

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 4/4/2019
C O R A M
THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.34053 of 2018

Geeta Rani

... Petitioner

Vs

1. Union of India
Through its Secretary
Ministry of Youth Affairs & Sports
Shastri Bhavan
New Delhi 110 001.
 2. Board of Control for Cricket in India
through its Chairman/Secretary
4th Floor, Cricket Centre
Wankhede Stadium, 'D' Road
Churchgate
Mumbai 400 020.
 3. The Registrar
Office of Registrar of Co-operative Society
SH 114 Dasuran
Chetpet
Chennai.
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus

(i). to direct the first respondent to restrict BCCI, second respondent and its affiliated bodies/associations to show BCCI/second respondent as official representative of India.

(ii). to take legal action against the members of BCCI respondent No.2 to represent our country at national or international level without any permission authority/sanction from the government and

(iii). to create a body of its own and register under the International Cricket Council to be the official representative of the nation;

(iv). To the first respondent, directing to take suitable action for violation of Section 3 of the Emblem and Names (Prevention of Improper Use) Act, 1950 against the BCCI respondent No.2 and its affiliated bodies/associations;

(v). to restrict respondent No.1 to give benefits i.e, government employments and national awards/Khel Ratna/Bharat Ratna etc., to the players of respondent No.2 as players of official team; and

(vi). Direct the third respondent to deregister BCCI respondent No.2 as its include the name of nation.

For petitioner ... Mr.Yadunandan Bansal
for M/s. Reekak Kansal

For respondents ... Ms.S.S.Meenakumari
SCGSC
for R.1.
Mr.P.Raghu Raman
Senior Counsel
for Mr.C.Seethapathy
for R.2.

O R D E R

(Order of the Court was delivered by Subramonium Prasad,J)

Instant writ petition, purportedly to be in public interest, has been filed by Ms.Geetha Rani, W/o. Reepak Kansal, for the following reliefs:-

(i). to direct the first respondent, to restrict BCCI, second respondent and its affiliated bodies/associations, to show BCCI/second respondent, as official representative of India.

(ii). to take legal action against the members of BCCI, respondent No.2, to represent our Country, at National or International level, without any permission authority/sanction from the Government and

(iii). to create a body of its own and register, under the International Cricket Council to be the official representative of the Nation;

(iv). to direct the first respondent, to take suitable action, for violation of Section 3 of the Emblem and Names (Prevention of Improper Use) Act, 1950 against the BCCI respondent No.2 and its affiliated bodies/associations;

(v). to restrict respondent No.1 to give benefits i.e, government employments and national awards/Khel Ratna/Bharat Ratna etc., to the players of respondent No.2, as players of official team; and

(vi). to direct the third respondent, to de-register BCCI, respondent No.2 as its include the name of Nation.

2. Petitioner a house wife, has averred in the writ petition that the Board of Control for Cricket in India, second respondent herein (hereinafter referred to as BCCI),

is registered as society in Tamil Nadu, under the Societies Registration Act. According to the petitioner, even though the second respondent has always denied its status, as an authority, amenable to Article 12 of the Constitution of India, it has used the Emblem "Order of the Star of India", emblem under the British Raj. Petitioner would state that the second respondent, as a private body, without any express authority from the Government, represents India in International Cricket Council (ICC), a body which governs cricket activities throughout the world. The petitioner also states that being a private body, it selects a team, which is called, Team India. According to the petitioner, being a private body, second respondent, has its own process of selecting the players, which is completely opaque and not transparent. There is no Governmental control. Petitioner states that a private body cannot be permitted to select the National Cricket team. Union of India cannot permit the National Team being selected, without having any control. Petitioner also states that by using the symbol of the "Order of the Star of India", which is the emblem of British Raj, and using the word India in its name. Second respondent has grossly violated "The Emblems and Names (Prevention of Improper Use) Act, 1950 (Act 12 of 1950). Hence, the petitioner has filed the instant writ petition, for the relief stated supra.

