

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 29.10.2018

Pronounced on : 20 /12/2018

C O R A M

The Honourable Mr.Justice S.Manikumar
a n d
The Honourable Mr.Justice Subramonium Prasad

Writ Petition Nos.28980 of 2017

Pondicherry University SC/ST
Employees Welfare Association
Regn.No.84/1996
rep. By its General Secretary
R.V.Nagar
Kalapet
Puducherry 605 014.

....Petitioner

Vs

1. Government of India
rep. By its Secretary
Ministry of Human Resources Development
(Department of Higher Education)
Shastri Bhawan
New Delhi 110 001.
2. Pondicherry University
rep. By its Registrar
R.V.Nagar
Kalapet
Puducherry 605 014.
3. Prof.Dr.Anisha Basheer Khan
Vice Chancellor - Incharge
Pondicherry University
R.V.Nagar
Kalapet
Puducherry 605 014.
4. The Deputy Registrar (Admn.)
Pondicherry University
R.V.Nagar
Kalapet
Puducherry 605 014.

5. E. Codandaramane
6. V. Dhanalakshmi
7. N. Veerappan
8. G. Boovaragavan
9. P. Balamurugan
10. R. Prakash
11. C. Kamalakannan
12. K. Sivasankaran
13. K. Balaguru
14. K. Gnanavel
15. C. Malany
16. R. Rajaram
17. S. Kalaivanan
18. S. Sivakumar
19. S. Sugunavathy
20. P. Dhanavathy
21. P. Manikannan
22. B. Kumar
23. Z. Gurudevi
24. S. Viswanette
25. R.Swarnaraj.

...Respondents

Prayer Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Declaration, declaring the amended Recruitment Rule for the post of Data Entry Operator dated 23/5/2012, permitting 75% of the post in the Data Entry Operator being filled on regular basis through Data Entry Operator and Steno cum Data Entry Operators on contract basis through Limited Departmental Competitive Examination and the Notification dated 3/11/2017 bearing Ref.No.PU/ESTT/NT1/1-12/2/2017/367 issued by the fourth respondent as illegal, arbitrary and contrary to the instructions issued by the first respondent in its proceedings dated 9/10/2014 bearing F.No.19-58/14-Desk (U) issued by the first respondent and consequently direct the second respondent to fill up the 75% of the post in the Data Entry Operator by inviting application from eligible candidates from the General Public by issuing wide publicity through Newspaper, Media, Website, etc., and select the candidates based on selection process.

For petitioner ... Mr.Balan Haridas

For respondents ... No appearance for R.1.
Mr.Stalin Abhimanyu
for R.R.2 to 4.
Mr.R.Viduthalai,
Senior Counsel
Assisted by
Ms.R.Revathy for R.R.5 to 25.

O R D E R
(Order of the Court was made by Subramonium Prasad,J)

The present writ petition is for the issuance of a writ of declaration, declaring the amended Recruitment Rule, for the post of Data Entry Operator, dated 23/5/2012, permitting 75% of the post, in the Data Entry Operator, being filled on regular basis through Data Entry Operator and Steno-cum-Data Entry Operators, on contract basis, through Limited Departmental Competitive Examination and the Notification, dated 3/11/2017, bearing Ref.No.PU/ESTT/NT1/1-12/2/2017/367, issued by the fourth respondent for filling up the posts of Data entry Operator by holding the limited departmental competitive examination as illegal as illegal, arbitrary and contrary to the instructions issued by the first respondent, in its proceedings, dated 9/10/2014, bearing F.No.19-58/14-Desk (U), and consequently, to direct the second respondent to fill up 75% of the post, in the Data Entry Operator, by inviting applications from eligible candidates, by issuing wide publicity through Newspaper, Media, Website, etc., and select the candidates based on the selection process.

2. Writ petitioner is an Association, registered under the Societies Registration Act. The affidavit has been sworn by the General Secretary of the Petitioner Association. It is stated in the writ petition that the association espouses the cause of its members and takes up the issues concerning its members and issues concerning Pondicherry University.

3. According to the petitioner, the present Vice-Chancellor (Officiating)/third respondent is committing irregularities and various complaints have been made to UGC. Deanship of the third respondent came to an end, on 27/2/2016 and that she is continuing in the Office even after she had attained age of superannuation. The Vice-Chancellor has retired, on 30/11/2017. It is alleged that persons holding in-charge position cannot exercise statutory powers and cannot make any amendment to the statute, regarding appointment of Teaching and Non-teaching staff, creating posts, etc., which is contrary to the provision.

