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gd/ssd

WPA(P)/254/2022
SHAHBAZ ANWAR AND ORS.

VS

THE STATE OF WEST BENGAL AND ORS.

Mr. Asimes Goswami,
Ms. Paulomi Banerjee,
Ms. Priyanka Dutta

..for the Petitioners.

Mr. Jaharlal De,
Mr. Amrita lal Chatterjee

..for the State.

Mr. Kallol Basu,
Mr. Samik Sarkar

..for the Respondent No.5.

The allegation in this public interest petition is that though two criminal cases at the instance of the petitioners were registered against the private respondent, yet the private respondent has been given appointment in the Police Department. The prayer in the writ petition is to cancel the appointment of the private respondent in the Police Force.

Learned counsel for the petitioners in support of the plea taken in the writ petition has placed reliance upon the judgment of the Hon'ble Supreme Court dated 29th October, 2020 in Civil Appeal No.3340 of 2020 in the matter of State of Rajasthan & Others v. Heem Singh.

The prayer made in the petition has been opposed by the learned counsel for the private respondent as also learned counsel for the State.

Having heard the learned counsel for the parties and on perusal of record, it is noticed that the petitioners are questioning the appointment of the private respondent in Police Force.

It is the settled law that in respect of the dispute relating to service matters, the writ petition cannot be maintained. The Hon'ble Supreme Court in the matter of *Madan Lal versus High Court of Jammu and Kashmir and others* reported in 2014 (15) SCC 308 has held:

“9. That apart time and again this Court repeatedly held that in service matters, public interest litigation is not maintainable. We can profitably refer to a recent decision reported in Hari Bansh Lal v. Sahodar Prasad Mahto. Paras 14 and 15 are relevant which are as under:

“14. In Ashok Kumar Pandey v. state of W.B. this court held thus:

‘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 where even a minuscule percentage can legitimately be called public interest litigations. Though the parameters of public interest litigations have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilised for disposal of genuine cases. Though in Duryodhan Sahu v. Jitendra Kumar Mishra 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 courts 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 v. Union of India, Dattaaj Nathuji Thaware v. State of Maharashtra and 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 service matters."

That apart, the plea raised in the petition reveals that the petitioners are complainant/victim in the two criminal cases registered against the private respondent. Thus they are raising their personal cause in this PIL. It is a motivated public interest petition. Even otherwise before appointment on such a post the report relating to criminal antecedents is always called for by the competent authority, hence they will duly look into this aspect of the matter in accordance with law.

Hence, in these circumstances, we are of the

opinion that no case for entertaining the present petition is made out.

So far as the judgment of the Hon'ble Supreme Court in the matter of State of Rajasthan & Others v. Heem Singh relied by the learned counsel for the petitioners is concerned, that stands on altogether different footing and in that case after departmental enquiry there was dismissal and reinstatement was sought on the basis of the acquittal in the criminal case relating to murder. Hence, the Hon'ble Supreme Court has made the observation against that employee in the fact situation existing therein.

Thus, we decline to entertain the present public interest petition, which is accordingly dismissed with liberty to the petitioner to avail such other appropriate remedy as available in law.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