3. Heard Mr. Yadunandan Bansal, learned counsel for the petitioner, Ms. S.S. Meenakumari, SCGSC for the first respondent and Mr. P. Raghuraman, Senior counsel for the second respondent.

4. The issue as to whether BCCI is a Constitute and as to whether writ petition, under Article 226 of the Constitution of India, would be maintainable against BCCI is no longer res integra.

5. The Hon'ble Supreme Court in ZEE TELEFILMS LTD. AND ANOTHER Vs. UNION OF INDIA AND OTHERS {2005 (4) SCC - 649}, while dealing with the very same issue, has observed as under:-

"29. It was then argued that the Board discharges public duties which are in the nature of State functions. Elaborating on this argument it was pointed out that the Board selects a team to represent India in international matches. The Board makes rules that govern the activities of the cricket players, umpires and other persons involved in the activities of cricket. These, according to the petitioner, are all in the nature of State functions and an entity which discharges such functions can only be an instrumentality of State, therefore, the Board falls within the definition of State for the

purpose of Article 12. Assuming that the abovementioned functions of the Board do amount to public duties or State functions, the question for our consideration is: would this be sufficient to hold the Board to be a State for the purpose of Article 12? While considering this aspect of the argument of the petitioner, it should be borne in mind that the State/Union has not chosen the Board to perform these duties nor has it legally authorised the Board to carry out these functions under any law or agreement. It has chosen to leave the activities of cricket to be controlled by private bodies out of such bodies' own volition (self-arrogated). In such circumstances when the actions of the Board are not actions as an authorised representative of the State, can it be said that the Board is discharging State functions? The answer should be no. In the absence of any authorisation, if a private body chooses to discharge any such function which is not prohibited by law then it would be incorrect to hold that such action of the body would make it an instrumentality of the State. The Union of India has tried to make out a case that the Board discharges these functions because of the de facto recognition granted by it to the Board under the guidelines framed by it, but the Board has denied the same. In this regard we must hold that the Union of India has failed to prove that there is any recognition by the Union of India under the guidelines framed by it, and that the Board is discharging these functions on its own as an autonomous body.

30. However, it is true that the Union of India has been exercising certain control over the activities of the Board in regard to organising cricket matches and travel of the Indian team abroad as also granting of permission to allow the foreign teams to come to India. But this control over the activities of the Board cannot be construed as an administrative control. At best this is purely regulatory in nature and the same according to this Court in Pradeep Kumar Biswas case [(2002) 5 SCC 111 : 2002 SCC (L&S) 633] is not a factor indicating a pervasive State control of the Board.

31. Be that as it may, it cannot be denied that the Board does discharge some duties like the selection of an Indian cricket team, controlling the activities of the players and others involved in the game of cricket. These activities can be said to be akin to public or State functions and if there is any

violation of any constitutional or statutory obligation or rights of other citizens, the aggrieved party may not have a relief by way of a petition under Article 32. But that does not mean that the violator of such right would go scot-free merely because it or he is not a State. Under the Indian jurisprudence there is always a just remedy for the violation of a right of a citizen. Though the remedy under Article 32 is not available, an aggrieved party can always seek a remedy under the ordinary course of law or by way of a writ petition under Article 226 of the Constitution, which is much wider than Article 32.

32. This Court in the case of *Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust v. V.R. Rudani* [(1989) 2 SCC 691] has held: (SCC pp. 692-93)

"Article 226 confers wide powers on the High Courts to issue writs in the nature of prerogative writs. This is a striking departure from the English law. Under Article 226, writs can be issued to 'any person or authority'. The term 'authority' used in the context, must receive a liberal meaning unlike the term in Article 12 which is relevant only for the purpose of enforcement of fundamental rights under Article 32. Article 226 confers power on the High Courts to issue writs for enforcement of the fundamental rights as well as non-fundamental rights. The words 'any person or authority' used in Article 226 are, therefore, not to be confined only to statutory authorities and instrumentalities of the State. They may cover any other person or body performing public duty. The form of the body concerned is not very much relevant. What is relevant is the nature of the duty imposed on the body. The duty must be judged in the light of positive obligation owed by the person or authority to the affected party, no matter by what means the duty is imposed. If a positive obligation exists mandamus cannot be denied."