4. According to the petitioner Association, second respondent had illegally engaged 41 Data Entry Operators, without any selection process and they are being paid minimum consolidated pay in the time scale of pay for the Data Entry Operator. According to the petitioner, all these appointments were made without any proper selection process by the second respondent University. Third respondent, in a hurried manner, is attempting to regularise the services of 33 contract Data Entry Operators out of 42, who had been illegally engaged. The rules

have been amended for this purpose and the Notification has been issued only to ensure that these Data Entry Operators, who were illegally appointed can be appointed, on regular basis. According to the petitioner, this process of selection, amongst the persons who are not eligible to be appointed as Data Entry Operators would be detrimental to the interests of the University.

5. According to the petitioner, selection should be conducted by inviting applications from the general Public, after giving wide publicity, so that number of persons would be able to appear and compete for the post of Data Entry Operator which would be a healthy process of selection.

6. Data Entry Operators, who claim to be eligible to compete, as per the regular amendment have filed applications to implead themselves in the writ petition. This Court, by order, dated 20/9/2018, permitted the Data Entry Operators to get themselves impleaded and they have been impleaded as respondents 5 to 25. Counter has been filed by the respondents 5 to 25. Respondents 2 to 4 have also filed counter.

7. A preliminary objection has been raised by the respondents that this writ petition is in the nature of Public Interest Litigation and it is well settled that Public Interest Litigation is not maintainable in service matters. It is also the contention of the respondents that another writ petition being W.P.No.15810 of 2012 had been filed for the same relief which has been rejected. It is also contended that the allegation that existing Data Entry Operators have been appointed without issuing proper Notifications and advertisements and without following rules, is not correct.

8. Heard Mr.Balan Haridas, learned counsel for the petitioner, Mr.Stalin Abhimanyu, learned counsel for the respondents 2 to 4 and Mr.R.Viduthalai, learned Senior Counsel for the respondents 5 to 25.

9. Writ petition has been filed by Pondicherry University SC ST Employees' Welfare Association. Challenge is to the amendment to the Recruitment Rules for the promotion of Data Entry Operator. Recruitment procedure which existed before the amendment and amended version, reads as under:-

Amended vide Executive Council Resolution
No.2012.113.103.dated 23.05.2018

Data Entry Operator (amended)

S.No		Existing Recruitment Rule	Amended version
10.	Method of recruitment, whether by direct recruitment or by promotion or by deputation/ transfer and percentage of the vacancies to be filled by various methods.	To be filled on the basis of Limited Departmental Competitive Examination in the following ratio, failing which by Direct Recruitment. LDCE: 25% by promotion from among the Junior Assistants with three years experience and 75% from among the Data Entry Operators and Steno-cum-Data Entry Operators, who have completed two years of service on contract basis.	To be filled on the basis of Limited Departmental Competitive Examination in the following ratio, failing which by Direct Recruitment. LDCE: 25% by promotion from among the Junior Assistants with three years experience and 75% from among the Data Entry Operators, who have completed five years of service on contract basis.

10. An Association of employees of the University cannot be said to be aggrieved by the second Notification. It cannot have any grievance against the process of selection. The writ petition does not maintain that any of the members of the petitioner Association would be affected by the selection process. Instant writ petition therefore, is like a Public Interest Litigation and it is well settled that a Public Interest Litigation is not maintainable in service matters.

11. The Hon'ble Supreme Court, in Dr.Duryodhan Sahu and Others Vs. Jitendra Kumar Mishra & Others {1998 (7) SCC - 273}, has held that Public Interest Litigation does not apply to service matters. The said judgment has been followed consistently. In Dr.B.Singh Vs. Union of India {2004 (3) SCC - 363}, wherein the Hon'ble Supreme Court observed as under:-

