

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.17384 of 2017
and
W.M.P.No.18878 of 2017

M.Venkatesa Perumal ... Petitioner

vs.

1.The District Collector of Chennai
Singaravellar Maligai
Rajaji Salai,
Chennai - 600 001.

2.The State Rep. by Executive Engineer,
S T P North,
Chennai Metropolitan Water Supply and
Sewerage Board,
No.1, Kaliyamman Koil Street,
Koyambedu, Chennai-600 107.

3.N.Dhanasekaran

4.Raghu

5.R.Dorairaj

6.Anand Murugan

7.K.V.Rajan

... Respondents

(R3 to R7 - as impleaded by this Hon'ble Court,
vide order dated 14.12.2017, in W.M.P.No.23442
of 2017 in W.P.No.17384 of 2017)

Prayer: Writ Petition is filed under Article 226 of the
Constitution of India, praying for the issuance of a Writ of
Mandamus, directing the 1st respondent to consider the
representation dated 26.06.2017 to realign the pipe laying route
from Madhavaram leather facility to Kondungaiyur Sewage
Treatment Plant (STP) through Madhavaram High Road and through
the bank of flood water drain canal from Moolakkadai to
Kodungaiyur STP to be executed by the 2nd respondent.

For Petitioner : Mr.M.Velmurugan

For R1 : Mrs.Vasudha Thiagarajan
Additional Government Pleader.

For R2 : Mr.G.Janakiraman
Standing Counsel

For R3 to R7 : Mr.D.Baskar
for Mr.Arivalagan

ORDER

(Order of the Court was made by S.MANIKUMAR, J)

Mr.M.Venkatesa Perumal, a resident of M.K.B. Nagar, Vysarpadi, Chennai and claiming himself to be a public interest litigant, has sought for a Writ of Mandamus, directing the District Collector, Chennai, the first respondent herein, to consider the representation dated 26.06.2017, to realign the pipe laying route from Madhavaram leather facility to Kodungaiyur Sewage Treatment Plant (STP) through Madhavaram High Road and through the bank of flood water drain canal from Moolakkadai to Kodungaiyur STP, to be executed by Executive Engineer, Chennai Metropolitan Water Supply and Sewerage Board, Chennai, the 2nd respondent herein.

2. Supporting the prayer sought for, the petitioner has submitted that in the industrial area at Madhavaram i.e. Madhavaram Leather facility, effluents and industrial waste were earlier discharged, in and around the industrial area, mainly into the water bodies and vacant lands. The said effluent discharge was grossly affecting the environment, in the aforesaid area. People of the said area, had been protesting and conducting agitation, with regard to the abovesaid issue. Earlier, the matter was also taken by the Environment Tribunal and settled by a direction to the 2nd respondent to set up a Common Effluent Treatment Plant to treat the discharge or collect and discharge the effluents only after treatment, in the nearby common Sewage Treatment Plant (STP). Accordingly, effluent was proposed to be collected and carried through a pipeline from Madhavaram Industrial park, to the nearby STP, which is situated at Kodungaiyur.

3. He further submitted that the effluent is generated by leather tanneries, in Madhavaram Industrial area, and there are 15 units involved, in the said process. The effluent consists of liquid waste, after the industrial process of washing and treatment of cattle skins. The second respondent has proposed to collect the entire effluent discharge, by the said leather unit and carried through a pipe line, which is to be laid in the areas, in and around ward Nos.34 and 35 of the Perambur constituency. The area details are as follows:-

	STREET NAME	WARD	ZONE
1	Kadumbadi Amman Street, (pumping station)	34	4
2	Kadumbadi Amman Street, (pumping station)	34	4
3	Junction (canal)	34	4
4	Union carbide colony 18th street	34	4
5	Union carbide colony 20th street	34	4
6	Thiruvallur Road	35	4
7	Jambuli Street Extn	35	4
8	Jambuli Street	35	4
9	Jambuli New Colony 1st street (Dhamodaran street)	35	4
10	Thiruvallur Road	35	4
11	Kamarajar Road	35	4

