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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :22.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P (MD) No.3648 of 2018
and

W.M.P (MD) Nos.3874 and 3875 of 2018

Palanikumar

.. Petitioner

Vs.

- 1.The State, represented by
The Home Secretary,
Fort. St. George, Chennai.
- 2.The Director General of Police,
O/o.The Director General of Police,
Chennai.
- 3.The Chairman,
Board of Film Certification,
Shastri Bhavan, Haddown Road,
Nungambakkam, Chennai.
- 4.M/s.Joshika Films,
represented by its Producer,
Mr.S.Durai Murugan
- 5.Mr.K.Ragavendra Rao

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents not to exhibit the film 'Akilandakodi Prammanda Nayagan' in any Theatre, Auditorium, place of public exhibition etc., in any manner in whatever and in any form of public exhibition in any place and subject to the orders of this Honourable Court and consequently direct the respondents to remove the photograph of Tamil Poet Vairamuthu and the statement viz.,
“குண்டாளின் பெருமைகளை உணர்ந்தவர்... உணர்த்தியவர்...”
advertisements.

For Petitioner

: Mr.K.Navaneetharaja

For Respondents 1 to 3

: Mr.A.K.Baskarapandian,
Special Government Pleader

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The petitioner, who claims to be a practising Advocate, belongs to Ramanathapuram District Bar, came forward to file this Writ Petition styled as a 'Public Interest Litigation', stating



among other things that there was a controversial statement made by the Tamil Poet Thiru.Vairamuthu about the Hindu Goddess Andal, by mentioning the Goddess, as a 'Devadasi' and it became a controversial issue and led to very many agitations and Dharnas.

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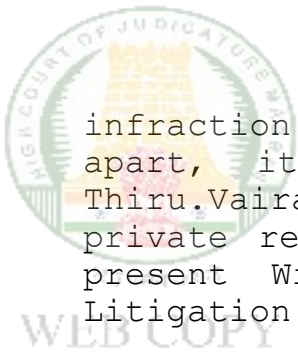
2. The petitioner would further state that a Telugu movie was dubbed into Tamil with a title 'Akilandakodi Pramanda Nayagan' and public advertisements were released announcing that the said film is going to be exhibited all over Tamil Nadu from 23.02.2018 onwards.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the said publicity material and would submit that on the top of the said material, by putting the picture of Tamil Poet Thiru.Vairamuthu, it is stated that “ஆண்டாளின் பெருமைகளை உணர்ந்தவர்.., உணர்த்தியவர்..,” (“who knew the glory of Goddess Andal and propagated the glory of Goddess Andal”) (rough translation).

4. It is the primordial submission of the learned counsel appearing for the petitioner that it is not known whether the consent of Thiru.Vairamuthu, has been taken, to put his photograph and that apart, the statement made by him and also led to law and order problem and in the event of the said publicity material, coming to the knowledge of some groups, once again, there is likelihood of law and order problem and as a consequence, the people of the State would be put to great hardship and that apart, it is also a misleading advertisement to generate some publicity, especially, negative publicity and hence, the learned counsel appearing for the petitioner, prays for appropriate orders, forbearing the respondents not to exhibit the said film in any Theatre, Auditorium, place of public exhibition etc., in any manner and in any form of public exhibition in any place with a further direction, directing the respondents to remove the photograph of Tamil Poet Thiru.Vairamuthu, along with the said statement, from the advertisement material.

5. The learned counsel appearing for the petitioner would further submit that his representations dated 20.02.2018, have been submitted to the Director General of Police, Chennai, the Chairman, Censor Board of Film Certification, Chennai and Home Secretary, Home Department, Government of Tamil Nadu, Chennai and despite receipt and acknowledgment, no action is being taken and therefore, the petitioner is constrained to approach this Court by filing this Writ Petition.

6. Per contra, Mr.A.K.Baskarapandian, learned Special Government Pleader, who accepts notice on behalf of respondents 1 and 2, would submit that admittedly, the petitioner in the affidavit filed in support of this writ petition, claims that he is a practising Advocate and he has filed this Writ Petition as a 'Public Interest Litigation' and he did not state anything about the



infracton or non-following of any statutory provisions and that apart, it is for the person, who is aggrieved, namely, Thiru.Vairamuthu, to invoke appropriate remedy, prohibiting the private respondents from doing so and would further add that the present Writ Petition is nothing but a 'Publicity Interested Litigation' and prays for dismissal of this Writ Petition.

7. This Court has carefully considered the rival submissions and perused the materials placed before it.

8. The petitioner claims that he is a practising Advocate and belongs to Ramanathapuram District Bar and he has filed this 'Public Interest Litigation'.