"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 or vendatta to bring to terms a person, not of ones

liking, or gain publicity or a facade for blackmail, said petition has to be thrown out. Before we grapple with the issues involved in the present case, we feel it necessary to consider the issue regarding the "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 and strictly regulated at least in certain vital areas or spheres and abuse averted it becomes also a tool in unscrupulous hands to release vendetta and wreck vengeance, as well to malign not only an incumbent to be in office but demoralise and deter reasonable or sensible and prudent people even agreeing to accept highly sensitive and responsible offices for fear of being brought into disrepute with baseless allegations. There must be real and genuine public interest involved in the litigation and concrete or credible basis for maintaining a cause before court and not merely an adventure of knight errant borne out of wishful thinking. 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. The credibility of such claims or litigations should be adjudged on the creditworthiness of the materials, averred and not even on the credentials claimed of the person moving the courts in such cases. 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 Janata Dal v. H.S. Chowdhary and Ors. (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 vs. Union of India, (AIR 1993 SC 852) and K.R. Srinivas vs. 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 citizens generally in affairs of local, State or National Government."

7. In Janata Dal's case (supra) this Court considered the scope of public interest litigation. In para 53 of the said judgment, after considering what is public interest, has laid down as follows :

"53. 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 para 62 of the said judgment, it was pointed out as follows:

"62. 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 98 of the said judgment, it has further been pointed out as follows:

"98. 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 paras 109 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".

Similarly in Madan Lal Vs. High Court of Jammu & Kashmir & Ors {(2014) 15 SCC - 308} the Hon'ble Supreme Court, observed as under:-

"7. Having perused the above judgment impugned in these appeals and having noted the answers to the various submissions made on behalf of the petitioners before the High Court, we do not find any good ground to interfere with the judgment impugned. In fact, to our query to the appellants before us, it was fairly submitted that they have no grievance against any of the selected candidates in that particular selection. Therefore, if at all the appellants' grievances are to be considered, relating to ascertainment of quota for direct recruit posts in these appeals it would only amount to a consideration by way of a public interest litigation which cannot be permitted to be made, more so, when the appellants have chosen not to challenge the selection of any one of the candidates by way of direct recruitment or any of the promotees.

This extract is taken from Madan Lal v. High Court of J&K, (2014) 15 SCC 308 : 2014 SCC OnLine SC 1165 at page 311

9. That apart time and again this Court repeatedly held that in service matters, public interest litigation is not maintainable. We can profitably refer to a recent decision reported in Hari Bansh Lal v. Sahodar Prasad Mahto [Hari Bansh Lal v. Sahodar Prasad Mahto, (2010) 9 SCC 655 : (2010) 2 SCC (L&S) 771] . Paras 14 and 15 are relevant which are as under: (SCC pp. 660-61)

"14. In Ashok Kumar Pandey v. State of W.B. [Ashok Kumar Pandey v. State of W.B., (2004) 3 SCC 349 : (2011) 1 SCC (Cri) 865] this Court held thus: (SCC pp. 358-59, para 16)

'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 a large number of so-called public interest litigations where even a minuscule percentage can legitimately be called public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a 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 utilised for disposal of genuine cases. Though in Duryodhan Sahu v. Jitendra Kumar Mishra [Duryodhan Sahu v. Jitendra Kumar Mishra, (1998) 7 SCC 273 : 1998 SCC (L&S) 1802] 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 courts 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 aforestated so that the message goes in the right

direction that petitions filed with oblique motive do not have the approval of the courts.'

The same principles have been reiterated in the subsequent decisions, namely, B. Singh v. Union of India [B. Singh v. Union of India, (2004) 3 SCC 363 : (2007) 1 SCC (L&S) 616] , Dattaraj Nathuji Thaware v. State of Maharashtra [Dattaraj Nathuji Thaware v. State of Maharashtra, (2005) 1 SCC 590] and Gurpal Singh v. State of Punjab [Gurpal Singh v. State of Punjab, (2005) 5 SCC 136 : 2005 SCC (L&S) 636] .

15. The above principles make it clear that except for a writ of quo warranto, public interest litigation is not maintainable in service matters."

The Hon'ble Supreme Court of India in State of Punjab Vs. Salil Sabhlok & Others {2013 (5) SCC - 1} held thus and the relevant paragraphs are extracted hereunder:-

"62. At the outset, it is important to appreciate that the Chairperson of a Public Service Commission holds a constitutional position and not a statutory post. The significance of this is that the eligibility parameters or selection indicators for appointment to a statutory post are quite different and distinct from the parameters and indicators for appointment to a constitutional position.

