

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No. 1545 of 2018 (O&M)

Reserved on:22.08.2022

Pronounced on : 31.08.2022

Rajbir Singh Sekhon

---Appellant

versus

State of Punjab and others

---Respondents

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Ms. Samiya Singh, Advocate
for the appellant

Ms. Niharika Sharma, AAG, Punjab

Mr. H.S.Dhindsa, Advocate
For respondent No. 5

JAGMOHAN BANSAL, J.

1. Through the instant appeal filed under Section X of the Letters Patent Act, 1865, the appellant is seeking quashing of order dated 28.08.2018 passed by learned Single Judge in C.W.P. No. 19833 of 2017 vide which Civil Misc. Nos. 12357-58 of 2018 have been dismissed holding that the appellant has no *locus standi* to be impleaded in the writ petition as his presence is neither proper nor necessary for the adjudication of lis involved in the writ petition.

2. The facts leading to file the present appeal and adjudication thereof, as emerging from the record and arguments of both the counsels, are that the appellant got registered FIR No. 53 dated 21.04.2011 against different persons alleging commission of

murder of his son. The FIR culminated into police report under Section 173 of the Code of Criminal Procedure against different persons. During the course of trial before the learned Sessions Court, Harpreet Singh Beniwal-respondent No. 5 (for short "Respondent"), who at the time of registration of FIR was posted as Deputy Superintendent of Police, appeared before the learned trial Court as a defence witness entailing filing of complaints before higher authorities against him by the appellant.

3. The Trial Court convicted four persons under Sections 304 and 34 of the Indian Penal Code and Section 25 of the Arms Act. The persons convicted filed four appeals before this Court which came to be dismissed vide order dated 16.10.2019. The appellant had filed CRA-AD-74 of 2015 before this Court seeking enhancement of sentence awarded by the Learned Sessions Judge, Gurdaspur vide order dated 03.08.2015 which was also dismissed along with the appeals filed by the convicts. Out of four convicted persons, two accused namely Jasdeep Singh @ Jassu and Amarpreet Singh Narula successfully assailed order passed by this Court before the Supreme Court. The Supreme Court vide order dated 07.01.2022 has set aside the order passed by this Court whereby the order of the trial Court was affirmed. The present appellant also preferred Criminal Appeal No. 1586 of 2021 before the Supreme Court assailing order dated 16.10.2019 passed by this Court whereby the appeal of the present appellant seeking enhancement of sentence was dismissed. The Supreme Court while allowing the appeals of

two convicts, dismissed appeal of the present appellant.

4. On the one hand, process of trial, first appeal and second appeal with respect to conviction of persons who allegedly committed murder of son of the appellant was going on. On the other hand, pursuant to the complaint filed by appellant, respondent was charge sheeted under Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970. The Additional Chief Secretary, Punjab, vide order dated 24.05.2016 appointed Sh. Amarjit Singh Katari, Additional Sessions Judge (Retired) Enquiry Officer qua charges framed against the respondent. The respondent filed reply to the aforesaid charge-sheet claiming that he has not done any act against the department nor has he ever colluded or given any statement in favour of any person and he was never negligent in discharge of his duties. The Enquiry Officer after completion of enquiry submitted report dated 08.07.2016 wherein he held that no charge is proved against the respondent. In view of the enquiry report, the competent authority vide order dated 26.07.2016 dropped all the charges against the respondent and decided to withdraw all the departmental proceedings against him.

5. The respondent in the departmental proceedings was exonerated vide order dated 26.07.2016 and after expiry of period of one year, the official respondents vide communication dated 08.08.2017 decided to re-initiate and re-look into the entire enquiry proceedings. The respondent preferred CWP No. 19833 of 2017 assailing re-initiation of enquiry against him. The matter was listed

before the learned Single Judge who stayed the proceedings initiated against the respondent.

6. The appellant moved Civil Misc. applications No. 12357-58 of 2018 in CWP No. 19833 of 2017 for being impleaded as intervener to assist the Court. The learned Single Judge vide order dated 28.08.2018 dismissed application of the appellant seeking impleadment as an intervener. The operative portion of order dated 28.08.2018 passed by the learned Single Judge reads as below:-

“The question(s) involved in the present writ petition is with regard to the legality of the re-initiation of the disciplinary enquiry qua which the applicant (Rajbir Singh Sekhon), in the opinion of this court, would have no locus to be impleaded in the present writ, as his presence is neither proper nor necessary for adjudication of the **lis** involved herein. Hence, both the present/aforementioned applications bearing **CM Nos. 12357-58 of 2018** are not maintainable, and liable to be dismissed.”

The appellant has preferred present Letters Patent Appeal assailing order dated 28.08.2018 passed by the learned Single Judge.