4. He further submitted that the above information was obtained by him, under the Right to Information Act, 2005. In the tabular column mentioned above, entries in S.No.7, Jambuli Street Extension, S.No.8 Jambuli Street, and S.No.9 Jambuli new colony 2nd Street (Dhamodharan Street), were wrongly mentioned as Ward 35, whereas, the said streets would fall within Ward 34 only. On enquiry, the said mistake was informed as typographical error. It is pertinent to note that the streets mentioned in the above table are highly populated residential areas, consisting of residential houses and flats. The said area also accommodates commercial establishment and schools. The 2nd respondent has proposed to lay the pipe line, through the residential area, despite an alternate route, without affecting public, through the main road of Madhavaram high road, and further through the flood drain canal at Moolakkadai junction to Kodungaiyur STP pumping station.

5. He further submitted that the residents of abovesaid area, have approached the second respondent, who was appraised of the difficulty and hardship to be faced by the public, if the said pipe line project is executed. Due to public unrest and protest laying of the pipe line project was stalled. The said pipe line is sought to be laid in public road, crossing through several streets and the same is laid parallel to the metro water pipe line connections.

6. He further submitted that the second respondent who had

obtained permission, for laying pipe line in the streets mentioned above, is purposely deviating pipe laying plan and laying the pipe, in an haphazard manner, violating the safety measures and without statutory compliance. The contract labourers are working in an organized manner, without adhering to the basic and mandatory requirements and executing the project in a fast manner. In these circumstances, general public of the abovesaid area, have made a representation dated 26.06.2017, to the District Collector, Chennai, and requested to indulge, stop work and to realign the pipe route without affecting the general public rights and interest. There was no action was taken by the District Collector, Chennai, till now, and hence, this writ petition.

7. Responding to the notice, the Executive Engineer, Sewage Treatment Plant, Chennai Metropolitan Water Supply and Sewerage Board, Koyembedu, Chennai, /second respondent herein, has filed a counter affidavit.

8. Based on the counter affidavit, Mr.G.Janakiraman, learned Standing Counsel for the Executive Engineer, Sewage Treatment Plant, Chennai Metropolitan Water Supply and Sewerage Board, Koyembedu, Chennai, /second respondent herein, submitted in order to meet out the TNPCB norms regarding TDS by Madhavaram Leather Manufacture Facility Private Limited (MLMFPL), it was necessary to mix the treated tannery effluent of MLMFPL with the domestic treated effluent. The Chennai Metropolitan Water Supply and Sewerage Board agreed to supply 3 MLD secondary treated effluent, at the prevailing rate, to Madharavaram Leather Manufactures Facility Private Limited, at an appropriate point, outside the Metro water Kodungaiyur STP premises to dilute the CETP effluent before discharge, to meet out the TNPCB norms. M/s.MLMF (P) Ltd., requested to lay necessary pipe line for bringing the treated CETP effluent to the appropriate discharge point on payment of necessary deposit charges, and the same was accepted by the CMWSS Board.

9. He further submitted that on 03.11.2015, Memorandum of Understanding (MoU), was signed, between CMWSS Board and M/s. Madharavaram Leather Manufactures Facility Private Limited, for laying pipelines, to bring the treated effluent of CETP to Kodungaiyur Sewage Treatment Plant. Chennai Metropolitan Water Supply and Sewerage Board, prepared the estimate and accorded approval for the work of providing 3 MLD secondary treated effluent from Kodungaiyur Sewage Treatment Plant, for Madhavaram Leather Manufacturers Facility Private Limited (Construction of Suction well, supply, laying and erection of pipes, Submersible pump sets and its allied works and Construction of Dilution chamber), at an estimate cost of Rs.3.53 crores.

