 (2) SCC 295, 331) said:

"Today public spirited litigants rush to courts to file cases in profusion under this attractive name. They must inspire confidence in courts and among the public. They must be above suspicion. (SCC p. 331, para 46)

* * *

Public interest litigation has now come to stay. But one is led to think that it poses a threat to courts and public alike. Such cases are now filed without any rhyme or reason. It is, therefore, necessary to lay down clear guidelines and to outline the correct parameters for entertainment of such petitions. If courts do not restrict the free flow of such cases in the name of public interest litigations, the traditional litigation will suffer and the courts of law, instead of dispensing justice, will have to take upon themselves administrative and executive functions. (SCC p.334, para 59)

* * *

I will be second to none in extending help when such help is required. But this does not mean that the doors of this Court are always open for anyone to walk in. It is necessary to have some self-imposed restraint on public interest litigants." (SCC p.335, para 61)

21. Sabyasachi Mukharji, J. (as he then was) speaking for the Bench in *ramsharan Autyanuprasi v. Union of India* (1989 Supp (1) SCC 251), was in full agreement with the view expressed by Khalid, J. in *Sachidanand Pandey's case* (supra) and added that 'public interest litigation' is an instrument of the administration of justice to be used properly in proper cases. [See also separate judgment by Pathak, J. (as he then was) in *Bandhua Mukti Morcha v. Union of India* (1984 (3) SCC 161).]

22. Sarkaria, J. in *Jasbhai Motibhai Desai v. Roshan Kumar* (1976 (1) SCC 671) expressed his view that the application of the busybody should be rejected at

the threshold in the following terms: (SCC p. 683, para 37)

"It will be seen that in the context of locus standi to apply for a writ of certiorari, an applicant may ordinarily fall in any of these categories : (i) 'person aggrieved'; (ii) 'stranger'; (iii) busybody or meddlesome interloper. Persons in the last category are easily distinguishable from those coming under the first two categories. Such persons interfere in things which do not concern them. They masquerade as crusaders for justice. They pretend to act in the name of pro bono publico, though they have no interest of the public or even of their own to protect. They indulge in the pastime of meddling with the judicial process either by force of habit or from improper motives. Often, they are actuated by a desire to win notoriety or cheap popularity; while the ulterior intent of some applicants in this category, may be no more than spoking the wheels of administration. The High Court should do well to reject the applications of such busybodies at the threshold."

23. Krishna Iyer, J. in Fertilizer Corpn. Kamgar Union (Regd.) v. Union of India (1981 (1) SCC 568) in stronger terms stated: (SCC p.589, para 48)

"48. If a citizen is no more than a wayfarer or officious intervener without any interest or concern beyond what belongs to any one of the 660 million people of this country, the door of the court will not be ajar for him."

24. In Chhetriya Pardushan Mukti Sangharash Samiti v. State of U.P., (1990 (4) SCC 449), Sabyasachi Mukharji, C.J. observed: (SCC p.452, para 8)

"While it is the duty of this Court to enforce fundamental rights, it is also the duty of this Court to ensure that this weapon under Article 32 should not be misused or permitted to be misused creating a bottleneck in the superior court preventing other genuine violation of fundamental rights being considered by the court."

25. In Union Carbide Corporation v. Union of India (1991 (4) SCC 584, 610), Ranganath Mishra, C.J. in his separate judgment while concurring with the conclusions of the majority judgment has said thus: (SCC p.610, para 21)

"I am prepared to assume, nay, concede, that public activists should also be permitted to espouse the cause of the poor citizens but there must be a limit set to such activity and nothing perhaps should be done which would affect the dignity of the Court and bring down the serviceability of the institution to the people at large. Those who are acquainted with

jurisprudence and enjoy social privilege as men educated in law owe an obligation to the community of educating it properly and allowing the judicial process to continue unsoiled."