7. Learned counsel for the appellant has vehemently contended that the appellant wants to assist the Court in adjudication of the writ petition pending before the learned Single Judge. She further contended that no prejudice would be caused to the respondent if she assists the Court in reaching a just and right conclusion.

Learned counsels for the respondents vehemently contended that appellant has no locus standi to be impleaded as intervener in pending writ petition. They further contended that appellant is a stranger and he has no locus standi to interfere in a matter which is purely between the respondent and State Government.

8. Having scrutinized the record of the case and having heard arguments of both the sides, this Court is of the considered opinion that present appeal is bereft of merits and deserves to be dismissed.

9. The conceded position emerging from record as well as arguments of both sides is that at the behest of appellant an FIR was registered against different persons; the FIR culminated into police report and thereafter four persons were convicted under different Sections of IPC and Arms Act; the respondent during the course of trial appeared before learned trial Court as defence witness; the appellant filed complaint against respondent and respondent was charge sheeted under Punishment and Appeal Rules; on the basis of report of enquiry officer who happened to be retired Additional Sessions Judge, the State government decided to drop charges against the respondent; trial Court convicted four persons and they preferred appeal before this Court which dismissed appeals of the convicted persons; out of four convicted, two filed appeals before the Supreme Court which allowed their appeals; appeal filed by the appellant before this Court seeking enhancement of sentence was

dismissed and appellant unsuccessfully challenged the same before the Supreme Court; the official respondents have re-initiated enquiry proceedings against respondent and learned Single Judge of this Court has stayed proceedings initiated by official respondents; the appellant moved an application before the learned Single Judge seeking impleadment which was dismissed on the ground of locus standi.

10. From above sequel of events, the question which arises for the consideration is that whether appellant has locus standi to be impleaded as intervener in the civil writ petition filed by the respondent before this Court seeking quashing of re-initiation of enquiry against him.

11. Before advertent with contention of appellant, it would be apt to notice a four Judge Bench judgment of Supreme Court in **Jasbhai Motibhai Desai vs. Roshan Kumar, Haji Bashir Ahmed, (1976) 1 SCC 671**. The Supreme Court at length has adverted with the question of locus standi of a person to invoke jurisdiction of the Court. The Supreme Court has held:-

34. This Court has laid down in a number of decisions that in order to have the locus standi to invoke the extraordinary jurisdiction under Article 226, an applicant should ordinarily be one who has a personal or individual right in the subject-matter of the application, though in the case of some of the writs like habeas corpus or quo warranto this rule is relaxed or modified. In other words, as a general rule, infringement of some legal right or prejudice to some legal interest inhering in the petitioner

is necessary to give him a locus standi in the matter, (see State of Orissa v. Madan Gopal Rungta [AIR 1952 SC 12 : 1952 SCR 28] ; Calcutta Gas Co. v. State of W.B. [AIR 1962 SC 1044 : 1962 Supp (3) SCR 1] ; Ram UmeshwariSuthoo v. Member, Board of Revenue, Orissa [(1967) 1 SCA 413] ; GaddeVenkateswara Rao v. Government of A.P. [AIR 1966 SC 828 : (1966) 2 SCR 172] ; State of Orissa v. RajasahebChandanmall [(1973) 3 SCC 739] ; Satyanarayana Sinha Dr v. S. Lal & Co. [(1973) 2 SCC 696 : (1973) SCC (Cri) 1002]).

35. The expression “ordinarily” indicates that this is not a cast-iron rule. It is flexible enough to take in those cases where the applicant has been prejudicially affected by an act or omission of an authority, even though he has no proprietary or even a fiduciary interest in the subject-matter. That apart, in exceptional cases even a stranger or a person who was not a party to the proceedings before the authority, but has a substantial and genuine interest in the subject-matter of the proceedings will be covered by this rule. The principles enunciated in the English cases noticed above, are not inconsistent with it.

36. In the United States of America, also, the law on the point is substantially the same.

“No matter how seriously infringement of the Constitution may be said called into question said, Justice Frankfurter in Coleman v. Miller [(1939) 307 US 433] ”

“this is not the tribunal for its challenge except by those who have some specialised interest of their own to vindicate apart from a political concern which belongs to all.”

To have a “standing to sue”, which means locus standi to ask for relief in a court independently of a statutory

remedy, the plaintiff must show that he is injured, that is, subjected to or threatened with a legal wrong. Courts can intervene only where legal rights are invaded. [Chapman v. Sheridan Wyoming Coal Co., 338 US 621] “Legal wrong” requires a judicially enforceable right and the touchstone to judiciability is injury to a legally protected right. A nominal or a highly speculative adverse affect [American Jurisprudence, Vol. 2d ss 575, p. 334 ; Joint Anti Fascist Refugee Committee v. McGarth, 341 US 123] on the interest or right of a person has been held to be insufficient to give him the “standing to sue” for judicial review of administrative action. [United States Cane Sugar Refiners' Asson. v. McNutt, 138 F 2nd 116 : 158 ALR 849] Again the “adverse affect” requisite for “standing to sue” must be an “illegal effect”. [United States v. Storer Broadcasting Co., 351 US 192] Thus, in the undermentioned cases, it was held that injury resulting from lawful competition not being a legal wrong, cannot furnish a “standing to sue” for judicial relief. [Kansas City Power & Light Co. v. McKay, 225 F 2d 924 (1955), cert denied 350 US 884 (1955).]