10. He further submitted that on 16.11.2015, M/s.Madhavaram Leather Manufacturers Facility Private Limited, deposited the

requisite amount of Rs.3.53 crores. The said work commenced on 29.07.2016 and the completion period of the said work was fixed as 120 days. The works involved in the above contract, are detailed below:-

- (i) Construction of 3m dia Suction well.
- (ii) Construction of Electrical rook of Size 6m x 6m x 4.5m.
- (iii) Providing necessary lifting arrangements.
- (iv) Supply and fixing of Electromagnetic flow meter.
- (v) Providing Lighting arrangements to MV panel room.
- (vi) Supply delivery, erection, testing and commissioning of pumping equipments.
- (vii) Supply, Delivery and Laying of 250mm dia class B DI pipe from Suction well to dilution chamber.
- (viii) Supply, delivery and laying 140mm dia HDPE pipe from MLMFPL to Dilution chamber.

11. He further submitted that the works in S.Nos.1 to 7 have already been completed. The road cut permission for laying the 140mm dia HDPE pipe, in the Division No.34 and 35/Zone - IV of Greater Chennai Corporation (GCC) was requested by CMWSS Board. Due to the monsoon period i.e. from October 16 to December 16, GCC had granted road cut permission only on 24.01.2017 for laying the 140mm dia HDPE pipe in the below mentioned stretch and roads at Division No.34 and 25 / Zone - IV of Greater Chennai Corporation (GCC) only on 24.01.2017.

	STREET NAME	WARD	ZONE
1	Kadumbadi Amman Street, (pumping station)	34	4
2	Kadumbadi Amman Street, (pumping station)	34	4
3	Junction (canal)	34	4
4	Union carbide colony 18th street	34	4
5	Union carbide colony 20th street	34	4
6	Thiruvallur Road	35	4
7	Jambuli Street Extn	35	4
8	Jambuli Street	35	4
9	Jambuli New Colony 1st street (Dhamodaran street)	35	4
10	Thiruvallur Road	35	4
11	Kamarajar Road	35	4

12. He further submitted that at present, 140mm HDPE pipe hve been laid, for a length of 816m out of 2850 m (MLMF road -

250 meters, MLMF extension - 100 meters, Damodaran street - 100 meters, Jambuli street - 150 meters, Union Carbide Colony 18th street - 100 meters, Union Carbide colony 20th street - 50 meters Thiruvalluvar salai - 66 meters). As per the TNPCB report of Dadhavaram CETP, the treated effluent, chromium level is below permissible limit. Hence, this effluent is not hazardous to public.

13. He further submitted that in respect of realigning the pipe line in Madhavaram High Road and Tondiarpet High Road, as stated by the petitioner, both roads are busy and also traffic congested bus routes. Tondiarpet High Road is having a width of an average of 6.50 m (20 feet) and already there existed so many pipelines, namely, 3 water mains and 5 sewer pumping mains on both sides of the roads and 1 gravity sewer lines in middle of the road, HT cables and telephone cables on both sides of the road and there is no space for laying this pumping main. It is further submitted that Madhavaram High Road is having a width of an average of 6.50 m (20 feet) and already there exists so many pipe lines, namely 4 water mains and 2 sewer pumping mains on both side of roads and 1 gravity sewer lines in middle of the road and HT cables and telephone cables, on both sides of the road.

14. In respect of realigning the pipeline along the Bank of flood drain canal from Moolakkadai Junction to Kodungaiyur Sewage Treatment Plant, he further submitted that there is very little space, average of 0.60 m (2 feet) width and some of the houses are very close to the bank of flood drain canal and hence, it is not possible to use the machineries, to lay the pipelines in the Bank of flood drain canal from Moolakkadai Junction to Kodungaiyur Sewage Treatment Plant. For the abovesaid reasons, he prayed for dismissal of the instant writ petition.

15. Attention of this Court was invited to a decision of a Hon'ble Division Bench of this Court, that a identical prayer in W.P.No.17384 of 2017, was declined. But a second writ petition No.19768 of 2017 was filed and that the same also dismissed.

16. Heard both the parties and perused all the materials available on record.

17. Record of proceedings shows that on 26.06.2017, the Residents of Ward No.34 and 35, Zone-4, Perambur Constituency, have made a representation, to the District Collector, Chennai. For brevity, the same is extracted hereunder:-

"From

The Residents of Ward no.34 and 35

26.06.2017

Zone-4, Perambur Constituency.