73. Is the appointment of a person to a constitutional post a "service matter"? The expression "service matter" is generic in nature and has been specifically defined (as far as I am aware) only in the Administrative Tribunals Act, 1985. Section 3(q) of the Administrative Tribunals Act is relevant in this regard and it reads as follows:
"3. Definitions.—In this Act, unless the context otherwise requires—***

(q) 'service matters', in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation or society owned or controlled by the Government, as respects—

(i) remuneration (including allowances), pension and other retirement benefits;

(ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
(iii) leave of any kind; (iv) disciplinary matters; or
(v) any other matter whatsoever;"

74. It cannot be said that the Chairperson of the Public Service Commission holds a post in connection with the affairs of the Union or the State. He or she is not a government servant, in the sense of there being a master and servant relationship between the Union or the State and the Chairperson. In view of the constitutional provisions pertaining to the security of tenure and the removal procedure of the Chairperson and Members of the Public Service Commission, it can only be concluded that he or she holds a constitutional post. In this context, in Reference under Article 317(1) of the Constitution of India, In re [(1990) 4 SCC 262 : 1990 SCC (L&S) 672 : (1990) 14 ATC 883] , it was held: (SCC p. 269, para 9)

"9. The case of a government servant is, subject to the special provisions, governed by the law of master and servant, but the position in the case of a Member of the Commission is different. The latter holds a constitutional post and is governed by the special provisions dealing with different aspects of his office as envisaged by Articles 315 to 323 of Chapter II of Part XIV of the Constitution."

75. Similarly, in Bihar Public Service Commission v. Shiv Jatan Thakur [1994 Supp (3) SCC 220 : 1994 SCC (L&S) 1247 : (1994) 28 ATC 131] , the Public Service Commission is referred to as a "constitutional institution" and its Chairperson and Members as "constitutional functionaries".

76. In Ram Ashray Yadav, In re [Ram Ashray Yadav, In re, (2000) 4 SCC 309 : 2000 SCC (L&S) 670] , a reference was made to the "constitutional duties and obligations" of the Public Service Commissions. It was also observed that the Chairperson of the Public Service Commission is in the position of a constitutional trustee.

77. In Ram Kumar Kashyap v. Union of India [(2009) 9 SCC 378 : (2009) 2 SCC (L&S) 603 : AIR 2010 SC 1151] , the obligations of the Public Service Commission were referred to as "constitutional obligations" and on a

review of the case law, it was held that: (SCC p. 383, para 16)

"16. ... since the Public Service Commissions are a constitutional creation, the principles of service law that are ordinarily applicable in instances of dismissals of government employees cannot be extended to the proceedings for the removal and suspension of the members of the said Commissions."

78. Finally, in *Mehar Singh Saini, In re* [Mehar Singh Saini, In re, (2010) 13 SCC 586 : (2011) 1 SCC (L&S) 423], a distinction was made between service under the Government of India or a State Government and a constitutional body like a Public Service Commission. It was observed that: (SCC p. 599, para 4)

"4. A clear distinction has been drawn by the Framers [of our Constitution] between service under the Centre or the States and services in the institutions which are creations of the Constitution itself. Article 315 of the Constitution commands that there shall be a Union Public Service Commission for the Centre and State Public Service Commissions for the respective States. This is not, in any manner, linked with the All India Services contemplated under Article 312 of the Constitution to which, in fact, the selections are to be made by the Commission. The fact that the Constitution itself has not introduced any element of interdependence between the two, undoubtedly, points to the cause of Commission being free from any influence or limitation."

A little later in the judgment, the Public Service Commission is described as a "constitutional body".

79. This being the position, it is not possible to say that the Chairperson of the Public Service Commission does not occupy a constitutional position or a constitutional post. To describe the appointment to a constitutional post generically or even specifically as a "service matter" would be most inappropriate, to say the least.

(iii) Functional test

80. The employment embargo laid down in the Constitution and the functions of a Public Service Commission also indicate that its Chairperson has a constitutional status.

81. Article 319 of the Constitution provides that on ceasing to hold office, the Chairperson of a State Public Service Commission cannot take up any other

employment either under the Government of India or under the Government of a State, except as the Chairperson or Member of the Union Public Service Commission or as the Chairperson of any other State Public Service Commission.

