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

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Date of Decision: 14.02.2023

% **W.P.(C) 4301/2017**

PRATAP SINGH BIST

..... Petitioner

Through: **Dr. Krishan Mahajan & Mr. Prakash
Verma, Jha, Advocate**

versus

THE DIRECTOR ,DIRECTORATE OF EDUCATION AND ORS

..... Respondents

Through: **Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi & Ms. Manisha,
Advocates for R-1
Mrs. Avnish Ahlawat, Standing
Counsel (GNCTD) with Ms. Tania
Ahlawat, Mr. Mr. Nitesh Kumar
Singh, Ms. Palak Rohmetra, Ms.
Laavanya Kaushik & Ms. Aliza
Alam, Advocates for GNCTD
Mr. Joginder Tuli, Ms. Joshini Tuli &
Mr. Ishu Sharma, Advocates for R-5,
R-6, R-8 to R-17**

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SATISH CHANDRA SHARMA, CJ. (ORAL)

REVIEW PETITION 46/2023

1. The present review petition is arising out of an order dated 22.11.2022 passed by this Court in W.P.(C.) No. 4301/2017.

2. The facts of the case reveal that a writ petition was preferred by the Petitioner as a Public Interest Litigation in the year 2017 claiming himself to be General Secretary Sambhavana Organization challenging the appointments of Respondent Nos. 5 to 17 on the ground that they do not have the requisite qualifications to be appointed as Teachers.

3. The Respondent Nos.1 and 2/ GNCTD did file a detailed and exhaustive affidavit furnishing all minute details in respect of qualification of the Teachers stating that the teachers in question were fulfilling the requisite qualifications as prescribed under the Recruitment Rules and after taking into account the contents on affidavit, the PIL stands disposed of.

4. The Petitioner has filed a review and has vehemently argued before this Court that by no stretch of imagination the Petition could have been dismissed as non-maintainable and this Court has committed an error apparent on the face of record by relying upon the judgment delivered in the case of *Dr. Duryodhan Sahu and Others v. Jitendra Kumar Mishra and Others*, (1998) 7 SCC 273. It has also been argued that this Court has erred in law and on facts in not taking into account the statutory provisions as contained under The Rehabilitation Council of India Act, 1992 and an error has been committed by this Court by relying upon the educational qualifications prescribed under the Delhi School Education Act, 1973 read with the Recruitment Rules.

5. This Court has heard learned Counsel for the Review Petitioner at length and perused the record. It is an undisputed fact that the writ petition was filed challenging the appointment of Respondent Nos. 5 to 17 alleging

that they do not hold the qualification required for the post in question. The Recruitment Rules and the counter affidavit brought on record and the minute details furnished in respect of all the private Respondents has established that they were holding the qualifications required for the post in question. In those circumstances, the PIL stands disposed of.

6. It has been vehemently argued before this Court that the judgment delivered in the case of *Dr. Duryodhan Sahu* (supra) was a case arising out of Central Administrative Tribunal and, therefore, the judgment delivered in the case of *Dr. Duryodhan Sahu* (supra) deserves to be distinguished and has no applicability in the present case.

7. This Court has carefully gone through the judgment delivered in the case of *Dr. Duryodhan Sahu* (supra). It is true that the said case was arising out of proceedings initiated before the Central Administrative Tribunal. Paragraph 18 of the aforesaid judgment read as under:

“18. The constitution of Administrative Tribunals was necessitated because of the large pendency of cases relating to service matters in various courts in the country. It was expected that the setting up of Administrative Tribunals to deal exclusively in service matters would go a long way in not only reducing the burden of the courts but also provide to the persons covered by the Tribunals speedy relief in respect of their grievances. The basic idea as evident from the various provisions of the Act is that the Tribunal should quickly redress the grievances in relation to service matters. The definition of “service matters” found in Section 3(q) shows that in relation to a person, the expression means all service matters relating to the conditions of his service. The significance of the word “his” cannot be ignored. Section 3(b) defines the word “application” as an application made under Section 19. The latter section

refers to “person aggrieved”. In order to bring a matter before the Tribunal, an application has to be made and the same can be made only by a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal. We have already seen that the word “order” has been defined in the explanation to sub-section (1) of Section 19 so that all matters referred to in Section 3(q) as service matters could be brought before the Tribunal. If in that context Sections 14 and 15 are read, there is no doubt that a total stranger to the service concerned cannot make an application before the Tribunal. If public interest litigations at the instance of strangers are allowed to be entertained by the Tribunal, the very object of speedy disposal of service matters would get defeated.”

8. It is true that the facts in the case of *Dr. Duryodhan Sahu* (supra) were not identical to that of in the present case. However, in the case of *Neetu v. State of Punjab and Others*, (2007) 10 SCC 614, the Hon’ble Supreme Court, in paragraph 5 has held as under:

“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.

“14. 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; and (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 meddling 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.