26 In *Subhash Kumar v. State of Bihar*, (1991 (1) SCC 598) it was observed as follows:

"Public interest litigation cannot be invoked by a person or body of persons to satisfy his or its personal grudge and enmity. If such petitions under Article 32, are entertained it would amount to abuse of process of the court, preventing speedy remedy to other genuine petitioners from this Court. Personal interest cannot be enforced through the process of this Court under Article 32 of the Constitution in the garb of a public interest litigation. Public interest litigation contemplates legal proceeding for vindication or enforcement of fundamental rights of a group of persons or community which are not able to enforce their fundamental rights on account of their incapacity, poverty or ignorance of law. A person invoking the jurisdiction of this Court under Article 32 must approach this Court for the vindication of the fundamental rights of affected persons and not for the purpose of vindication of his personal grudge or enmity. It is the duty of this Court to discourage such petitions and to ensure that the course of justice is not obstructed or polluted by unscrupulous litigants by invoking the extraordinary jurisdiction of this Court for personal matters under the garb of the public interest litigation".

27. In the words of Bhagwati, J. (as he then was) "the courts must be careful in entertaining public interest litigations" or in the words of Sarkaria, J. "the applications of the busybodies should be rejected at the threshold itself" and as Krishna Iyer, J. has pointed out, "the doors of the courts should not be ajar for such vexatious litigants".

In *Vikas Vashishth v. Allahabad High Court* reported in 2004 (13) SCC 485, the Hon'ble Supreme Court held as follows:

"At the very outset, we put it to the petitioner that a bare perusal of the petition shows that it is based entirely on newspaper reports and asked him whether before filing the petition he has taken care to verify the facts personally. His answer is in the negative. In the writ petition all the 21 High Courts have been included as respondents and Union of India has also been impleaded as the 22nd respondent. We asked the petitioner what has provoked him to implead all the High Courts as respondents and he states that it is his apprehension that similar incidents may occur

in other High Courts though there is no factual foundation for such appreciation.

5. After affording the full opportunity of hearing, we are satisfied that what purports to have been filed as a public interest litigation is nothing more than a "publicity interest litigation". It is writ large that it has been filed without any effort at verifying the facts by the petitioner personally."

In *R & M.Trust v. Koramangala Residents Vigilance Group* reported in 2005 (3) SCC 91, the Hon'ble Supreme Court, at Paragraphs 23 and 24, observed as follows:

"23. Next question is whether such Public Interest Litigation should at all be entertained & laches thereon. This sacrosanct jurisdiction of Public Interest Litigation should be invoked very sparingly and in favour of vigilant litigant and not for the persons who invoke this jurisdiction for the sake of publicity or for the purpose of serving their private ends.

24. Public Interest Litigation is no doubt a very useful handle for redressing the grievances of the people but unfortunately lately it has been abused by some interested persons and it has brought very bad name. Courts should be very very slow in entertaining petitions involving public interest in a very rare cases where public at large stand to suffer. This jurisdiction is meant for the purpose of coming to the rescue of the down trodden and not for the purpose of serving private ends. It has now become common for unscrupulous people to serve their private ends and jeopardize the rights of innocent people so as to wreak vengeance for their personal ends. This has become very handy to the developers and in matters of public contracts. In order to serve their professional rivalry they utilize the service of the innocent people or organization in filing public interest litigation. The Courts are sometimes persuaded to issue certain directions without understanding implication and giving a handle in the hands of the authorities to misuse it. Therefore, the courts should not exercise this jurisdiction lightly but should exercise in a very rare and few cases involving public interest of large number of people who cannot afford litigation and are made to suffer at the hands of the authorities."

In *Gurpal Singh v. State of Punjab* reported in 2005 (5) SCC 136, the Hon'ble Apex Court, while considering the scope of a petition styled as a public interest litigation, held as follows:

"5. The scope of entertaining a petition styled as a

public interest litigation, locus standi of the petitioner particularly in matters involving service of an employee has been examined by this court in various cases. The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike balance between two conflicting interests; (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the Court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature. The Court has to act ruthlessly while dealing with imposters and busy bodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of Pro Bono Publico, though they have no interest of the public or even of their own to protect.

6.

7. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that Courts are flooded with large number of so called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in large number of cases, yet unmindful of the real intentions and objectives, High Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in *Dr. Duryodhan Sahu and Ors. v. Jitendra Kumar Mishra and Ors.* (AIR 1999 SC 114), this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the Courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain

possession, the Court should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the Courts to filter out the frivolous petitions and dismiss them with costs as afore-stated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the Courts.

8.

9. It is depressing to note that on account of such trumpety proceedings initiated before the Courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievance go unnoticed, un-represented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and substantial rights and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters - government or private, persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenu expecting their release from the detention orders etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, the busy bodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no real public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffing their faces by wearing the mask of public interest litigation and get into the Courts by filing vexatious and frivolous petitions of luxury litigants who have nothing to loose but trying to gain for nothing and thus criminally waste the valuable time of the Courts and as a result of which the queue standing outside the doors of the court never moves, which piquant situation creates frustration in the minds of the genuine litigants.

10. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the

armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be allowed to be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives and try to bargain for a good deal as well to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs."

In Common Cause (A Regd. Society) v. Union of India reported in 2008 (5) SCC 511, Hon'ble Mr. Justice Markandey Katju, held as follows:

"59. Unfortunately, the truth is that PILs are being entertained by many courts as a routine and the result is that the dockets of most of the superior courts are flooded with PILs, most of which are frivolous or for which the judiciary has no remedy. As stated in Dattaraj Nathuji Thaware v. State of Maharashtra reported in AIR 2005 SC 540, public interest litigation has nowadays largely become 'publicity interest litigation', 'private interest litigation', or 'politics interest litigation' or the latest trend 'paise income litigation'. Much of P.I.L. is really blackmail.

60. Thus, Public Interest Litigation which was initially created as a useful judicial tool to help the poor and weaker section of society who could not afford to come to courts, has, in course of time, largely developed into an uncontrollable Frankenstein and a nuisance which is threatening to choke the dockets of the superior courts obstructing the hearing of the genuine and regular cases which have been waiting to be taken up for years together."

In the same judgment, concurring with the view of his Brother Judge, Hon'ble Mr. Justice H.K.Sema (as he then was), further added, as follows:

"69. Therefore, whether to entertain the petition in the form of Public Interest Litigation either represented by public-spirited person; or private

interest litigation in the guise of public interest litigation; or publicity interest litigation; or political interest litigation is to be examined in the facts and circumstances recited in the petition itself. I am also of the view that if there is a buffer zone unoccupied by the legislature or executive which is detrimental to the public interest, judiciary must occupy the field to subserve public interest. Therefore, each case has to be examined on its own facts."

In *Adarsh Shiksha Mahavidyalaya v. Subhash Rahangdale* reported in 2012 (2) SCC 425, the Hon'ble Supreme Court observed as follows:

"57. In the light of the above, we shall first consider whether the High Court committed an error by entertaining the writ petition filed by Subhash Rahangdale as public interest litigation. This Court has, time and again, laid down guiding principles for entertaining petitions filed in public interest. However, for the purpose of deciding the appellants' objection it is not necessary to advert to the plethora of precedents on the subject because in *State of Uttaranchal v. Balwant Singh Chaufal* (2010) 3 SCC 402, a two-Judge Bench discussed the development of law relating to public interest litigation and reiterated that before entertaining such petitions, the Court must feel satisfied that the petitioner has genuinely come forward to espouse public cause and his litigious venture is not guided by any ulterior motive or is not a publicity gimmick.

58. In paragraphs 96 to 104, the Bench discussed Phase-III of the public interest litigation in the context of transparency and probity in governance, referred to the judgments in *Vineet Narain v. Union of India* (1998) 1 SCC 226, *Centre for Public Interest Litigation v. Union of India* (2003) 7 SCC 532, *Rajiv Ranjan Singh "Lalan" (VIII) v. Union of India* (2006) 6 SCC 613, *M.C. Mehta v. Union of India* (2007) 1 SCC 110, *M.C. Mehta v. Union of India* (2008) 1 SCC 407 and observed:

"These are some of the cases where the Supreme Court and the High Courts broadened the scope of public interest litigation and also entertained petitions to ensure that in governance of the State, there is transparency and no extraneous considerations are taken into consideration except the public interest. These cases regarding probity in

governance or corruption in public life dealt with by the courts can be placed in the third phase of public interest litigation."