82. Among other things, the functions of the State Public Service Commission include, as mentioned in Article 320 of the Constitution, conducting examinations for appointments to the services of the State. The State Public Service Commission may also be consulted by the President or the Governor of the State, subject to regulations that may be made in that behalf, on all matters relating inter alia to methods of recruitment to civil services and for civil posts and on the principles to be followed in making appointments to civil services and posts.

83. Article 322 of the Constitution provides that the expenses of the State Public Service Commission, including salaries, allowances and pensions of its Members shall be charged on the Consolidated Fund of the State. Article 323 of the Constitution requires the Public Service Commission to annually present a report of the work done by it to the Governor of the State.

84. All these are serious constitutional functions and obligations cast on the Chairperson and Members of the Public Service Commission and to equate their appointment with a statutory appointment and slotting their appointment in the category of a "service matter" would be reducing the Constitution into just another statute, which it is not.

(iv) The remedy

85. What then is the remedy to a person aggrieved by an appointment to a constitutional position like the Chairperson of a Public Service Commission?

86. About twenty years ago, in a case relating to the appointment of the President of a statutory tribunal, this Court held in *R.K. Jain v. Union of India* [(1993) 4 SCC 119 : 1993 SCC (L&S) 1128 : (1993) 25 ATC 464] that an aggrieved person—a "non-appointee"—would alone have the locus standi to challenge the offending action. A third party could seek a remedy only through a public law declaration. This is what was held: (SCC p. 174, para 74)

"74. ... In service jurisprudence it is settled law that it is for the aggrieved person i.e. non-appointee to assail the legality of the offending action. Third party has no locus standi to canvass the legality or correctness of the action. Only public law declaration

would be made at the behest of the petitioner, a public-spirited person."

This view was reiterated in B. Srinivasa Reddy [B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Assn., (2006) 11 SCC 731 (2) : (2007) 1 SCC (L&S) 548 (2)] . Therefore, assuming the appointment of the Chairperson of a Public Service Commission is a "service matter", a third party and a complete stranger such as the writ petitioner cannot approach an Administrative Tribunal to challenge the appointment of Mr Dhanda as Chairperson of the Punjab Public Service Commission.

87. However, as an aggrieved person he or she does have a public law remedy. But in a service matter the only available remedy is to ask for a writ of quo warranto. This is the opinion expressed by this Court in several cases. One of the more recent decisions in this context is Hari Bansh Lal [Hari Bansh Lal v. Sahodar Prasad Mahto, (2010) 9 SCC 655 : (2010) 2 SCC (L&S) 771] wherein it was held that: (SCC p. 661, para 15) "15. ... except for a writ of quo warranto, public interest litigation is not maintainable in service matters."

This view was referred to (and not disagreed with) in Girjesh Shrivastava v. State of M.P. [(2010) 10 SCC 707 : (2011) 1 SCC (L&S) 192] after referring to and relying on Duryodhan Sahu v. Jitendra Kumar Mishra [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802] , B. Srinivasa Reddy [B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Assn., (2006) 11 SCC 731 (2) : (2007) 1 SCC (L&S) 548 (2)] , Dattaraj Nathuji Thaware v. State of Maharashtra [(2005) 1 SCC 590] , Ashok Kumar Pandey v. State of W.B. [(2004) 3 SCC 349 : (2011) 1 SCC (Cri) 865] and Hari Bansh Lal [Hari Bansh Lal v. Sahodar Prasad Mahto, (2010) 9 SCC 655 : (2010) 2 SCC (L&S) 771] .

88. The significance of these decisions is that they prohibit a PIL in a service matter, except for the purposes of a writ of quo warranto. However, as I have concluded, the appointment of the Chairperson in a Public Service Commission does not fall in the category of a service matter. Therefore, a PIL for a writ of quo warranto in respect of an appointment to a constitutional position would not be barred on the basis of the judgments rendered by this Court and mentioned above."

12. It is well settled and observed by the Hon'ble Supreme Court, in a number of judgments that 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, in redressing of the 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 a 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 desire to monitor, at times from behind. Some persons with vested interest indulge in 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.

13. The Hon'ble Supreme Court, in Ashok Kumar Pandey Vs State of Bengal reported in 2004 (3) SCC 349 has observed that, "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, whereas only 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 at times 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. (1998 (7) SC 273), 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."

