

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21/2/2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.65 of 2019

C.Selvakumar

President

Tamil Nadu Devedra Kula Velalar

Urimai Meetpu Iyakkam

6 A North Street, managiri

Madurai 625 020.

...

Petitioner

Vs

1. The Government of Tamil nadu
rep. By its Secretary
Home Department
Fort St. George
Chennai 600 009.

2. The Government of Tamil Nadu
rep. By its secretary
Revenue Department
Fort St. George
Chennai 600 009.

3. The Director General of Police
Tamil Nadu Police Department
Dr. Radhakrishnan Road
Mylapore
Chennai 600 004.

4. The District Collector
Madurai District
Madurai 625 020.

5. The Commissioner of Police
Madurai City
Madurai.

...

Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents 1 and 2 to constitute the committee of the delegates of all communities, including the delegate of the

petitioner's Community and regulate and monitor the game of Jallikattu from calling the bulls by referring the caste name of the owners of the bulls and conducted by the caste based associations, based on the petitioner's representation dated 21/12/2018 made to the respondents herein.

For petitioner

... Mr.K.Kannan

For respondents

... Mr.E.Manoharan

Additional Government Pleade

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O R D E R

(Order of the Court was made by Subramonium Prasad,J)
President of Tamil Nadu Devendra Kula Velalar Urimai Meetpu Iyakkam, has filed the instant Public Interest Litigation, to direct Government of Tamil Nadu, to constitute a committee of the delegates of all the communities, including the delegate of the petitioner's Community, and regulate and monitor the game of Jallikattu, from calling the bulls by referring to the caste names of the owners of the bulls.

2. This Court, while issuing notice, by an order, dated 7/1/2019, observed as under:-

"2. This Court upon hearing the submission of the learned counsel for the petitioner, is of the view that there cannot be any positive direction, directing the Government of Tamil Nadu, to conduct Jallikattu event as it is their policy decision. In so far as the allegation of the petitioner that Jallikattu events are being conducted on caste and communal lines, if the petitioner comes across any such, infraction or violation, he is always at liberty to lodge necessary complaint to the Licensing Authority as well as to the jurisdictional Police, who on receipt of the same, is expected to act accordingly, in accordance with law.

3. During the course of arguments, it was pointed out to Mr.E.Manoharan, learned Additional Government Pleader that in the event of any participant or spectator suffers injury on account of charging/trampling by the raged bull or unforeseen circumstances, who will compensate the. The learned Additional Government Pleader seeks time to get necessary written instructions/file an affidavit in that regard.

4. Call on 23/1/2019."

3. Mr.E.Manoharan, learned Additional Government Pleader submitted that the Government is taking steps to amend the Tamil Nadu Prevention of Cruelty to Animal (Conduct of Jallikattu) Rules, 2017, by making the owners of bulls responsible for the accidents that occur during the event. He also submitted some provisions would be made, regarding payment of compensation, in cases where a participant or a spectator, suffers injuries during the event.

4. At the outset, it is to be noted that this petition, with a prayer to direct the respondents 1 and 2 herein, to constitute a committee of the delegates of all communities, including the delegate of the petitioner's Community and regulate and monitor the game of Jallikattu, from calling the bulls by referring the caste name of the owners of the bulls and conducted by the caste based associations, based on the petitioner's representation, dated 21/12/2018, made to the respondents herein, cannot be said to be in public interest. Basis of the writ petition seems to be that bulls are referred as 'Servai bull', 'Konar bull' and 'Thevar bull', according to the caste of the owner of Bull. According to the petitioner, members of the petitioner's Community must also be permitted to be a part of the delegates of the Communities to conduct the game of Jallikattu.

5. Petitioner has averred that "it is mandate on the part of the respondents herein to regulate the game of Jallikattu by way of allowing the delegates of the petitioner's community people in the committee for the game of Jallikattu and thereby, communal harmony would be maintained, in the said area, but whereas, the respondents herein, have not come forward to regulate the game of Jallikattu, on the basis of their representation".

6. It is one thing to say that organisers must refrain from calling the bulls by referring to the caste of the person, who owns the bulls, as this promotes discrimination, on the basis of caste, which should not be permitted. Prayer of the petitioner, is not only to restrain the organisers, from referring to the bulls, on the basis of the caste of the owner of the bull, but also to include the members of Devendra Kula Vellalar Community, in the committee, for organising Jallikattu. Object of the petitioner, therefore, is not to fight against discrimination, on the basis of the caste system, but to include members of the Devendra Kula Vellalar Community, as a part of the organising Committee. Such a prayer, cannot be said to be in public interest, and on this aspect, this Court deems it fit to consider few decisions.

(i). In {(2010) 3 Supreme Court Cases 402}, State of Uttaranchal Vs. Balwant Singh Chaufal and others, it has been

held as follows:-

"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 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.

(ii). In Kalyaneshwari vs. Union of India and Others {(2011) 3 Supreme Court Cases - 287}, the Hon'ble Supreme Court, held as follows:-

"39. Every litigant, who approaches the Court, owes a duty to approach the Court with clean hands and disclose complete facts. A petition which lacks bona fides and is intended to settle business rivalry or is aimed at taking over of a company or augmenting the business of another interested company at the cost of closing business of other units in the garb of PIL would be nothing but abuse of the process of law.

40. Presumably, and as contended, the direct impact of banning of activities of mining/manufacturing relating to asbestos shall result in increase in demand of cast iron/ductile iron production as they are some of the suitable substitutes for asbestos. It is not in dispute that ESCL is one of the largest manufacturer of iron and allied products in India and there was a professional and/or other connections between ESCL and B.K. Sharma on the one hand and B.K. Sharma and Shanti Swarup on the other who, admittedly at present, is involved with the activities of NGO for a considerable time. Thus, it would be a reasonable conclusion to draw that the writ petition has been hardly filed in public interest but is a private interest litigation to give rise to business opportunities in a particular field.

