

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

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CWP-283-2018

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Date of Decision: 26.04.2018

MOHIT SHERAWAT

....Petitioner(s).

Versus

STATE OF HARYANA AND ORS.

...Respondent(s).

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr. J.S. Chahal, Advocate
for the petitioner.

ANUPINDER SINGH GREWAL, J.

This petition has been filed in the nature of public interest litigation impugning the Notifications dated 23.01.2013 (Annexure P-2) & dated 27.09.2013 (Annexure P-3) and instructions dated 15.07.2014 (Annexure P-4) whereby vertical reservation has been provided to economically backward persons from the General Category (EBPG).

2. The petitioner has sought a further direction to the respondents not to make public appointments under the Economically Backward Persons from General Category (EBPG) and treat all such candidates in General Category in pursuance to the advertisement issued by Haryana Staff Selection Commission on 28.07.2017.

3. It is stated in the petition that the petitioner belongs to General Category and the reservation to EBPG category has marred chances of candidates belonging to General Category.

When the petitioner had appeared before us on 11.01.2018, the

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learned counsel for the petitioner was asked to substantiate how the petition would be maintainable in terms of Maintainability of Public Interest Litigation Rules, 2010.

4. The petitioner has placed on record Annexures P-14 and P-15. Annexure P-14 pertains to advertisement issued on 30.12.2016 by the Haryana Staff Selection Commission for various posts in which the last date for submission of applications was 15.02.2017 and details of various posts and qualifications have been enumerated. Annexure P-15 is the recommendation made by Haryana Staff Selection Commission for the post of Water Pump Operator, Grade II, Public Health Department, Haryana. The selection pursuant to the advertisement issued on 30.12.2016, would be over by now. If any candidate was aggrieved thereagainst, he would have sought recourse to remedy in accordance with law. The selected candidates, who would be adversely affected by our order have not been impleaded as party and in absence thereof, it would not be possible for this Court to issue directions as prayed for. It is not the case of the petitioner that he had participated in response to the advertisement. He is only stated to be espousing cause of other candidates.

5. It is well settled by the Supreme Court through several judgments that the concept of public interest litigation envisages to take up the causes of down trodden and under privileged sections of the society, who themselves do not have means to approach the Court. Reference may be made to judgment of Tehseen

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Poonawalla Versus Union of India and Anr. passed in Writ Petition (Civil) bearing No.19 of 2018, decided on 19.04.2018, wherein it has been held as under:-

“Public Interest Litigation

103. Public Interest Litigation has developed as a powerful tool to espouse the cause of the marginalised and oppressed. Indeed, that was the foundation on which public interest jurisdiction was judicially recognised in situations such as those in *Bandhua Mukti Morcha v Union of India*²⁸. Persons who were unable to seek access to the judicial process by reason of their poverty, ignorance or illiteracy are faced with a deprivation of fundamental human rights. Bonded labour and under trials (among others) belong to that category. The hallmark of a public interest petition is that a citizen may approach the court to ventilate the grievance of a person or class of persons who are unable to pursue their rights. Public interest litigation has been entertained by relaxing the rules of standing. The essential aspect of the procedure is that the person who moves the court has no personal interest in the outcome of the proceedings apart from a general standing as a citizen before the court. This ensures the objectivity of those who pursue the grievance before the court. Environmental jurisprudence has developed around the rubric of public interest petitions. Environmental concerns affect the present generation and the future. Principles such as the polluter pays and the public trust doctrine have evolved during the adjudication of public interest petitions. Over time, public interest litigation has become a powerful instrument to preserve the rule of law and to ensure the accountability of and transparency within structures of governance. Public interest litigation is in that sense a valuable instrument and jurisdictional tool to promote structural due process.

104. Yet over time, it has been realised that this jurisdiction is capable of being and has been brazenly mis-utilised by persons with a personal agenda. At one end of that spectrum are those cases where public interest petitions are motivated by a desire to seek publicity. At the other end of the spectrum are petitions which have been instituted at the behest of business or political

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rivals to settle scores behind the facade of a public interest litigation. The true face of the litigant behind the façade is seldom unravelled. These concerns are indeed reflected in the judgment of this court in *State of Uttaranchal v Balwant Singh Chaufal*²⁹. Underlining these concerns, this court held thus:

“143. Unfortunately, of late, it has been noticed that such an important jurisdiction which has been carefully carved out, created and nurtured with great care and caution by the courts, is being blatantly abused by filing some petitions with oblique motives. We think time has come when genuine and bona fide public interest litigation must be encouraged whereas frivolous public interest litigation should be discouraged. In our considered opinion, we have to protect and preserve this important jurisdiction in the larger interest of the people of this country but we must take effective steps to prevent and cure its abuse on the basis of monetary and non-monetary directions by the courts.”

105. The misuse of public interest litigation is a serious matter of concern for the judicial process. Both this court and the High Courts are flooded with litigation and are burdened by arrears. Frivolous or motivated petitions, ostensibly invoking the public interest detract from the time and attention which courts must devote to genuine causes. This court has a long list of pending cases where the personal liberty of citizens is involved. Those who await trial or the resolution of appeals against orders of conviction have a legitimate expectation of early justice. It is a travesty of justice for the resources of the legal system to be consumed by an avalanche of misdirected petitions purportedly filed in the public interest which, upon due scrutiny, are found to promote a personal, business or political agenda. This has spawned an industry of vested interests in litigation. There is a grave danger that if this state of affairs is allowed to continue, it would seriously denude the efficacy of the judicial system by detracting from the ability of the court to devote its time and resources to cases which legitimately require attention. Worse still, such petitions pose a grave danger to the credibility of the judicial process. This has the propensity of endangering the credibility of other institutions and undermining public faith in

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democracy and the rule of law. This will happen when the agency of the court is utilised to settle extra-judicial scores. Business rivalries have to be resolved in a competitive market for goods and services. Political rivalries have to be resolved in the great hall of democracy when the electorate votes its representatives in and out of office. Courts resolve disputes about legal rights and entitlements. Courts protect the rule of law. There is a danger that the judicial process will be reduced to a charade, if disputes beyond the ken of legal parameters occupy the judicial space.”

6. In the light of the principles laid down by the Supreme Court there is no merit in the petition which stands dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

26.04.2018

SwarnjitS

Whether speaking/reasoned :	YES/NO
Whether reportable :	YES/NO