To

The Collector,
Chennai Singaravelan Maligai,
Rajai Salai, Chennai.

Respected Sir,

Sub- Protest Against Laying Pipe Lines in
Ward No.34 and 35, Zone-4, Perambur Constituency.

We the residents of Ward Nos.34 and 35 of
Perambur constituency humble submit as follows:-

The CMWSSB has proposed to lay pipe line
from Madhavaram Leather manufacturing facilities
to Kodungaiyur STP for treatment of effluents
discharged by the leather industries. The said
pipe line is running through 10 streets in Ward
34 and 35 of Kodungaiyur. The said pipe line is
proposed to be laid parallel to the Metro Water
connection in the said streets. The project is
been objected by residents right from inception
till today. The laying of pipe line had been
stalled and deferred several times due to the
protest of the public. The said pipe line can be
re-routed through Madhavaram high road and to
continue along the canal to the Kodungaiyur STP.

We wish to submit that presently the
project is at the initial stage and being
executed by CMWSSB against our interest and
rights. The contract workers are working in an
haphazard manner in order to complete work
against the interest.

In the aforesaid juncture, we request your
indulgence to stop the work immediately and
further take steps to realign the route of the
pipe line as mentioned above without affecting
the interest of residence of Ward 34 and 35."

18. Judicial Section of the High Court of Madras, has
issued a Notification in No. SRO C-2/2010 dated 26.07.2010,
framing rules to regulate a Public Interest Litigation filed
under Article 226 of the Constitution of India, and the same is
extracted hereunder:-

"By virtue of Article 225 of the Constitution
of India and of all other powers hereunto
enabling, the High Court makes the following Rules
to regulate Public Interest Litigations (PIL)
filed under Article 226 of the Constitution of
India:

Every Public Interest Litigation must be
filed in accordance with the following rules:-

1. Every PIL must indicate that the
petitioner has no personal interest in the case.
If he has any personal interest, he must disclose

the same. In the event of the High Court finding the claim as frivolous or vexatious, the PIL shall be dismissed with exemplary cost.

2. If the PIL is filed on behalf of a class of persons, the details of the persons for whose benefit the PIL is filed, must be indicated. If it is a society or association of persons, the writ petitioner must enclose a resolution from such society or association of persons, authorising the petitioner to file the writ petition and if the body is duly registered with competent authority, a copy of the bye-laws of the said body authorising the petitioner to file the writ petition, shall be enclosed.

3. If the petitioner has filed any PIL earlier, the details of the petition, and the final order, if any, passed in that petition, the relief granted and costs, if any, awarded, shall be indicated. No Public Interest litigation Petition will be entertained in respect of civil disputes between individuals or in service matters. The petitioner shall give an undertaking that he will pay the costs, if any, if it is found to be intended for personal gain or oblique motive.

4. The petitioner must disclose whether he has filed the petition out of his own funds or from other sources. If it is the latter, the particulars should be given.

5. The petitioner must state in the affidavit that to his knowledge, no PIL arising on the same issue, has been filed anywhere.

6. The affidavit filed by the petitioner must contain the averments that he has filed the writ petition based on his information and his personal knowledge. If he has filed the writ petition based on an information received from any other source, he must clearly indicate the source. If it is a newspaper report, the affidavit shall clearly state as to whether the deponent has verified the facts by personally visiting the place or talking to any responsible person or Reporter or Editor of the newspaper concerned.

7. If the petitioner has given any representation to any authority, a copy of the same shall be filed in the typed set of papers along with reply, if any, received from the authority. He shall file the proof of service of representation before the Court."

19. Let us also consider few decisions on public interest

litigation:-

(i) In S.P.Anand v. H.D.Deve Gowda reported in 1996 (6) SCC 734, the 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."

(ii) In Balco Employees' Union (Regd.) v. Union of India reported in 2002 (2) SCC 333, the 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."

(iii) In Ashok Kumar Pandey v. State of W.B., reported in 2004 (3) SCC 349, the 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 "paaise 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 trumped up 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 grievances go unnoticed, unrepresented 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 lose 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 Andhra 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".

