

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

PUBLIC INTEREST LITIGATION NO.95 OF 2019

Yogesh s/o Raosaheb Bharsakhale and anr. ..Petitioners

Versus

The State of Maharashtra and ors. ..Respondents

Mr S.S. Khinvasara, Advocate for petitioners
Mr A.B. Girase, G.P. for respondents no.1 and 4
Mr A.P. Bhandari, Advocate for respondent no.2

AND

PUBLIC INTEREST LITIGATION NO.124 OF 2019

Rajendra s/o Laxman Joshi
and ors. .. Petitioners

Versus

The State of Maharashtra and ors. .. Respondents

Mr P.G. Deshmukh, Advocate h/f Mr A.D. Kawre, Advocate for
petitioners
Mr A.B. Girase, G.P. for respondent no.1

**CORAM : PRASANNA B. VARALE AND
ANIL S. KILOR, JJ.**

DATE : 18.11.2019

ORAL ORDER :

1. We have come across two Public Interest Litigations, i.e. Public Interest Litigation No.95 of 2019 and Public Interest Litigation No.124 of 2019. Public Interest Litigation No.95 of 2019 is filed in this Court on 7.8.2019. While issuing notice, the Division Bench of this Court, in order dated 14.8.2019, to which one of us was a party (Prasanna B. Varale, J.) referred to the issue raised in the litigation, namely cutting of large number of trees in a garden located in the heart of City, for establishing Memorial and thereby causing serious damage to ecological environment. The Public Interest Litigation No.95 of 2019

proceeded with certain requests for filing affidavit-in-reply and adjournments. On perusal of Public Interest Litigation No.124 of 2019, it reveals that this petition is filed on 19.9.2019. In the said petition, prayer clause (A) aims at the very grievance namely cutting of trees in the garden located in the heart of City. Public Interest Litigation No.124 of 2019 is circulated before this Court today for orders.

2. On finding that Public Interest Litigation No.95 of 2019, wherein notices are already issued and Public Interest Litigation No.124 of 2019 are raising one and the same grievance, we thought it fit to consider the rules framed by this Court under the title, 'Bombay High Court Public Interest Interest Litigation Rules of 2010'. On perusal of the rules and more particularly, the proforma petition and again more particularly, the declaration and undertaking clause, it revealed that the pre-requisites are an expectation that a thorough research has been conducted in the matter raised through the petition and the issue raised was not dealt with or decided and that a similar or identical petition was not filed earlier by him/it (in case, such an issue was dealt with or a similar or identical petition was failed earlier, state its status or the result).

3. Thus, a duty is cast upon the petitioner to ascertain with best of his knowledge and research that the issue is not dealt with earlier. Now, it can safely be said that the purpose of framing of the rules and expectation in the declaration and undertaking clause was to avoid multiplicity of litigation touching the very subject or issue or the cause.

4. Considering the above referred position, particularly emerged from facts of the matter and perusal of the rules, we are of the opinion that no fruitful purpose would be served by permitting two petitions to be proceeded in this Court. They are filed on an identical issue, but it would be only a multiplicity of litigation. Accordingly, we thought it fit to permit only one petition to proceed. Public Interest Litigation No.95 of 2019 was filed in prior point of time and we must state that when this issue was confronted with the learned Counsel Mr Deshmukh, Mr Deshmukh was fair enough to submit before this Court that it would be in the interest of institute that the multiplicity of litigation be avoided. Mr Deshmukh then submitted that the petitioner had conducted some research in the matter and he would be providing that research material to the learned Counsel appearing in P.I.L. No.95 of 2019 so that the learned Counsel may take appropriate steps in the matter. We appreciate the gesture of Mr Deshmukh.

5. Resultantly, we dispose of Public Interest Litigation No.124 of 2019 and Public Interest Litigation No.95 of 2019 be proceeded further.

6. Post the Public Interest Litigation No.95 of 2019 on 2.12.2019.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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