33. Thus, it is clear that when a private body exercises its public functions even if it is not a State, the aggrieved person has a remedy not only under the ordinary law but also under the Constitution, by way of a writ petition under Article 226. Therefore, merely because a non-governmental body exercises some public duty, that by itself would not suffice to make such body a State for the purpose of Article 12. In the instant case the activities of the Board do not come under the guidelines

laid down by this Court in Pradeep Kumar Biswas case[(2002) 5 SCC 111 : 2002 SCC (L&S) 633] hence there is force in the contention of Mr Venugopal that this petition under Article 32 of the Constitution is not maintainable.

34. At this stage, it is relevant to note another contention of Mr Venugopal that the effect of treating the Board as State will have far-reaching consequences inasmuch as nearly 64 other National Sports Federations as well as some other bodies which represent India in the international forum in the field of art, culture, beauty pageants, cultural activities, music and dance, science and technology or other such competitions will also have to be treated as a "State" within the meaning of Article 12, opening the floodgates of litigation under Article 32. We do find sufficient force in this argument. Many of the abovementioned federations or bodies do discharge functions and/or exercise powers which if not identical are at least similar to the functions discharged by the Board. Many of the sportspersons and others who represent their respective bodies make a livelihood out of it (for e.g. football, tennis, golf, beauty pageants, etc.). Therefore, if the Board which controls the game of cricket is to be held to be a State for the purpose of Article 12, there is absolutely no reason why other similarly placed bodies should not be treated as a State. The fact that the game of cricket is very popular in India also cannot be a ground to differentiate these bodies from the Board. Any such differentiation dependent upon popularity, finances and public opinion of the body concerned would definitely violate Article 14 of the Constitution, as any discrimination to be valid must be based on hard facts and not mere surmises. (See State of Kerala v. T.P. Roshana [(1979) 1 SCC 572] .) Therefore, the Board in this case cannot be singly identified as an "other authority" for the purpose of Article 12. In our opinion, for the reasons stated above none of the other federations or bodies referred to hereinabove including the Board can be considered as a "State" for the purpose of Article 12.

35. In conclusion, it should be noted that there can be no two views about the fact that the Constitution of this country is a living organism and it is the duty of courts to interpret the same to fulfil the needs and aspirations of the people depending on the needs

of the time. It is noticed earlier in this judgment that in Article 12 the term "other authorities" was introduced at the time of framing of the Constitution with a limited objective of granting judicial review of actions of such authorities which are created under statute and which discharge State functions. However, because of the need of the day this Court in *Rajasthan SEB* [(1967) 3 SCR 377 : AIR 1967 SC 1857] and *Sukhdev Singh* [(1975) 1 SCC 421 : 1975 SCC (L&S) 101 : (1975) 3 SCR 619] noticing the socio-economic policy of the country thought it fit to expand the definition of the term "other authorities" to include bodies other than statutory bodies. This development of law by judicial interpretation culminated in the judgment of the seven-Judge Bench in the case of *Pradeep Kumar Biswas* [(2002) 5 SCC 111 : 2002 SCC (L&S) 633]. It is to be noted that in the meantime the socio-economic policy of the Government of India has changed [see *Balco Employees' Union (Regd.) v. Union of India* [(2002) 2 SCC 333]] and the State is today distancing itself from commercial activities and concentrating on governance rather than on business. Therefore, the situation prevailing at the time of *Sukhdev Singh* [(1975) 1 SCC 421 : 1975 SCC (L&S) 101 : (1975) 3 SCR 619] is not in existence at least for the time being, hence, there seems to be no need to further expand the scope of "other authorities" in Article 12 by judicial interpretation at least for the time being. It should also be borne in mind that as noticed above, in a democracy there is a dividing line between a State enterprise and a non-State enterprise, which is distinct and the judiciary should not be an instrument to erase the said dividing line unless, of course, the circumstances of the day require it to do so.