59. Reference also deserves to be made to the judgment of the three-Judge Bench in Shivajirao Nilangekar Patil v. Dr. Mahesh Madhav Gosavi (1987) 1 SCC 227 in which a new dimension was given to the power of the Superior Courts to make investigation into the issues of public importance even though the petitioner may have moved the Court for vindication of a private interest. In that case the High Court had entertained a writ petition filed by Assistant Medical Officer of K.E.M. Hospital, Bombay questioning the assessment of answer sheets of the Post Graduate Medical Examinations held by the Bombay University in October 1985. He alleged malpractices in the evaluation of the answer sheets of the daughter of the appellant who, at the relevant time, was Chief Minister of the State. The learned Single Judge held that altering and tampering of the grade sheets was done by Dr. Rawal at the behest of the Chief Minister. The Division Bench affirmed the order of the learned Single Judge with some modification.

60. While rejecting the objection raised on behalf of the appellant that the writ petition filed by the respondent cannot be treated as a petition filed in public interest, this Court observed:

"The allegations made in the petition disclose a lamentable state of affairs in one of the premier universities of India. The petitioner might have moved in his private interest but enquiry into the conduct of the examiners of the Bombay University in one of the highest medical degrees was a matter of public interest. Such state of affairs having been brought to the notice of the Court, it was the duty of the Court to the public that the truth and the validity of the allegations made be inquired into. It was in furtherance of public interest that an enquiry into the state of affairs of public institution becomes necessary and private litigation assumes the character of public interest litigation and such an enquiry cannot be avoided if it is necessary and essential for the administration of justice." (emphasis supplied)

5. Rule 101 of the Central Motor Vehicles Rules, 1989, which

deals with windscreen wiper, is reproduced hereunder:

101. Windscreen wiper.—(1) An efficient power operated windscreen wiper shall be fitted to every motor vehicle having a windscreen, other than three-wheeled invalid carriage and motor cycles.

(2) One year from the date of commencement of Central Motor Vehicles (Amendment) Rules, 1993, all motor vehicles other than three-wheelers, motor cycles and invalid carriages manufactured on and after 1st January, 2003 in respect of Category M-1 vehicles, and in respect of other vehicles, on and after 1st May, 2003, having a wind screen shall be fitted with a wind screen wiping system which shall conform to the requirements laid down in the following standards, as amended from time to time, till such time the corresponding Bureau of Indian Standards specifications are notified:

(i) AIS 019/2001, in the case of M-1 category of vehicles

(ii) AIS 011/2001, in the case of other vehicles.

(iii) AIS 045/2004, in the case of quadricycles, on and after 1st October, 2014.

(2-A) All construction equipment vehicles having windscreen shall be fitted with an efficient power operated windscreen wiping system. The windscreen wiping system shall conform to the requirements of the standards as may be specified from time to time under these rules.

(2B) On and after 1st April, 2015, all agricultural tractors having windscreen shall conform to AIS 011/2001, as amended from time to time till such time the corresponding Bureau of Indian Standards specifications are notified under the Bureau of Indian Standards Act, 1986.

6. Rule 101 of the Central Motor Vehicle Rules, 1989, speaks about an efficient power operated windscreen wiper. Rule does not mandate that there should be two wipers, on either side of the windscreen. Suffice that one windscreen wiping system should be fitted, conforming to the requirements laid down as to the standards stated supra.

7. Second contention of the petitioner is that, left side and bottom of the windscreen used for pasting stickers and posters, highlighting some government event, route numbers, name of transport etc. obstruct the view of the drivers. Going through the averments made in the supporting affidavit and the contents of the representation, dated 27.11.2017, we are not able to deduce, as to whether the drivers had any difficulty in viewing the right side. There is no whisper that the drivers had

any difficulty, in noticing any other vehicle, in front of the bus.

