IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO.22 OF 2016

VINOD NAGORAO BHARNE
VERSUS
THE UNION OF INDIA AND OTHERS
...
Advocate for the Petitioner : Shri Amit A. Mukhedkar.
Standing Counsel for Respondent No.1 : Shri M.S. Deshmukh
AGP for Respondent Nos.2, 3, 7 and 8 : Mrs.M.A. Deshpande
Advocate for Respondent Nos.5 and 6 : Shri A.P. Bhandari
Advocate for Respondent No.9 : Shri S.S. Bora
Advocate for Respondent No.10 : Shri R.K. Ingole Patil.
...

CORAM : DIPANKAR DATTA, C.J.
&
RAVINDRA V. GHUGE, J.

DATE :- 20th January, 2021

Per Court (Ravindra V. Ghuge, J) :-

1. By this Public Interest Litigation petition, the petitioner, a social worker, has sought final reliefs in terms of prayer clauses B, C and D as under:-

> *"B) To hold and declare that action of Respondent Nos.2, 7 and 8 thereby allotting the land bearing Survey No.12 admeasuring 7000 square feet, situated at Mauje Jangamwadi, on Main Road at Nanded, to Respondent Nos.5 and 9, on lease basis for a period of 19 years and 11 months to run a petrol pump, is illegal and the same may please be ordered to be cancelled, quashed and set aside.*
>
> *C) By issuing a writ of mandamus or any other writ or order in the nature of writ of mandamus, the Respondent Nos.2, 7 and 8 may please be directed to re-conduct the process of allotment of land bearing*

Survey No.12, admeasuring 7000 square feet situated at Mauje Jangamwadi, on Main Road at Nanded, on lease basis, by inviting Public Tender and publishing Public Notice in newspapers.

D) To hold and declare that the lease agreement dated 21.04.2010 executed in between respondent No.8 and respondent No.9 is executed without any authority, is illegal, void ab-initio and the same may please be quashed and set aside."

2. By way of interim relief, he seeks the following reliefs :-

"F) Pending hearing and final disposal of the Public Interest Litigation, the Respondent Nos.5 and 9 may please be prohibited from running petrol pump dealership over the land in question, by passing an appropriate injunction order.

G) Pending hearing and final disposal of the Public Interest Litigation, the respondent Nos.1 and 2 may please be directed to initiate a thorough enquiry regarding the subject matter of challenge raised in the petition and submit a report in that regard."

3. We have extensively heard the learned advocate for the petitioner, the learned standing counsel for respondent No.1 Union of India, the learned AGP for respondent Nos.2, 3, 7 and 8 and the learned advocates for respondent Nos.5, 6, 9, 10 and 11.

4. Vide his submissions, the petitioner has primarily canvassed the following grounds in support of his petition :-

(a) That, the petrol pump allotted to respondent No.9, is on the main road in the municipal limits of Nanded city.

(b) A loss has been caused to the State exchequer by respondent

Nos.2, 7 and 8 by allotting the land to respondent Nos.5 and 9 on lease, for a paltry lease rent.

(c) The petitioner is of the view that the said land would have fetched a large amount of lease premium of more than Rs.1 lac per month as in 2010 and today, the said amount would have grown multiple times.

(d) Given the opportunity, the petitioner would be interested in taking the said land on lease at rates as mentioned above.

5. The contention of the petitioner that the petrol pump outlet is on the main road in Nanded city, would not constitute a reason for causing any interference. In our view, the Indian Oil Corporation Limited has considered the pros and cons of locating a petrol pump in the said area. In view of there being no averments by the petitioner that the existence of the said petrol pump is dangerous for the residents in that area, we find no reason to entertain this ground.

6. Insofar as the second and third grounds are concerned, we have perused the assessment made by the Executive Engineer, PWD, Nanded dated 16.02.2010 addressed to the Executive Engineer, Mechanical Division, Nanded. The said communication is the assessment, made by the Executive Engineer, PWD, Nanded of the appropriate rent amount that would be chargeable on the land at issue. While making the assessment, the concerned authority has taken into account the market

rate as per the ready-reckoner 2009-2010 for Survey No.12, the price of the land, 6% commercial rent and the annual rent chargeable and has then arrived at the rate to be charged per square feet. The learned AGP on behalf of the State has contended that as the chargeable rent has been deduced on the basis of the market rate with addition of 6% commercial rent, no loss has been caused to the State exchequer.

7. We also find that the statement of the petitioner that an amount of Rs.1 lac per month was payable as monthly rent and the said amount has grown multi-fold times with the passage of ten years, is a bald and misconceived contention since it is not supported by any logic or reason. No research has been made by the petitioner in support of the said contention. Per contra, the learned AGP and the learned counsel for the Indian Oil Corporation Limited submit that the rental amount arrived at by the said authority has not been frozen for the entire period of the lease. On these premises, we reject the contention of the petitioner that the State exchequer has been put to loss.

8. While hearing the submissions of the learned counsel for the petitioner in support of his contention of a loss being caused to the State exchequer, the learned counsel made a statement that the petitioner was interested in the said plot on which the petrol pump has been installed. We asked the learned counsel as to whether, such statement can be recorded and he contended that this Court can record the said statement.

It is, thus, obvious to us that the petitioner has misled this Court in believing that he is before the Court for a public cause and no personal interest was involved. In view of the said contention, this Public Interest Litigation, not only deserves to be dismissed, but the amount of Rs.25,000/-, which was directed to be deposited vide the order of this Court dated 03.02.2016, deserves to be forfeited.

9. We also find from the pleadings, the material available before us and the submissions of the learned counsel in support of this petition, that the object of the petitioner is to seek cancellation of the allotment of the petrol pump and this is evident from prayer clause “B”and “F” reproduced above. The lease agreement dated 21.04.2010 was not challenged for six years and only after the land at issue was allotted for a petrol pump dealership in 2015, that the petitioner has preferred this petition on 20.01.2016 seeking cancellation of the allotment of the land for running the petrol pump and an interim relief in the nature of prohibiting the operation of the petrol pump was sought.

10. As such, this Public Interest Litigation petition stands dismissed. Rs.25,000/- (Rupees Twenty Five Thousand), put in deposit, is forfeited.

kps (RAVINDRA V. GHUGE, J.) (CHIEF JUSTICE)