6. The Hon'ble Supreme Court has therefore, held that BCCI does discharge public functions like selection of a new cricket team, controlling the activities of players and others involved in the game of cricket. The Hon'ble Supreme Court has held that though a petition, under Article 32 of the Constitution of India, may not be maintainable, against BCCI, an aggrieved person can always seek remedy, under the ordinary course of law, by way of a writ petition, under Article 226 of the Constitution of India, which is much wider than Article 32 of the Constitution of India. The Hon'ble Supreme Court, in the said judgment has accepted that BCCI does select the Indian Cricket Team and that there is an approval by the Government of India for doing so.

7. While dealing with the allegations against BCCI, the Hon'ble Supreme Court, in Board of Control for Cricket in India Vs. Cricket Association of Bihar and Others {(2015 (3) SCC - 251)}, reaffirmed that BCCI has a complete sway over the game of Cricket in the Country. The Hon'ble Supreme Court of India held that, BCCI regulates and controls the game to the exclusion of all others. It formulates rules, regulations, norms and standards covering all aspects of the game. It enjoys the power of choosing the members of the National Team and umpires. It exercises the power of disqualifying players. It also maintains the infrastructure like stadia, running of cricket academies and supporting State Associations, etc. The said judgment records that all these activities are undertaken with the tacit concurrence of the Government and further goes on to observe that Government of India, who are not only fully aware, but also support all the activities of the Board. The judgment goes ahead to state that the Cricket team selected by the BCCI is a National team, which is then recognised by all the concerned. They represent India.

8. The Hon'ble Supreme Court, in the said judgment [2015 (3) SCC - 251], analysed the activities of BCCI and found that several ills plaque the functioning of BCCI. The Hon'ble Supreme Court, thereafter, suggested that the Memorandum of Association of BCCI, which is a Society registered under the Societies Registration Act, must be looked into.

9. The Hon'ble Supreme Court, appointed a Committee to examine and make suitable recommendations of the Memorandum of Association. It also pointed out that the Committee, to look into the allegations made against the persons, involved in allegations of betting, match fixing, etc., during IPL Tournament, which is organised by BCCI. Paragraph Nos.118 to 120, reads as under:-

118. The other aspect, which needs attention, is the need for a probe into activities of Mr Sundar Raman. We are of the view that, once we appoint a committee to determine and award punishment, we can instead of referring the matter back to the Mudgal Committee, request the proposed new committee to examine the role played by Mr Sundar Raman, if necessary, with the help of the investigating team constituted by us earlier.

119. The proposed Committee can also, in our opinion, be requested to examine and make suitable recommendations on the following aspects:

119.1. Amendments considered necessary to the memorandum of association of BCCI and the prevalent rules and regulations for streamlining

the conduct of elections to different posts/officers in BCCI including conditions of eligibility and disqualifications, if any, for candidates wanting to contest the election for such posts including the office of the President of BCCI.

119.2. Amendments to the memorandum of association, and rules and regulations considered necessary to provide a mechanism for resolving conflict of interest should such a conflict arise despite Rule 6.2.4 prohibiting creation or holding of any commercial interest by the administrators, with particular reference to persons, who by virtue of their proficiency in the game of cricket, were to necessarily play some roles as coaches, managers, commentators, etc.

119.3. Amendment, if any, to the memorandum of association and the rules and regulations of BCCI to carry out the recommendations of the Probe Committee headed by Justice Mudgal, subject to such recommendations being found acceptable by the newly appointed committee.

