

NAFR

HIGH COURT OF CHHATTISGARH BILASPUR**Writ Petition (PIL) No.45 of 2020**

1. Umarkot Wale Baba Seva Samiti Registration No.122202053043 Address-B-10, Parshuram Nagar, Behind Khaniz Bhawan, Ring Road No.1, Telibandha, Raipur, District Raipur, Chhattisgarh. Through- Noor Jahan, D/o Nazeer Khan, A/o 52 years, R/o D-10, Parshuram Nagar, Telibandha, Raipur, Chhattisgarh.
2. Noor Jahan, D/o Nazeer Khan, A/o 52 years, R/o D-10, Parshuram Nagar, Telibandha, Raipur, Chhattisgarh.

---- Petitioners**Versus**

1. State of Chhattisgarh through Secretary, Revenue Department, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. Collector, District Mungeli, Mungeli, Chhattisgarh.
3. Sub-Divisional Officer, Patharia, District Mungeli, Mungeli, Chhattisgarh.
4. Naib Tahsildar, Sargaon, Patharia, District Mungeli, Chhattisgarh.
5. Shokat Ali, S/o Late Anwar Ali, A/o 52 years, R/o Village Sava, Tehsil Patharia, District Mungeli, Chhattisgarh.
6. Station Incharge, Sargaon, Patharia, District Mungeli, Chhattisgarh.

---- Respondents

For Petitioners : Shri Saurabh Dangi, Advocate

For Respondent/State : Shri Sudeep Agrawal, Deputy Advocate General

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****Per Parth Prateem Sahu, Judge****09.07.2020**

1. This petition has been filed in the style of 'Public Interest Litigation' by the two petitioners, one petitioner has been shown as

registered society and the second petitioner has been arrayed by name in person, with the following reliefs :

“10.1 This Hon'ble Court may kindly be pleased to direct the state respondent authorities to permit the petitioners to honourable exhume the body of Late Baba buried in the land belonging to respondent no.5 at village Seva and to conduct honourable burial at Raipur on land purchased for the said purpose.

10.2 The Hon'ble Court may kindly be pleased to direct the state respondent authorities to make appropriate arrangements so that the petitioners can carry out the exhumation of Late Baba and re-burial at Raipur in a peaceful manner.

10.3 The Hon'ble Court may kindly be pleased to pass any further orders as deem fit in the facts and circumstances of the case.”

2. The case of the petitioners are that one Sufi Saint, by name, Hazrat Syeed Umarkot Wala Baba (hereinafter referred to as 'Baba') was residing at Parshuram Nagar, Telibandha, Raipur since last 35 years and he breathed his last on 07.06.2019. Petitioner No.2 was sole care-taker of Late Baba. The body of the Baba was buried on the land of respondent No.5 with an understanding that a *Dargah* will be constructed over the land and petitioner No.2 will be permitted to reside there as administrator. After some time, respondent No.5 denied to transfer the land in the name of Late Baba and dispute arose between petitioner No.2 and respondent

No.5. Petitioner No.2 with the help of other followers of Late Baba purchased a land at Raipur and thereafter, made an application before the respondent-State authorities to permit her to honourably exhume the body of Late Baba and conduct re-burial at Raipur on the land purchased by her. The application was objected and respondent No.5 refused to get permission to exhume the body of Late Baba from its land, which created tension between two sects. Respondent No.2 after recording the statements of respondent No.5 and his family members, came to the conclusion that the averments made by petitioner No.2 in her application was not accepted by respondent No.5 and this made the petitioners to approach this Court by filing instant writ petition.

3. Shri Saurabh Dangi, learned counsel for the petitioners submits that after the death of Late Baba on 07.06.2019, respondent No.5 who is relative of petitioner No.2 made a proposal and offered his land for burial of the body of Late Baba and shown his interest to gift his land admeasuring 20 decimal at village Sava, Tehsil Patharia, District Mungeli. On the basis of such statement and the interest shown by respondent No.5, the body of Late Baba was buried on his land at village Sava, but subsequently, after passage of some time, respondent No.5 refused to transfer the land in the name of Late Baba, due to which, dispute arose between respondent No.5 and family members of petitioner No.2. Looking to the intention of respondent No.5, petitioner No.2 with help of other follower had purchased some land at Raipur and wanted to exhume the body of Late Baba and to be re-buried at Raipur on the land purchased by

