

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8114 of 2020

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Rajesh Ranjan Son of Late Kameshwar Prasad Singh Resident of Rajendra
Nagar Road No. 10A, P.S.- Kadamkuan, District- Patna.

.. ... Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Human Resources Development Department, Higher Education, Govt. of Bihar, Patna.
2. The Chancellor Cum Governor of Different University of the State of Bihar Patna.
3. The Principal Secretary to Governor Cum Chancellor Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Binay Kumar Singh, Advocate Mr.Jitendra Kumar, Advocate
For the Respondent/s	:	Mr.Silpa Singh, GA 12

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-09-2020

Petitioner has prayed for the following relief(s):

“This Public Interest Litigation (PIL) is being filed an appropriate writ being issued quashing the list of short listed candidates of Vice Chancellor and respondents commanding/directed to insole in devolve process of selection and short listing of candidates for the post of Vice Chancellor and Pro Vice Chancellor of different universities and may pass such other order or orders as may be deem fit and proper.”

Having heard learned counsel for the petitioner, we find



the present petition to be totally sketchy in nature, devoid of merits and misconceived. Petitioner does not disclose his credentials.

According to him, the Chancellor-cum-Governor of different Universities in the State of Bihar is endeavouring to fill up the post of Vice Chancellors in the respective Universities, particulars whereof are also not fully mentioned in the petition, much less details how it is de hors the rules. Significantly, who are such persons? which all are the Universities? who all are the candidates who stand short-listed? and how they do not fulfil the eligibility criteria is not even referred to in the petition.

In ***D. N. Jeevaraj Vs. Chief Secretary, Government of Karnataka & Ors, (2016) 2 SCC 653***, Hon'ble the Apex Court in paragraphs 34 to 39 observed as under:-

“34. The learned counsel for the parties addressed us on the question of the bona fides of Nagalaxmi Bai in filing a public interest litigation. We leave this question open and do not express any opinion on the correctness or otherwise of the decision of the High Court in this regard.

35. However, we note that generally speaking, procedural technicalities ought to take a back seat in public interest litigation. This Court held in *Rural Litigation and Entitlement Kendra v. State of U.P.* [*Rural Litigation and Entitlement Kendra v. State of U.P.*, 1989 Supp (1) SCC 504] to this effect



as follows: (SCC p. 515, para 16)

“16. The writ petitions before us are not inter parties disputes and have been raised by way of public interest litigation and the controversy before the court is as to whether for social safety and for creating a hazardless environment for the people to live in, mining in the area should be permitted or stopped. We may not be taken to have said that for public interest litigations, procedural laws do not apply. At the same time it has to be remembered that every technicality in the procedural law is not available as a defence when a matter of grave public importance is for consideration before the court.”

36. A considerable amount has been said about public interest litigation in *R&M Trust [R&M Trust v. Koramangala Residents Vigilance Group, (2005) 3 SCC 91]* and it is not necessary for us to dwell any further on this except to say that in issues pertaining to good governance, the courts ought to be somewhat more liberal in entertaining public interest litigation. However, in matters that may not be of moment or a litigation essentially directed against one organisation or individual (such as the present litigation which was directed only against Sadananda Gowda and later Jeevaraj was impleaded) ought not to be entertained or should be rarely entertained. Other remedies are also available to public spirited litigants and they should be encouraged to avail of such remedies.

37. In such cases, that might not strictly fall in the category of public interest litigation and for which other remedies are available, insofar as the issuance of a writ of mandamus is concerned, this



Court held in *Union of India v. S.B. Vohra* [*Union of India v. S.B. Vohra*, (2004) 2 SCC 150: 2004 SCC (L&S) 363] that: (SCC p. 160, paras 12-13)

“12. Mandamus literally means a command. The essence of mandamus in England was that it was a royal command issued by the King's Bench (now Queen's Bench) directing performance of a public legal duty.

13. A writ of mandamus is issued in favour of a person who establishes a legal right in himself. A writ of mandamus is issued against a person who has a legal duty to perform but has failed and/or neglected to do so. Such a legal duty emanates from either in discharge of a public duty or by operation of law. The writ of mandamus is of a most extensive remedial nature. The object of mandamus is to prevent disorder from a failure of justice and is required to be granted in all cases where law has established no specific remedy and whether justice despite demanded has not been granted.”

38. A salutary principle or a well-recognised rule that needs to be kept in mind before issuing a writ of mandamus was stated in *Saraswati Industrial Syndicate Ltd. v. Union of India* [*Saraswati Industrial Syndicate Ltd. v. Union of India*, (1974) 2 SCC 630] in the following words: (SCC pp. 641-42, paras 24-25)

“24. ... The powers of the High Court under Article 226 are not strictly confined to the limits to which proceedings for prerogative writs are subject in English practice. Nevertheless, the well-recognised rule that no writ or order in the nature of a mandamus would issue when there is no failure to perform a mandatory duty applies in



this country as well. Even in cases of alleged breaches of mandatory duties, the salutary general rule, which is subject to certain exceptions, applied by us, as it is in England, when a writ of mandamus is asked for, could be stated as we find it set out in *Halsbury's Laws of England* (3rd Edn.), Vol. 11, p. 106:

‘198. *Demand for performance must precede application.*—As a general rule the order will not be granted unless the party complained of has known what it was he was required to do, so that he had the means of considering whether or not he should comply, and it must be shown by evidence that there was a distinct demand of that which the party seeking the mandamus desires to enforce, and that that demand was met by a refusal.’

25. In the cases before us there was no such demand or refusal. Thus, no ground whatsoever is shown here for the issue of any writ, order, or direction under Article 226 of the Constitution.”

The petition lacks material particulars. To our mind, it appears to be a Personal or a Private Interest Litigation and certainly not a Public Interest Litigation. Also, without the petitioner approaching the authorities and without ascertaining the exact information from the authorities, learned counsel is insisting on our issuance of notice for such purpose.

Such request to say the least is preposterous and uncalled for.

The law with regard to both issuance of mandamus and *quo warranto* is now well settled. No relief can be granted on



the mere asking, wish or desire of the petitioner. First he has to prima facie satisfy us of existence of all the essential ingredients necessary, calling upon the Court to issue the said writ(s).

As such, present petition, devoid of merit, is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

pallavi/-

AFR/NAFR	
CAV DATE	
Uploading Date	30.09.2020
Transmission Date	