119.4. Any other recommendation with or without suitable amendment of the relevant rules and regulations, which the committee may consider necessary to make with a view to preventing sporting frauds, conflict of interests, streamlining the working of BCCI to make it more responsive to the expectations of the public at large and to bring transparency in practices and procedures followed by BCCI.

120. In the result we pass the following order:

120.1. The amendment to Rule 6.2. whereby the words "excluding events like IPL or Champions League Twenty 20" were added to the said rule is hereby declared void and ineffective. The judgment and order of the High Court of Bombay in Cricket Assn. Of Bihar vs. Board of Control for Cricket in India, is resultantly set aside and the writ petition allowed to the extent indicated above.

120.2. The quantum of punishment to be imposed on Mr.Gurunath Meiyappan and Mr.Raj Kundra as also their respective franchisees/teams/owners of the teams shall be determined by a Committee comprising the following:-

(i). Hon'ble Mr.Justice R.M.Lodha, former Chief Justice of India - Chairman

(ii). Hon'ble Mr.Justice Ashok Bhan, former Judge, Supreme Court of India - Member

(iii). Hon'ble Mr.Justice R.V.Raveendran,

former Judge, Supreme Court of India - Member

The Committee shall, before taking a final view on the quantum of punishment to be awarded, issue notice to all those likely to be affected and provide to them a hearing in the matter. The order passed by the Committee shall be final and binding upon BCCI and the parties concerned subject to the right of the aggrieved party seeking redress in appropriate judicial proceedings in accordance with law.

120.3. The three-member Committee constituted in terms of sub-para 120.2, above, shall also examine the role of Mr.Sundar Raman with or without further investigation, into his activities, and if found guilty, impose a suitable punishment upon him on behalf of BCCI. Investigating team constituted by this Court under Shri.B.B.Mishra shall for that purpose be available to the newly constituted necessary, with all such powers as were vested in it in terms of our order, dated 16/5/2014 {Board of Control for Cricket in India Vs. Cricket Association of Bihar (2014) 7 SCC - 383}.

120.4. The three-member Committee is also requested to examine and make suitable recommendations to BCCI for such reforms in its practices and procedures and such amendments in the memorandum of association, rules and regulations as may be considered necessary and proper on matters set out by us in para 119 of this order.

120.5. The constitution of the Committee or its deliberations shall not affect the ensuing elections which BCCI shall hold within six weeks from the date of this order in accordance with the prevalent rules and regulations subject to the condition that no one who has any commercial interest in BCCI events (including Mr.N.Srinivasan) shall be eligible for contesting the elections for any post whatsoever. We make it clear that the disqualification for contesting elections applicable to those who are holding any commercial interest i BCCI events shall hold good and continue till such time the person concerned holds such commercial interest or till the Committee considers and awards suitable punishment to those liable for the same; whichever is later.

120.6. The Committee shall be free to fix their fees which shall be paid by BCCI which shall, in addition, bear all incidental expenses such as travel, hotel, transport and secretarial services, necessary for the Committee to

conclude its proceedings. The fees will be paid by BCCI to the members at such intervals and in such manner as the Committee may decide. The venue of the proceedings shall be at the discretion of the Committee.

10. Committees have filed detailed reports. The Hon'ble Supreme Court is monitoring the activities of BCCI. While dealing with objections raised by BCCI, on the reports filed by the Committee appointed, in Board of Control for Cricket Vs. Cricket Association of Bihar & Others {2016 (8) SCC - 535}, the Hon'ble Supreme Court, observed as under:-

"52. We have given our anxious consideration to the submissions made at the Bar. We may, before adverting to the rival submissions urged before us, point out two distinct aspects that need to be kept in mind while addressing the issues raised before us. The first is that the proceedings that led to the setting up of the Committee arose out of a public interest petition. The directions issued by this Court proceeded on a clear finding recorded by this Court that even when BCCI is not "State" within the meaning of Article 12 of the Constitution of India, it is amenable to the jurisdiction of the High Court since it discharges public functions. That part of the controversy stands concluded by judgment of this Court in the earlier round and cannot be reopened no matter Mr. Venugopal made a feeble attempt to do so by making a reference to the Constitution Bench judgment of this Court in Zee Telefilms Ltd. Vs. Union of India {(2005) 4 SCC - 649}.