(iv) In *Vikas Vashishth v. Allahabad High Court* reported in 2004 (13) SCC 485, the 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."

(v) In *R & M.Trust v. Koramangala Residents Vigilance Group* reported in 2005 (3) SCC 91, the 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."

(vi) In *Gurpal Singh v. State of Punjab* reported in 2005 (5) SCC 136, the Supreme 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 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, unrepresented 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."

(vii) In Common Cause (A Regd. Society) v. Union of India reported in 2008 (5) SCC 511, Hon'ble Mr. Justice Markandey Katju (as he then was), 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."

(viii) In Adarsh Shiksha Mahavidyalaya v. Subhash Rahangdale reported in 2012 (2) SCC 425, the 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)"

20. First of all the petitioner has not made any averments to ascertain, as to why the pipelines have to be laid in the area, earmarked by the authorities. In the counter affidavit, Executive Engineer, State of Tamil Nadu, Chennai Metropolitan Water Supply and Sewerage Board, Chennai/second respondent herein, has set out valid reasons, for laying the pipeline, chosen and approved. Reasons assigned are valid. It is not for the petitioner to seek for a Mandamus to realign the pipelines, according to his choice. Respondents have acted in public interest.

21. As rightly contended by the learned counsel for the respondents, perusal of the order made in W.P.No.19768 of 2017, dated 04.08.2017, shows that when the petitioner therein, prayed for a Mandamus directing the respondents therein, not to lay pipeline for carrying out the industrial effluent treatment plant of Madhavaram Leather Manufacturing Facility Private Limited, Madhavaram to Kodungaiyur (Sewerage Treatment Plant-STP), this Court vide order dated 04.08.2017, has dismissed the same, as hereunder:-

"The petitioner, by way of this Public Interest Litigation seeks for a direction to the respondents not to lay pipeline for carrying industrial effluents from Common Effluent Treatment Plant of Madhavaram Leather Manufacturers Facility Private Limited to Kodungaiyur Sewage Treatment Plant (STP).

2. It is pointed out by the learned counsel appearing for the respondent Board, i.e., Chennai Metropolitan Water Supply and Sewage Board, that an identical issue came up before this court by way of a public interest litigation in W.P.No.17384 of 2017, in which notice has been ordered and the respondent Board has also filed a counter affidavit and the writ petition is still pending. It is further submitted that the pipeline has been laid after conducting a detailed feasibility study and all parameters that are required to be taken care of have been scrupulously followed.

3. In our considered view, entertaining a second writ petition for an identical issue is unnecessary and it will only multiply the number of litigation. Therefore, giving liberty to the writ petitioner to seek impleadment in the aforesaid writ petition, this writ petition is closed. No costs. Consequently, connected miscellaneous petitions are closed."

22. Perusal of the above shows that for the very same prayer, W.P.No.17384 of 2017, has been filed, and dismissed. When a Mandamus to stop the project has been rejected, on more than one occasion, it is not open to the petitioner, to seek for a Mandamus to consider his representation dated 26.06.2017, to realign the route. Thus, by filing writ petitions repeatedly, petitioner and others, have attempted to scuttle, laying of pipes for setting up a Sewerage Treatment Plant.

23. For the abovesaid reasons and decisions, writ petition

is dismissed. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

dm

To

1.The District Collector,
Singaravellar Maligai
Rajaji Salai,
Chennai - 600 001.

2.The Executive Engineer,
State of Tamil Nadu,
S T P North,
Chennai Metropolitan Water Supply and
Sewerage Board,
No.1, Kaliyamman Koil Street,
Koyambedu, Chennai-600 107.

+1cc to Mr.J.Arivalagan, Advocate SR.No.62297

+1cc to Mr.N.Ramesh, Advocate SR.No.62256

+1cc to Mr.M.Velmurugan Advocate SR.No.61923

W.P.No.17384 of 2017
and
W.M.P.No.18878 of 2017

GMV (16/10/2018)

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