

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (PIL) No. 28 of 2019**

- P. K. Roy S/o Late D. K. Roy, aged about 65 years, R/o Wasan Block, Gurunanak Chowk, Torwa, Bilaspur, District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. Union of India Through - The Secretary, Ministry of Railway, New Delhi.
2. The General Manager, South East Central Railway, Bilaspur, District Bilaspur, Chhattisgarh.
3. Divisional Railway Manager, South East Central Railway Bilaspur, District Bilaspur, Chhattisgarh.
4. Sr. Divisional Personnel Officer, South East Central Railway Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Ravi Ranjan Sinha, Advocate.
For Respondent No.1	:	Shri B. Gopa Kumar, Assistant Solicitor General.
For Respondents No.2 to 4	:	Shri Abhishek Sinha, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Justice Goutam Bhaduri****Order on Board****Per P. R. Ramachandra Menon, Chief Justice****19.06.2019**

1. The Petitioner projecting himself as a person *pro bono publico* has moved this Court with the following prayers:

“i. That, the Hon'ble Court may kindly be pleased to call entire records pertaining to the case of petitioner from the respondents.

ii. That, this Hon'ble Court may kindly be pleased to issue an appropriate writ or order declaring ultra vires **OR** give direction to the respondent to relax from the provisions of immediate registration under ESI Act, 1948 to maintain the Muster Roll and Register regarding the employees to the railway contractor who is serving the railway in individual capacity.

iii. That, this Hon'ble Court may kindly be pleased to issue an appropriate writ or direction as deem fit and proper.

Any other relief / reliefs which may deem fit and proper in the facts and circumstances of the case, may also be allowed.”

2. We heard the learned counsel appearing for the Petitioner at length. Obviously, the challenge is mainly against the amendment made to the some provisions in the statue, particularly in respect of Section 38 and 39 chapter IV of the Employee's State Insurance Act, 1948 (for short, Act of 1948) and the scheme, whereby it has been stipulated that registration is mandatory under the Act of 1948, also read with the general conditions of contract in paragraphs 33.1, 33.2, 33.8 and 33.16 of the Railway Department.
3. The Petitioner concedes in paragraph 3(c)(i) that the Petitioner has filed writ petition in the interest of contractors of Chhattisgarh. On the very next breath, it is stated that the Petitioner has no personal interest. Coming to paragraph 8.1. the Petitioner has made the position more clear, when he contends that he is a *pro bono publico* citizen, that he is working as a contractor in the South East Central Railway, Bilaspur (for short, SECL) and is an office bearer of the Contractor's Union, Bilaspur, whose rights guaranteed under Part III of the Constitution have to be protected. I.A. No. 1 of 2019 filed alongwith the writ petition is an application for waiver of *locus standi* rules, wherein the Petitioner submits that it is filed in the interest of local residents.
4. Going by the undisputed pleadings and averments raised in the writ petition, it is quite evident that the grievance sought to be projected by the Petitioner is to the grievance of by the contractors in relation to the contracts awarded by the Railways (including that of the petitioner, he admittedly being a contractor); which purely is a 'personal grievance'. That apart, when the Petitioner points out that he is preferring the writ petition on behalf of other contractors, it is relevant to note that particulars of the said contractors are not given in the writ petition and no court fees as payable in accordance with law has been satisfied. Above

all, the challenge is raised against amendment of the relevant provisions in a statute; which has been made by the competent body i.e. the Parliament which consists of the representatives of the people. In other words, the law is made by the legislators on and behalf of the people, as mooted through the representatives of the people and as such, there cannot be any 'public interest litigation' against the statute. For this reason also, interference is not warranted.

5. The writ petition stands dismissed without prejudice to the rights and liberties of aggrieved persons, if at all any, in relation to consequences of the amendment sought to be projected in this writ petition.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Goutam Bhaduri)
Judge