9. In the decision reported in (2010) 3 Supreme Court Cases, 402 (State of Uttaranchal v. Balwant Singh Chaufal and Others) , Guidelines have been laid for instituting Public Interest Litigation, especially, if it is filed by a practising Advocate and it is relevant to extract the following paragraphs:

"It was expected from a member of noble profession not to invoke jurisdiction of the Court in a matter where controversy itself is no longer res intergra. The petitioner, a local practising lawyer, ought to have bestowed some care before filing his writ petition in public interest under Article 226 of the Constitution. The controversy raised by the petitioner was decided 58 years ago by the High Court in Karkare, AIR 1952 Nag 330, which was approved by the Constitution Bench way back in 1962 in Atlas Cycle, AIR 1962 SC 1100. When the controversy is no longer res integra and the same controversy is raised repeatedly, then it not only wastes precious time of the Court and prevents the Court from deciding other deserving cases, but also has immense potentiality of demeaning a very important constitutional office, and the person who has been appointed to that office. This is a clear case of abuse of process of the court in the name of public interest litigation. A degree of precision and purity in presentation is a sine qua non for a petition filed by a member of the Bar under the label of public interest litigation. It is expected from a member of the Bar to at least carry out the basic research whether the point raised by him is res integra or not. The lawyer who files such a petition cannot plead ignorance. This is a classic case of abuse of process of court. A practising lawyer has deliberately abused process of the court. In that process, he has made a serious attempt to demean an important constitutional office. The petitioner out to have refrained from filing such a frivolous petition.



181. We have carefully considered the facts of the present case. We have also examined the law declared by this Court and other courts in a number of judgments. In order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions:

(1) The Courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.

(2) Instead of every individual judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy of the rules prepared by the High Court is directed to ensure that a copy of the rules prepared by the High Court is sent to the Secretary General of this Court immediately thereafter.

(3) The Courts should prima facie verify the credentials of the petitioner before entertaining a PIL.

(4) The Courts should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

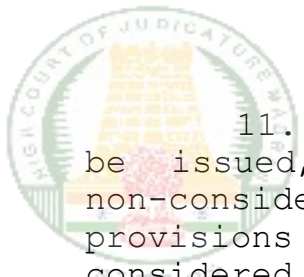
(5) The Courts should be fully satisfied that substantial public interest is involved before entertaining the petition.

(6) The Courts should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.

(7) The Courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The Court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation.

(8) The Courts should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations."

10. It is pertinent to point out at this juncture that the representations dated 20.02.2018, have been submitted to the above said officials and within two days of submitting the representations, the petitioner has approached this Court without giving time to the respondents to respond.



11. It is a settled position of law, a Writ of Mandamus can be issued, in the event of demand and refusal, demand and non-consideration and as to the infraction of the relevant statutory provisions or non-adherence of the statutory provisions and in the considered opinion of this Court, none of the said mandates, have been adhered to by the writ petitioner and the petitioner being a Lawyer, before filing 'Public Interest Litigation', ought to have looked into the relevant statutory provisions in order to assist the Court and unfortunately, he failed to do so.

12. The Tamil Nadu (Compulsory Censorship of Film Publicity Materials) Act, 1987(Tamil Nadu Act 35 of 1987), came to be legislated and it provides for compulsory censorship of publicity materials relating to films.

13. The said Act contains elaborate procedures, as to the release of publicity materials and the petitioner, has failed to invoke the provisions of the said Act for the purpose of redressal of his 'alleged grievance'. As rightly pointed out by the learned Special Government Pleader appearing for respondents 1 and 2, it is for the concerned individual, namely, Thiru.Vairamuthu, to make a grievance and it is not made known from the affidavit filed in support of this Writ Petition that whether the concerned individual has voiced his grievance or not.

14. In the considered opinion of this Court, the present 'Public Interest Litigation' has been filed by a practising Lawyer without doing any research on the subject, especially to the relevant statutory provisions and also in the light of the reasons assigned above, it cannot be entertained.

15. In the result, the Writ Petition is dismissed. However, in the circumstances of the case, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

1.The Home Secretary, State of Tamil Nadu,
Fort. St. George, Chennai.

2.The Director General of Police,
O/o.the Director General of Police, Chennai.

+One cc to The Special Government Pleader, SR.No.51015

+One cc to M/s.S.Irulappan, Advocate, SR.No.50675

pm

RL/5C/5P/KK/SAR4/8/3/2018

ORDER MADE IN

W.P(MD)No.3648 of 2018

22.02.2018