15. Courts must do justice by promotion of good faith, and prevent law from crafty invasions. Courts must maintain the social balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good. (See State of Maharashtra v. Prabhu [(1994) 2 SCC 481 : 1994 SCC (L&S) 676 : (1994) 27 ATC 116] and A.P. State Financial Corpn. v. Gar Re-Rolling Mills [(1994) 2 SCC 647 : AIR 1994 SC 2151] .) No litigant has a right to an unlimited draught on the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as a licence to file misconceived and frivolous petitions. [See Buddhi Kota Subbarao (Dr.) v. K. Parasaran [(1996) 5 SCC 530 : 1996 SCC (Cri) 1038 : JT (1996) 7 SC 265] .] Today people rush to courts to file cases in profusion under this attractive name of public interest. They must inspire confidence in courts and among the public.

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 litigation 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 (Dr.) v. Jitendra Kumar Mishra [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802 : AIR 1999 SC 114] 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 aforesaid position was highlighted in Ashok Kumar Pandey v. State of W.B. [(2004) 3 SCC 349] , SCC pp. 358-59, paras 14-16.”

9. In the light of the aforesaid fact the prima facie correctness or the

nature of information given by the Petitioner is incorrect as the private Respondents do hold the qualification required for the post in question keeping in view the affidavit filed by Respondent Nos. 2 and 3.

10. In the case of *Ashok Kumar Pandey v. State of W.B.*, (2004) 3 SCC 349, the Hon'ble Supreme Court in paragraphs 2, 12 and 16 has held as under:

“2. According to the petitioner, he saw a news item on a TV channel wherein it was shown that the authorities were unaware of the non-execution of the death sentence and, therefore, the condemned prisoner, the accused, had suffered a great degree of mental torture and that itself is a ground for conversion of his death sentence to a life sentence on the basis of the ratio in Triveniben case [(1989) 1 SCC 678 : 1989 SCC (Cri) 248] . It needs to be noted here that prayer for conversion of death sentence to life sentence has already been turned down by the Governor of West Bengal and the President of India in February 1994 and June 1994 respectively as stated in the petition. When the matter was placed for admission, we asked the petitioner who appeared in person as to what was his locus standi and how a petition under Article 32 is maintainable on such nature of information by which he claims to have come to know of it. His answer was that as a public-spirited citizen of the country, he has a locus to present the petition and when the matter involved life and liberty of a citizen, this Court should not stand on technicalities and should give effect to the ratio in Triveniben case [(1989) 1 SCC 678 : 1989 SCC (Cri) 248] . There has been violation of Article 21 of the Constitution and the prolonged delay in execution of sentence is violative of Article 21, so far as the accused is concerned.

12. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity-

seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity-oriented or founded on personal vendetta. As indicated above, court must be careful to see that a body of persons or a member of the public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The court must not allow its process to be abused for oblique considerations. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases, with exemplary costs.

*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 litigation 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 utilized for disposal of genuine cases. Though in *Duryodhan Sahu (Dr) v. Jitendra Kumar Mishra* [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802 : AIR 1999 SC 114] 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.”

11. Keeping in view the aforesaid judgment, as the Respondents are holding the requisite qualification as per the affidavit filed by the Government, this Court has rightly declined to interfere in the PIL and, therefore, the question of review does not arise.

12. The Hon’ble Supreme Court in the case of *Dr. B. Singh v. Union of India and Others*, (2004) 3SCC 363 has taken a similar view in the matter.

13. A division Bench of the Allahabad High Court in the case of ***Jagdish Prasad v. State of U.P.***, 2020 SCC OnLine All 1411, in paragraphs 16 to 24 has held as under:

“16. In B. Srinivasa Reddy v. Karnataka Urban Water Supply and Drainage Board Employees Association, (2006) 11 SCC 731 (2), at paragraph 61, the Apex Court held that in service matters only the non appointees can assail the legality of the appointment procedure.

17. In Neetu v. State of Punjab, reported in (2007) 10 SCC 614, the Hon'ble Apex Court held as follows:—

“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.? Referring to the decisions in Dr. Duryodhan Sahu v. Jitendra Kumar Mishra, reported in (1998) 7 SCC 273 and Ashok Kumar Pandey v. State of W.B. reported in ((2004) 3 SCC 349), cited supra, the Apex Court held that PIL in service matters has been held as not maintainable.”

18. In Seema Dharmdhare, Secretary, Maharashtra Public Service Commission v. State of Maharashtra, (2008) 2 SCC 290, the Apex Court restated that PIL is not maintainable in service matters.