7. The third issue, in the representation dated 27.11.2017 is that, in the supporting affidavit, to substantiate the contention, rear view mirrors in Govt buses are so small and round in shape and it is extremely difficult for the drivers to have a proper side view of the entire bus and other vehicles coming behind. Petitioner has not referred to any statutory provision, as to the size of the rear view mirrors. According to him, use of big rear view mirrors is the conventional method adopted in the developed and developing countries. Petitioner has contended that with a small size rear view mirror, it is dangerous to drive big buses, and therefore bigger rear view mirrors are required. There are absolutely no material supporting the above averments.

8. The fourth issue in the representation dated 27.11.2017, is that working condition for the drivers in the cabin area. One of the reasons for espousing the grievance of the drivers is that, often when the petitioner travelled, he preferred a seat in the front portion, close to the driver, so that he could stretch his legs. Heat generated from the engine gets radiated due to poor insulating cover. This according to the petitioner has caused enormous hardship to the driver, and passengers sitting close to the engine. Petitioner has sought for a good adjustable seat with cushion to be provided to the driver. Convenience of the petitioner to stretch his legs, appears to be the reason, for choosing a seat, proximate to the driver's seat. There is no material to indicate that the drivers are put to hardship.

9. Last of the grievance in the petitioner's representation dated 27.11.2017, is the alleged pathetic maintenance of Tiruvanmiyur bus terminus. According to him, a big patch of concrete driveway, is damaged. Unless and until it is repaired, it would cause serious injuries to the commuters.

10. Going through the material record and the reasons for filing the instant writ petition styled as a public interest litigation, we are of the view for trivial matters, such as buses do not have left side wiper, which is not supported by any statutory provision as to whether there should be two wipers on the windscreen, or not, but on the contra, Rule 101 of the Central Motor Vehicle Rules, 1989, speaks only about an efficient power operated windscreen wiper, which can be even one, pasting of stickers highlighting some government events, name of the transport, route number etc., size of the rear view mirrors and such other things, instant writ petition has been filed. Though the petitioner has sought for a mandamus to direct the respondents to ensure safety measures as per statutory rules

and regulations, nowhere in the affidavit, he has pointed out what is the statutory provisions.

11. Petitioner in the supporting affidavit, has contended, that measures have to be taken to improve the performance of the transport corporations for introduction of new buses and also furnished details of number of buses operated, old buses etc. On the said aspect of improvisation of public transport system and the directive principles of the State Government, earlier in a batch of writ petitions, relating to delayed payment of the retirement benefits to the Transport Corporation employees, Government expressed the financial difficulties and was hesitant in revising the bus fares. Taking note of the financial constraint, and at the same time, inconvenience caused to the commuters and public, due to poor maintenance of buses, old age of the buses, at paragraph Nos.41 to 44, in W.P.(MD) No.10126 of 2017, this court observed, as hereunder:

"41. Financial constraint, as detailed above, also affects public at large. Out of 22203 buses operated, 15184 buses are overaged. Average age of the bus is 7.15 years. Percentage of overaged buses is 68.39. There is a need to address replacement of old buses, with new ones, to reduce accidents, breakdown, maintenance costs, etc. By the above process, inconvenience caused to the commuters and public, would be reduced. The Transport Corporation will be in a position to render better service.

42. Public Sector undertakings should be functional. Financial position of the Transport Corporations shows that they are dis-functional. With the financial management system in vogue, except bus fare and suitably, it is not known, as to how, the Transport Corporations are going to reduce the daily loss of Rs.9.32 Crore.

43. Loss is perennial. Question of survival of the State Transport Corporation, appears to be at stake. With the escalating load on debt, and recurring expenses towards salary and statutory benefits, to those already retired, to those, who would retire in future and the serving employees, chances of recovery, by the Transport Corporations, in distress, appears to be remote. From the data furnished, we are of the view that at one stage, the Transport Corporations would might even go to the

level of bankruptcy, if appropriate decision is not taken by the State Government.

44. Taking note of the sources to generate revenue available to the State Financial Corporations, bus fare and subsidy from the Government, public service to be done by the State, in terms of the directive principles of State Policy, through the State Transport Corporations, financial position and constraint, Government of Tamil Nadu have to take appropriate decision.