her and other followers of Late Baba, which was denied and intercepted by respondent No.5. Thereafter, petitioner No.2 moved an application before the State authorities including Superintendent of Police and Sub-Divisional Magistrate for exhumation of body of Late Baba, but the respondent-State authorities have declined to give such direction/order. It is pointed out by the learned counsel for the petitioners that declination is only on account of objection raised by respondent No.5 mentioning therein that petitioner No.2 and other followers have consented to bury the body of Late Baba in his land and only thereafter, burial ceremony took place and he has never given any proposal for transferring the land in the name of Late Baba. It is also stated that on the representation made before respondent No.2, a team was constituted for inspection, who prepared *Panchnama* and considering the statement of respondent No.5 recorded in the name of *Panchnama*, no further order was passed, which is causing animosity between two groups and there may be possibility of riots. It is contended on behalf of the learned counsel that respondent No.5 in fact played fraud on petitioner No.2 and temporary Shrine has already been constructed on the land of respondent No.5. Learned counsel for the petitioners placed reliance in the matters of **Syed Mohd. Salie Labbai (Dead) by L. Rs. and others v. Mohd. Hanifa (Dead) by L. Rs. and others** reported in **(1976) 4 SCC 780**, **Abdul Jalil and others v. State of U.P. and others** reported in **(1984) 2 SCC 138** and **Mohd. Hamid and Another v. Badi Masjid Trust and Others** reported in **(2011) 13 SCC 61** in support of his submission.

4. Per contra, Shri Sudeep Agrawal, learned Deputy Advocate General for the State submits that the very perusal of the pleadings made in the writ petition would show that the petition though filed in the style of 'Public Interest Litigation', but there is no public interest as such, but it is mere a 'Private Interest Litigation' between petitioner No.2 and respondent No.5 and some of the followers as pleaded in the writ petition. He points out that personal interest cannot be permitted to be adjudicated in the 'Public Interest Litigation' and on this count, instant petition is not maintainable. He also points out that the pleadings made in the writ petition itself shows that petitioner No.2 herself consented for burial of the body of Late Baba at village Sava and only after the dispute arose between her and respondent No.5, petitioner No.1-Society has been registered.

5. We have heard learned counsel appearing for the respective parties and perused the documents available in the writ petition.

6. Bare perusal of the contents of writ petition would show that after death of Late Baba on 07.06.2019, petitioner No.2 and respondent No.5 who are relatives, with the consent, have brought the body and completed burial ceremony at village Sava itself. The dispute arose when the land was not transferred or gifted by respondent No.5 to petitioner No.2 (as per pleading in writ petition). Petitioner No.2 is claiming that she is the only care-taker (*Kidmatgar*) of Late Baba, therefore, she has a right to stay at the Shrine (*Mazaar*) constructed and to manage affairs of the Shrine.

7. Be that as it may, we are not considering whether the pleadings made by the petitioners are correct or not, but consideration of the Court is whether the writ petition filed in the style of 'Public Interest Litigation' is maintainable or not when the pleadings *prima facie* show the 'private interest' of the petitioner and not of the interest of 'public at large' ?

8. The Hon'ble Supreme Court in the matter of **Janata Dal v. H.S. Chowdhary and Others** reported in **(1992) 4 SCC 305** has held thus :

“98. While this Court has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly developed doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that courts should not allow its process to be abused by a mere busybody or a meddlesome interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration.

109. It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the

colour of PIL brought before the court for vindicating any personal grievance, deserves rejection at the threshold.”

9. Further, Hon'ble Supreme Court in the matter of **Dattaraj Nathuji Thaware v. State of Maharashtra and Others** reported in **(2005) 1 SCC 590** has held thus :

“4. When there is material to show that a petition styled as a public interest litigation is nothing but a camouflage to foster personal disputes, the said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. Public Interest Litigation which has now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "private interest litigation" or "politics interest litigation" or the latest trend "paise income litigation". The High Court has found that the case at hand belongs to the last category. If not properly regulated and abuse averted, it becomes also a tool in unscrupulous hands to release vendetta and wreck vengeance, as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of a knight errant borne out of wishful thinking. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of

justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. These aspects were highlighted by this Court in *Janata Dal v. H.S. Chowdhary*, (1992) 4 SCC 305 and *Kazi Lhendup Dorji v. CBI*, 1994 Supp (2) SCC 116. A writ petitioner who comes to the Court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective. (See. *Ramjas Foundation v. Union of India* 1993 Supp (2) SCC 20 and *K.R. Srinivas v. R.M. Premchand*, (1994) 6 SCC 620.”

10. Again, Hon'ble Supreme Court in the matter of **Gurpal Singh v. State of Punjab and Others** reported in **(2005) 5 SCC 136** has held thus :

“10. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armory

of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be allowed to be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of the public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives and try to bargain for a good deal as well to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.”

11. In aforementioned case laws of the Hon'ble Supreme Court, it has been held that in the 'Public Interest Litigation', the Court should not permit to adjudicate personal interest or personal vendetta. From the entire pleadings made in the writ petition as well as the submissions made by learned counsel for the petitioners, we find that there is involvement of personal interest of petitioner No.2 and

the interest of one group of persons, which cannot be said as the petition filed for the interest of public at large.

12. In view of above, we are of the view that the grievance projected by the petitioners in the writ petition is not the grievance for 'public interest', therefore, the writ petition filed in the style of 'Public Interest Litigation' is not maintainable and is hereby dismissed.

Sd/-
(P. R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

Yogesh