54. The second aspect that needs to be borne in mind is that neither BCCI nor has anyone else assailed the findings recorded by the Committee insofar as the deep-rooted malaise that pervades in the working of BCCI is concerned. We have referred at great length to the findings of the Committee in this regard which findings have not been assailed before us either in the affidavits filed or in the course of arguments at the Bar. That being so, the question is whether reforms which the Committee has recommended after elaborate deliberations and consideration of all relevant factors can be stalled on the ground that the same violate Article 19 (1) (C) of the Constitution or on the ground that such reforms will cause any injustice either to the cause of the game or to

those who have been associated in promoting the same."

11. Thereafter, the Hon'ble Supreme Court, has gone ahead and looked into the various allegations and findings of the committee in this regard. The Hon'ble Supreme Court is therefore, consistently monitoring the functions of BCCI. Since the Hon'ble Supreme Court is monitoring the functions of BCCI, the prayer 1, 2, 3, 5 and 6 of the writ petition, viz.,

(i). to direct the first respondent to restrict BCCI, second respondent and its affiliated bodies/associations to show BCCI/second respondent as official representative of India.

(ii). to take legal action against the members of BCCI respondent No.2 to represent our country at national or international level without any permission authority/sanction from the government and

(iii). to create a body of its own and register under the International Cricket Council to be the official representative of the nation;

(v). to restrict respondent No.1 to give benefits i.e, government employments and national awards/Khel Ratna/Bharat Ratna etc., to the players of respondent No.2 as players of official team; and

(vi). Direct the third respondent to de-register BCCI respondent No.2 as its include the name of nation,

cannot be granted and considered. Judicial propriety mandates that High Court must not exercise its jurisdiction under Article 226 of the Constitution of India when the Hon'ble Supreme Court of India is monitoring the issue.

12. Mr.Yadunandan Bansal, learned counsel for the petitioner laid emphasis on the fact that the second respondent, a Society under the Societies Registration Act, has violated the "(The) Emblems and Names (Prevention of Improper Use) Act, 1950.

13. Section 3 of the "The Emblems and Names (Prevention of Improper Use) Act, 1950 (Act 12 of 1950) is reproduced hereunder:-

"Prohibition of improper use of certain emblems and names - Notwithstanding anything contained in any law for the time being in force, no person shall, except in such cases and under such conditions as may be prescribed by the Central Government, use, or continue to use, for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trade-mark or design, any name or emblem specified in the Schedule or any colourable imitation thereof without the

previous permission of the Central Government or of such officer of Government as may be authorized in this behalf by the Central Government.

14. Section 4 of the "The Emblems and Names (Prevention of Improper Use) Act, 1950 (Act 12 of 1950) is reproduced hereunder:-

"Prohibition of registration of certain companies, etc. -

(1) Notwithstanding anything contained in any law for the time being in force, no competent authority shall

a. register any company, firm or other body of persons which bears any name, or

(b). register a trade mark or design which bears any emblem or name, or

(c). grant a patent in respect of an invention which bears a title containing any emblem or name,

if the use of such name or emblem is in contravention of Section 3.

(2). If any question arises before a competent authority whether any emblem is an emblem specified in the Schedule or a colourable imitation thereof, the competent authority may refer the question to the Central Government, and the decision of the Central Government thereon shall be final."

15. Section 3 prohibits any person to use name or emblem specified, in the Schedule or any colourable imitation thereof, without the previous permission of the Central Government, for the purposes of trade, business, calling or profession, or in the title of any patent, or any trade market or design.