12. Government have also introduced a number of new buses. Maintenance of buses, will recur financial expenditure. Repairing of buses, and replacement of all buses cannot be done, in a day. Repairing has to be done periodically. When this court expressed the view that there is no public interest, and therefore the instant writ petition deserves to be dismissed with cost, learned counsel for the petitioner sought permission to withdraw the writ petition, which we are not inclined to do so. Though the learned counsel for the petitioner contended that, the petitioner has filed many Public Interest writ petitions, on the facts and circumstances of this case, we find that there is no public interest, in this writ petition and that writ petition is more of publicity oriented. Petitioner has wasted the judicial time of this court.

Writ petition is dismissed with cost of Rs.10,000/- to be paid to the Juvenile Justice Fund, Director of Social Defence, No.300, Purasawalkam High Road, Kellys, Chennai-600 010, within a period of 10 days from the date of receipt of a copy of this order, failing which, we direct the District Collector, Chennai, to take proceedings under the Tamil Nadu Revenue Recovery Act, 1864.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

1.The Additional Chief Secretary
The State of Tamil Nadu
Department of Transport
Secretariat, Fort St. George
Chennai 600 009

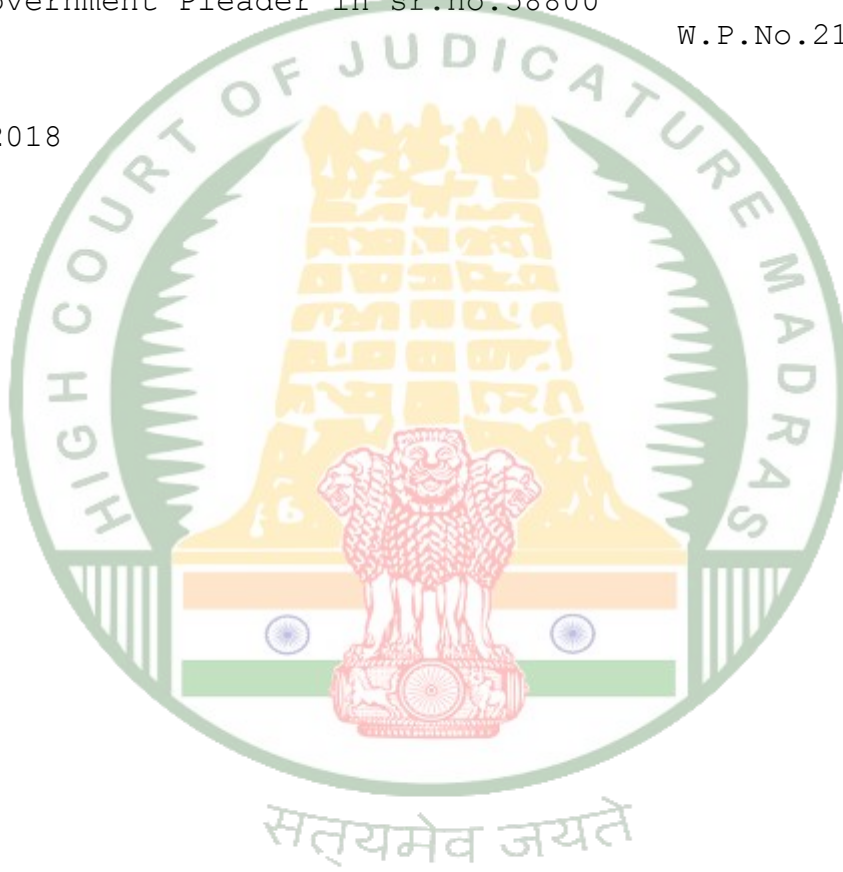
2.The Secretary
Department of Local Administration
Secretariat, Fort St. George
Chennai - 600 009

3.The Director,
The Juvenile Justice Fund,
Director of Social Defence, No.300,
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+lcc to Mr.M.Velmurugan, Advocate sr.no.58567
+lcc to Government Pleader in sr.no.58800

W.P.No.21817 of 2018

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