41. In Ashok Kumar Pandey v. State of W.B. [(2004) 3 SCC 349 : (2011) 1 SCC (Cri) 865] this Court took a cautious approach while entertaining public interest litigations and held that public interest litigation is a weapon, which has to be used with great care and circumspection. The judiciary has to be extremely careful to see that no ugly private malice, vested interest and/or seeking publicity lurks behind the beautiful veil of public interest. It is to be used as an effective weapon in the armoury of law for delivering social justice to citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief.

42. In *Rajiv Ranjan Singh 'Lalan' (8) v. Union of India* [(2006) 6 SCC 613 : (2006) 3 SCC (Cri) 125], this Court reiterated the principle and even held that howsoever genuine a case brought before a court by a public interest litigant may be, the court has to decline its examination at the behest of a person who, in fact, is not a public interest litigant and whose bona fides and credentials are in doubt; no trust can be placed by the court on a mala fide applicant in a public interest litigation.

43. The courts, while exercising jurisdiction and deciding a public interest litigation, have to take great care, primarily, for the reason that wide jurisdiction should not become a source of abuse of process of law by the disgruntled litigant. Such careful exercise is also necessary to ensure that the litigation is genuine, not motivated by extraneous considerations and imposes an obligation upon the litigant to disclose true facts and approach the Court with clean hands. Thus, it is imperative that the petitions, which are bona fide and in public interest alone, be entertained in this category. Abuse of process of law is essentially opposed to any public interest. One who abuses the process of law, cannot be said to serve any public interest, much less, a larger public interest. In the name of the poor let the rich litigant not achieve their end of becoming richer by instituting such set of petitions to ban such activities."

(iii). In *Ayaaubkhan Noorkhan Pathan vs. State of Maharashtra and Others* {(2013) 3 Supreme Court Cases 465}, the Hon'ble Supreme Court, held as follows:-

"14. This Court has consistently cautioned the Courts against entertaining public interest litigation filed by unscrupulous persons, as such meddlers do not hesitate to abuse the process of Court. The right of effective access to justice, which has emerged with the new social rights regime, must be used to serve basic human rights, which purport to guarantee legal rights and, therefore, a workable remedy within the framework of the judicial system must be provided. Whenever any public interest is invoked, the Court must examine the case to ensure that there is in fact, genuine public interest involved. The Court must maintain strict vigilance to ensure that there is no abuse of the process of Court and that, "ordinarily meddlesome bystanders are not granted a visa". May

societal pollutants create new problems or non-redressed grievances, and the Court should make an earnest endeavour to take up those cases, where the subjective purpose of the litigant justifies the need for it. (Vide P.S.R.Sadhanantham Vs. Arunachalam {(1980) 3 SCC 141}, Dalip Singh vs. State of U.P. {(2010) 2 SCC 114; State of Uttaranchal Vs. Balwant Singh Chauhan {(2010) 3 SCC 402 and Amar Singh Vs. Union of India {(2011) 7 SCC 69}.

(iv). In State of Madhya Pradesh Vs. Narmada Bachao Andolan & Another {(2011) 7 Supreme Court Cases - 639, it has been held as follows:-

159. The standard of expectation of civic responsibility required of a petitioner in a PIL is higher than that of an applicant who strives to realise personal ends. The Courts expect a public interest litigant to discharge high standards of responsibility. Negligent use or use for oblique motives is extraneous to the PIL process for where the litigant to act for other oblique considerations, the application will be rejected at the threshold. Measuring the "seriousness" of the PIL petitioner and to see whether she/he is actually a "champion" of the cause of the individual or the group being represented, is the responsibility of the Court, to ensure that the party's procedural behaviour remains that of an adequate "champion" of the public cause (vide Janata Dal Vs. H.S.Chowdhary {(1992) 4 SCC 305}, Kapila Hingorani (1) Vs. State of Bihar {(2003) 6 SCC 1} and Kushum Lata vs. Union of India {(2006) 6 SCC 180.

160. The constitutional Courts have time and again reiterated that abuse of the noble concept of PIL is increasing day by day and to curb this abuse there should be explicit and broad guidelines for entertaining the petitions as PILs. This Court in State of Uttaranchal Vs. Balwant Singh Chauhan {(2010) 3 SCC 402}, has given a set of illustrative guidelines, inter alia:-

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

(ii). The Court should also ensure that there is no oblique motive behind filing the public interest litigation, etc.

Therefore, while dealing with PIL, the Court has to be vigilant and it must ensure that the forum of the Court be neither abused nor used to achieve an

oblique purpose."

7. We have given our due consideration to the prayer sought for, in the instant writ petition and of the view that directions sought for cannot be granted, but at the same time, observe that the authorities, who permit Jallikattu, should not give any impression to the general public, that caste of the owners of the bulls, is taken note of, and bulls are called in the caste names.

8. In view of our discussion, writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Secretary
Government of Tamil nadu
Home Department
Fort St. George
Chennai 600 009.
2. The secretary
Government of Tamil Nadu
Revenue Department
Fort St. George
Chennai 600 009.
3. The Director General of Police
Tamil Nadu Police Department
Dr. Radhakrishnan Road
Mylapore
Chennai 600 004.
4. The District Collector
Madurai District
Madurai 625 020.
5. The Commissioner of Police
Madurai City , Madurai.

+1cc to the Government Pleader, S.R.No. 16606

W.P.No.65 of 2019

RSI(CO)
GN(06/05/2019)