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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 30th July, 2021

+ **W.P.(C) 7332/2021 & CM APPL. 23089 & 23090/2021**

SANDEEP KHANDELWAL Petitioner
Through: **Mr. Roopa Ram Jangu, Advocate**

versus

DELHI AGRICULTURE MARKETING BOARD Respondent
Through **Mrs. Avnish Ahlawat, Standing
Counsel for DAMB with Mr. Nitesh
Kumar Singh, Mrs. Tania Ahlawat &
Ms. Palak Rohmetra, Advocates for
R-1&2.
Ms. Meena Chaudhary Sharma,
Advocate for R-3&4.**

**CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE JYOTI SINGH**

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

Proceedings have been conducted through video conferencing.

CM APPL. 23090/2021 (Exemption)

Allowed, subject to all just exceptions.

The application is disposed of.

W.P.(C) 7332/2021 & CM APPL. 23089/2021

1. Present Public Interest Litigation has been preferred seeking the following reliefs:

“(a) Issue a Writ in nature of mandamus directing the respondents No. 1 to 2 for their prosecution against illegal and arbitrary promotion of the respondents No. 3 & 4 to the post of Junior Engineers on the basis of forged, fabricated and tempered documents;

(b) Issue a Writ in the nature of mandamus directing the respondents No. 1 & 2 to withdraw all the benefits given to respondents No. 3 & 4 and to recover all the amounts/perks given to respondents No.3 & 4 after promotion with retrospective effect i.e. from the date of promotion of the Respondents No. 3 & 4.

(c) Directs the respondents No. 1 & 2 for initiating enquiry against respondents No. 3 & 4 for sustaining the true facts of the case of promotion of respondents No. 3 & 4 in accordance with law.

(d) Directs the respondents No. 1 & 2 to remove the respondents No. 3 & 4 from their post of Junior Engineer with immediate effect.

(e) An order/direction on the respondents No. 1 & 2 directing them to produce to this Hon’ble Court all the records concerned with this case with respect to the promotion of respondents No. 3 & 4.

(f) An interim order is required for restraining all the service benefits as well as retiral benefits to the respondents No. 3 & 4/ junior engineers till final disposal of the present petition.”

2. Having heard learned counsel for the Petitioner and looking to the facts of the case as well as the reliefs sought, it is evident that the subject-matter of the writ petition is purely in the realm of a ‘service matter’. The Petitioner challenges and assails the promotions of Respondents No.3 and 4 to the post of Junior Engineer, *inter alia*, on several grounds. The main

allegation of the Petitioner is that the promotions have been granted on the basis of forged, fabricated and tampered documents, presented by Respondents No. 3 and 4 to Respondent No.1.

3. It is a settled law that a Public Interest Litigation is not tenable in law in service matters. In any event, the main allegation of the Petitioner being forgery, fabrication, etc., the same can only be proved and established by cogent and convincing evidence and it cannot be decided in a writ petition on the basis of annexures. In this context, it would be useful to refer to the judgment of the Hon'ble Supreme Court in **Gurpal Singh v. State of Punjab & Others (2005) 5 SCC 136**, relevant para of which reads as follows:

“5. The scope of entertaining a petition styled as a public interest litigation, locus standi of the petitioner particularly in matters involving service of an employee has been examined by this Court in various cases. The Court has to be satisfied about (a) the credentials of the applicant; (6) 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 impostors 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.”

4. The said principle was subsequently re-affirmed by the Hon'ble Supreme Court in ***Hari Bansh Lal v. Sahodar Prasad Mahto (2010) 9 SCC 655*** and the relevant passages are as under:

“14. *In Ashok Kumar Panday v. State of W.B. (2004) 3 SCC 349 (pp358-59, para 16)*

“16. As noted supra, the 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 where 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, High Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in Duryodhan sahu (Dr.) v. Jitendra Kumar Mishra (1998) 7 SCC 273, this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the Court should do well not only to dismiss the petitions but also to impose exemplary costs. It would

be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforesaid so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts.”

The same principles have been reiterated in the subsequent decisions, namely, B. Singh (Dr.) v. Union of India, Dattaraj Nathuji Thaware v. State of Maharashtra & Gurpal Singh v. State of Punjab.

15. The above principles make it clear that except for a writ of quo warranto, public interest litigation is not maintainable in services matters.

(emphasis supplied)

5. In view of the fact that the present writ petition raises issues about promotions, already granted to respondent nos. 3 and 4 which is service matter, the same is untenable as a Public Interest Litigation in light of the judicial pronouncements referred to above. We accordingly dismiss the writ petition along with the pending application with costs of Rs.10,000/- to be deposited by the Petitioner with the Delhi State Legal Services Authority within four weeks from today. The aforesaid amount shall be utilized for the programme ‘Access to Justice’.
6. A copy of this order be sent forthwith to the Member Secretary, Delhi State Legal Services Authority, Patiala House Courts, New Delhi.

CHIEF JUSTICE

JYOTI SINGH, J

JULY 30, 2021
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