37. It will be seen that in the context of locus standi to apply for a writ of certiorari, an applicant may ordinarily fall in any of these categories: (i) “person aggrieved”; (ii) “stranger”; (iii) busybody or meddlesome interloper. Persons in the last category are easily distinguishable from those coming under the first two categories. Such persons interfere in things which do not concern them. They masquerade as crusaders for 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. They indulge in the pastime of meddling with the judicial

process either by force of habit or from improper motives. Often, they are actuated by a desire to win notoriety or cheap popularity; while the ulterior intent of some applicants in this category, may be no more than spoking the wheels of administration. The High Court should do well to reject the applications of such busybodies at the threshold.

38. The distinction between the first and second categories of applicants, though real, is not always well-demarcated. The first category has, as it were, two concentric zones; a solid central zone of certainty, and a grey outer circle of lessening certainty in a sliding centrifugal scale, with an outermost nebulous fringe of uncertainty. Applicants falling within the central zone are those whose legal rights have been infringed. Such applicants undoubtedly stand in the category of “persons aggrieved”. In the grey outer circle the bounds which separate the first category from the second, intermix, interfuse and overlap increasingly in a centrifugal direction. All persons in this outer zone may not be “persons aggrieved”.

39. To distinguish such applicants from “strangers”, among them, some broad tests may be deduced from the conspectus made above. These tests are not absolute and ultimate. Their efficacy varies according to the circumstances of the case, including the statutory context in which the matter falls to be considered. These are: Whether the applicant is a person whose legal right has been infringed? Has he suffered a legal wrong or injury, in the sense, that his interest, recognised by law, has been prejudicially and directly affected by the act or omission of the authority, complained of? Is he a person who has suffered a legal grievance, a person

“against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something, or wrongfully affected his title to something?”

Has he a special and substantial grievance of his own beyond some grievance or inconvenience suffered by him in common with the rest of the public? Was he entitled to object and be heard by the authority before it took the impugned action? If so, was he prejudicially affected in the exercise of that right by the act of usurpation of jurisdiction on the part of the authority? Is the statute, in the context of which the scope of the words “person aggrieved” is being considered, a social welfare measure designed to lay down ethical or professional standards of conduct for the community? Or is it a statute dealing with private rights of particular individuals?”

12. The appellant in the case in hand is not petitioner, however, ratio of law laid down by Supreme Court in **Jasbhai Motibhai Desai case (supra)** is applicable to a person who wants to intervene in a petition filed by an aggrieved person.

13. The appellant filed complaint before the competent authorities to initiate departmental proceedings against the respondent. On the complaint of the appellant, Additional Chief Secretary, Punjab appointed Additional Sessions Judge (Retired) an enquiry officer. The Enquiry Officer reported that respondent has not committed any violation warranting major/minor penalty. The report of Enquiry Officer was accepted by the departmental authorities. On account of representations made by the appellant, official respondents have re-initiated enquiry proceedings. The respondent

has challenged re-initiation of proceedings and the learned Single Judge had stayed the proceedings. The matter is purely between the departmental authorities and the respondent. It is the departmental authorities who have to decide the fate of the respondent. The appellant has no *locus standi* to participate in each and every proceeding initiated against the persons accused of commission of murder of son of the appellant as well as the respondent who appeared during the course of trial as defence witness. The present appellant has participated in appeal filed by the convicts before this Court as well as the appeals preferred before the Supreme Court. The appeal filed by the appellant has been dismissed by this Court as well as the Supreme Court. No substance in the averment of appellant has been found by a Co-ordinate Bench of this Court as well as two Judge Bench of the Supreme Court. It is true that son of the appellant has been murdered and everybody has sympathy with the appellant. Nevertheless, appellant has no *locus standi* to participate in each and every proceeding initiated against the persons who were part of investigation or trial. Learned counsel for the appellant has failed to demonstrate *locus standi* of the appellant to participate in proceedings pending before the learned Single Judge.

14. Merely because the appellant has filed CWP No. 2642 of 2017 challenging the dropping off the proceedings which stands admitted, would not give him any *locus standi* to participate in the challenge raised to the re-initiation of enquiry proceedings by the

government employee.

In view of the above findings, we do not find any merit in the instant appeal and it deserves to be dismissed and is accordingly dismissed.

(G.S. SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

31.08.2022

PARAMJIT

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes