

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-PIL No.18 of 2021
Date of Decision :09.02.2021**

Guru Nanak Welfare Society (Regd.) GERA

.....Petitioner

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE**

Present : Mr. H.S.Thiara, Advocate for the petitioner.

(The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual Court).

The petitioner purports to have approached this Court in public interest. A mandamus is prayed for commanding respondents No.1 to 5 to pay damages for having dug the National Highway, at many places, from Ambala to Delhi, and for huge concrete slabs, with the aid of machines, were kept on the highway to block the farmers' procession. And also for a direction to respondent No.6 (Director General of Police, Haryana) to register an FIR against respondents No.2 to 5, in this regard.

In brief, the case set out in the petition is: that on 25.11.2020, the farmers, who were peacefully marching to Delhi to stage a protest against the recently enacted farm laws were stopped at the Haryana-Delhi border by the Government. Rather, to prevent the farmers from heading further the government engaged a private company (respondent No.7) to dig the national highway at Ambala, Karnal, Panipat, Haldana and

Murthal etc. The area was barricaded and the State Police used water cannons and even *lathi* charged the protestors. In reference to Section 3 of Prevention of Damage to Public Property Act 1984 (for short '1984 Act'): **“whoever commits mischief by doing any act in respect of any public property other than public property of the nature referred to in sub section (2), shall be punished with imprisonment for a term which may extend to five years and with fine”** it is averred that respondents No.1 to 5, being guilty of having committed an unlawful act, were liable not only to pay the damages but an FIR was also required to be registered against them.

We have heard learned counsel for the petitioner and perused the records.

In response to our concerns if there was any provision under the 1984 Act or under any other enactment or law that, in the given situation, provides for any mechanism to evaluate/assess compensation or award damages nothing could be referred to or brought to our notice orally or otherwise. In terms of Section 4 of National Highways Act 1956 (for short '1956 Act), all National Highways vest in the Union and as envisaged under Section 5 of 1956 Act, the responsibility for development and maintenance of national highway essentially rest with the Central Government. That being so, to our mind, Union of India through Secretary Ministry of Road Transport and Highways Authority would be a necessary party which has not been arrayed as such. Whether, the provisions of Section 129 of the Code of Criminal Procedure 1973, would

have any bearing is another issue which remained unaddressed during the hearing. Upon being pointedly asked, for, the Supreme Court is in seizin of numerous petitions, either assailing or supporting the constitutional validity of farm laws and even the petitions filed by the residents of National Capital Territory of Delhi and from the neighbouring States alleging that owing to farmers agitation and consequent blockade of roads/highways the fundamental rights of the citizens to move freely and to conduct trade and business were infringed, if the issue sought to be raked before us was directly or collaterally involved in any of those petitions or intervention/impleadment applications, learned counsel for the petitioner expressed his inability to clarify the position.

Further, in terms of clause 2 of Maintainability of Public Interest Litigation Rules, 2010 (for short ‘2010 Rules’), no Public Interest Litigation is to be entertained by the Registry unless the petitioner(s) has specifically disclosed his credentials and his direct or indirect personal motive or interest involved in the case, if any, by way of an affidavit. The expression **“specifically disclosed his credentials”** was construed and interpreted by the Division bench of this Court in **Ajaib Singh and Anr. V. The State of Punjab and Ors., 2013(4) PLR 367:**

“...The expression “specifically disclosed his credentials” must, naturally, imply that he has to set forth what he does for his living, what public interest he has been espousing, the work done by him in that behalf, the particulars of any matter preferred by him as PIL earlier on which the Court

has passed orders, etc. It cannot imply merely writing a sentence that a person is residing in the State, is public-spirited and is, thus, filing a PIL.”

Significantly, in context of clause 2(ibid), all what the petitioner-society has submitted in paragraph 2 of the petition is that it is engaged in philanthropic activities for over 30 years, provides free medication to the downtrodden strata of the society and has even contested cases in public interest incurring the expenses from its own pocket. However, the petition sans even the bare minimum details and/or particulars of any such initiatives/works/ventures initiated by the petitioner-society. Likewise, there is nothing on record to indicate as to the matters, the petitioner purport to have contested in public interest and the orders, if any, passed by the Courts in those cases to lend credence to its locus to maintain this petition.

It would be apposite, at this stage, even to refer to the observations recorded by the Supreme Court in **Ashok Kumar Pandey Vs. State of W.B., (2004)3 SCC 349 (Para 16):**

“16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations, whereas only a minuscule percentage can legitimately be called as public interest litigations.

Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, courts at times are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases..”

Likewise, the Supreme Court in **M/s Holicow Pictures Pvt. Ltd. Vs. M/s. Prem Chandra Mishra and ors.** 2008 AIR (SC) 913, observed as under:-

"20. The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike balance between two conflicting interests; (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and(ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the Court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature. The Court has to act ruthlessly while dealing

with imposters and busybodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of Pro Bono Publico, though they have no interest of the public or even of their own to protect”.

At this juncture, we may also refer to clause 6 of 2010 Rules which postulate that PIL is entertained on any subject of **vital public importance**, as illustrated in the clause. However, in the wake of the position, as sketched out above, it appears that public interest, perhaps, is the only casualty in the matter. Though, ostensibly the petition has been filed by the petitioner-society but *prima facie* it appears to have been instituted for an oblique purpose/motive or is politically instigated.

Thus, we are dissuaded to entertain this petition. And, for the reasons recorded hereinabove, the same is dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

09.02.2021

Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No