16. BCCI is not a body which carries on any trade, business, calling or profession. It is therefore, not covered under Section 3 of the "The Emblems and Names (Prevention of Improper Use) Act, 1950 (Act 12 of 1950). Order of the Star of India, does not find its name, in the First Schedule. Section 3 and of the said Act is therefore, not violated.

17. Learned counsel for the petitioner submitted a wikipedia report of Board of Control for Cricket in India. Report of wikipedia does have an Indian flag. This cannot be taken into account, for the reason that it is not a website of BCCI and BCCI cannot be found fault with the action of wikipedia. Mr. Yadunandan Bansal, learned counsel for the petitioner has also filed a snapshot of Live Cricket Scores and News published by International Cricket

Council which shows the ranking of various countries in the three forms, i.e., Test Cricket, One day International and T20 Cricket and flags of the Country rank No.1, is reflected. BCCI cannot be made accountable for the website of ICC.

18. Mr.R.Raman, learned Senior Counsel for the BCCI/second respondent submitted that BCCI is not using Indian flag in its website.

19. This petition is a frivolous petition. The Hon'ble Supreme Court, in a catena of judgments has taken note of the growing tendency of the abuse of Public Interest Litigations. Jurisdiction of the writ Court is invoked, seeking waiver of locus standi rule, in cases where poor, down trodden and depraved members of the Society, not able to approach the Court, to vindicate a legal wrong of injury caused to them, for violation of legal and constitutional rights. Concept of PIL was to espouse the case of the marginalised and oppressed. While considering the growth of Public Interest Litigations, we deem it fit to consider the observations, in the latest judgment of the Hon'ble Supreme Court, in Tehseen Poonawalla v. Union of India reported in 2018 (6) SCC 72. At paragraph Nos.96 to 98, it held as follows:-

"96. 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 [Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161 : 1984 SCC (L&S) 389]. 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 undertrials (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.

97. Yet over time, it has been realised that this jurisdiction is capable of being and has been brazenly misutilised 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 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* [*State of Uttaranchal v. Balwant Singh Chaufal*, (2010) 3 SCC 402 : (2010) 2 SCC (Cri) 81 : (2010) 1 SCC (L&S) 807]. Underlining these concerns, this Court held thus: (SCC p. 453, para 143)

"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."

98. 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 litigations 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 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."

20. It cannot be said that the petitioner is not aware of the fact that the Hon'ble Supreme Court is monitoring the activities of BCCI by constituting a Committee. The Hon'ble Supreme Court of India is continuously monitoring the activities of BCCI. This fact is a common knowledge and has been appearing in the news regularly. This writ petition has attempted to start a parallel enquiry by the Madras High Court, when the Hon'ble

Supreme Court of India is monitoring the issue. This is against judicial propriety and discipline. Petitioner has also not shown any violation of the provisions of Sections 3 and 4 of the Emblem and names (Prevention of Improper Use) Act, 1950. This writ petition is nothing but an abuse of process of law. We refrain ourselves from imposing costs on the petition, but we hope that the petitioner will not indulge in filing such frivolous writ petitions in future.

21. On the facts and circumstances, we hold that the instant writ petition is frivolous, abuse of process of law and deserves to be dismissed. No costs.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Secretary
Union of India
Ministry of Youth Affairs & Sports
Shastri Bhavan
New Delhi 110 001.
2. The Chairman/Secretary
Board of Control for Cricket in India
4th Floor, Cricket Centre
Wankhede Stadium, 'D' Road
Churchgate
Mumbai 400 020.
3. The Registrar
Office of Registrar of Co-operative Society
SH 114 Dasuran
Chetpet
Chennai.

+1cc to Ms.S.S.Meenakumari, Advocate SR.No.32664
+1cc to Mr.C.Seethapathy, Advocate SR.No. 32591
+1 cc to Government Pleader Sr.No. 34267

W.P.No.34053 of 2018

A.SK(17/05/2019)