14. This tendency is being slowly permitted to percolate, for setting in motion criminal law jurisdiction, often unjustifiably just for gaining publicity and giving adverse publicity to their opponents. The other interesting aspect is

that in PILs, official documents are being annexed, without even indicating as to how the petitioner came to possess them. It is very clear that there are oblique motives involved in filing PILs and in most cases proxy litigations are fought by filing PILs. Where a petitioner has not even a remote link with the issues involved, it becomes imperative for the Courts to lift the veil and uncover the real purpose of the petition and the real person behind it. It would be desirable for the Courts to filter out 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".

15. The Hon'ble Supreme Court in S.P.Anand v. H.D.Deve Gowda reported in 1996 (6) SCC 734, has observed as under:

"18. 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 expression, 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."

16. Similarly, 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 adversarial 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."

17. Petitioner Association cannot said to have any locus standi to raise any grievance regarding the amendment to the rules for recruitment to the post of Data Entry Operator.

18. Material on record discloses that a similar writ petition has been filed challenging the amendment to the recruitment rule in W.P.No.15810 of 2012. Challenge in that writ petition was by a Junior Assistant. Writ petition was dismissed, observing that,

"4. It is not clear as to how the petitioner can challenge the said amendment. It is for the University to prescribe relevant criteria for recruitment. If persons who were working on daily

wages or contract basis, certainly there is legitimate expectation for them to get into the service of the University. In that view of the matter, the University has set up certain quota for the existing persons who are already doing similar work in the University. Merely because chances of promotion are curtailed or reduced, the petitioner cannot challenge a Rule for promotion."

19. The reasons for amending the Rule by the University set out in paragraph 14 of the counter affidavit reads as follows:-

"14. When the issue of filling the regular posts in accordance with the existing RRB was placed before the Executive Council, the Council on its own, decided to amend the condition of two years of service prescribed for the contract employees to five years, keeping in view the large number of contract employees with more than five years of service. It was a decision taken by the Executive Council, which has full and unfettered authority to take such decisions and not by the Vice-Chancellor. In any case, this particular amendment in no way affects the petitioner's right as the provisions relating to Junior Assistants have remained untouched by this amendment."

20. The petitioner has not made out any case, challenging the amended circular issued by the University and there is no case to stall the recruitment process. It is now stated by the learned Standing Counsel for the University that the process could not be completed due to the pendency of the writ petition. It is also stated that if the petitioner applies for Limited Departmental Competitive Examination (LDCE), members would also be considered, but so far, the petitioner has not applied for the same. Since 25% quota meant for the Junior Assistants are yet to be filled up, University, if it re-advertises, the petitioner is also entitled to apply and go through the examination process, for selection.

21. Judgment in W.P.No.15810 of 2012 has attained finality. The present writ petition, thus seems to be only a camouflage, to once again challenge the recruitment Rule. It is well settled that Court must maintain strict vigilance to ensure that there is no abuse of the process of Court. On the facts and circumstances of the case, we hold that the petitioner Association is camouflaging, a simple service dispute, as a Public Interest Litigation. The entire pleadings in the writ petition shows an element of personal interest in a dispute relating to selection and appointment, which we hold that it is

a camouflaged, as a Public Interest Litigation, which is not permissible.

22. We have been taken through the Notification, inviting eligible candidates, for Stenographer-cum-Data Entry Operator appointed, on contract basis. It is apparent that appropriate advertisements were issued, calling for applications, from the eligible candidates, for the appointment of the post. It is not as if all the Data Entry Operators are being appointed. There is going to be an examination and the Data Entry Operators, who are successful in the limited examination will be appointed, on regular basis.

23. Writ petition also suffers from yet another technical defect. There is no averment in the writ petition that members of the Association have authorised the General Secretary, to institute the present writ petition. Without any authorisation, the present writ petition could not have been filed and it cannot be entertained.

24. In view of the above, writ petition fails and the same is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary
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2. The Registrar
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3. Prof.Dr.Anisha Basheer Khan
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4. The Deputy Registrar (Admn.)
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+2cc to Mr.R.Revathy, Advocate, S.R.No.89619 & 88615

+1cc to Mr.Stalin Abhimanyu, Advocate, S.R.No.89425

+1cc to Mr.Balan Haridas, Advocate, S.R.No.88642

W. P No.28980 of 2017

JP (CO)
GSP (04/01/2019)



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