19. In Hari Bansh Lal v. Sahodar Prasad Mahto, (2010) 9 SCC 655, claiming himself as Vidyut Shramik Leader, a writ petition was filed before the High Court, challenging the appointment of Mr. Hari Bansh Lal, who was appointed, as the Chairman of Jharkand State Electricity Board. The High Court declared that his appointment was not only arbitrary, but also, contemptuous, and ultimately, quashed his appointment, which gave rise to an appeal, before the Apex Court. Addressing the issue, as to whether a public interest writ petition, is maintainable in service matters, following the earlier decisions in Dr. Duryodhan Sahu v. Jitendra Kumar Mishra, reported in (1998) 7 SCC 273 and Ashok Kumar Pandey v. State of W.B. reported in ((2004) 3 SCC 349) decisions, the Hon'ble Supreme Court held as follows:—

PIL in service matters:

“11) About maintainability of the Public Interest Litigation in service matters except for a writ of quo warranto, there are series of decisions of this Court laying down the principles to be followed. It is not seriously contended that the matter in issue is not a service matter. In fact, such objection was not raised and agitated before the High Court. Even otherwise, in view of the fact that the appellant herein was initially appointed and served in the State Electricity Board as a Member

in terms of Section 5(4) and from among the Members of the Board, considering the qualifications specified in sub-section (4), the State Government, after getting a report from the vigilance department, appointed him as Chairman of the Board, it is impermissible to claim that the issue cannot be agitated under service jurisprudence.

12) We have already pointed out that the person who approached the High Court by way of a Public Interest Litigation is not a competitor or eligible to be considered as a Member or Chairman of the Board but according to him, he is a Vidyut Shramik Leader. Either before the High Court or in this Court, he has not placed any material or highlighted on what way he is suitable and eligible for that post.

.....

The same principles have been reiterated in the subsequent decisions, namely, Dr. B. Singh v. Union of India, (2004) 3 SCC 363, Dattaraj Nathuji Thaware v. State of Maharashtra, (2005) 1 SCC 590 and Gурpal Singh v. State of Punjab, (2005) 5 SCC 136.

15) The above principles make it clear that except for a writ of quo warranto, Public Interest Litigation is not maintainable in service matters.”

20. In Girjesh Shrivastava v. State of Madhya Pradesh, reported in (2010) 10 SCC 707, appointments were challenged in PIL, on the grounds of contravention of rules, regarding reservation of ex-servicemen. The High Court allowed the writ petition and ordered cancellation of appointments, and dismissed the review petitions also. While considering the issue, as to whether the matter ought to have been taken, as service dispute and not PIL, the Hon'ble Supreme Court, after

considering a catena of decisions, at paragraphs 14 to 19 has held as follows:—

“14. However, the main argument by the appellants against entertaining WP (C) 1520/2001 and WP (C) 63/2002 is on the ground that a PIL in a service matter is not maintainable. This Court is of the opinion that there is considerable merit in that contention.

15. It is common ground that dispute in this case is over selection and appointment which is a service matter.

16. In the case of Dr. Duryodhan Sahu v. Jitendra Kumar Mishra, (1998) 7 SCC 273, a three judge Bench please to hold a PIL is not maintainable in service matters. This Court, speaking through Srinivasan, J. explained the purpose of administrative tribunals created under Article 323-A in the backdrop of extraordinary jurisdiction of the High Courts under Articles 226 and 227. This Court held “if public interest litigations at the instance of strangers are allowed to be entertained by the (Administrative) Tribunal, the very object of speedy disposal of service matters would get defeated” (para

18). Same reasoning applies here as a Public Interest Litigation has been filed when the entire dispute relates to selection and appointment.

17. In B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Association, reported in (2006) 11 SCC 731 (2) (II), this Court held that in service matters only the non-appointees can assail the legality of the appointment procedure (See para 61, page 755 of the report).

18. *This view was very strongly expressed by this Court in Dattaraj Nathuji Thaware v. State of Maharashtra, reported in (2005) 1 SCC 590, by pointing out that despite the decision in Duryodhan Sahu (supra), PILs in service matters 'continue unabated'. This Court opined that High Courts should 'throw out' such petitions in view of the decision in Duryodhan Sahu (supra) (Para 16, page 596).*

19. *Same principles have been reiterated in Ashok Kumar Pandey v. State of W.B., reported in (2004) 3 SCC 349, at page 358 (Para 16)''*

In Soma Velandi v. Dr. Anthony Elangovan, reported in (2010) 4 CTC 8, following Gurpal Singh v. State of Punjab, reported in JT (2005) 5 SC 389, a Hon'ble Division Bench held that PIL is not maintainable in service matters."

21. *In Bholanath Mukherjee v. Ramakrishna Mission Vivekananda Centenary College, reported in (2011) 5 SCC 464, before the Hon'ble Supreme Court, a direction to set aside the appointment of the 3rd respondent therein, as Principal, was sought for, as the 3rd respondent was junior, to them, and did not have the requisite qualification. Reiterating the legal position that PIL is not maintainable in service matters, the Hon'ble Apex Court declined to entertain the challenge to the notices issued to Ramakrishna Mission to reconstitute the committees.*

22. *In Ayaaubkhan Noorkhan Pathan v. State of Maharashtra, (2013) 4 SCC 465. At paragraphs 14 and 15, the Apex Court, observed as follows:—*

"14. This Court has consistently cautioned the courts against entertaining public interest litigation filed by unscrupulous persons, as such meddlers do not hesitate to abuse the process of the court. The right of effective access to justice,

which has emerged with the new social rights regime, must be used to serve basic human rights, which purport to guarantee legal rights and, therefore, a workable remedy within the framework of the judicial system must be provided. Whenever any public interest is invoked, the court must examine the case to ensure that there is in fact, genuine public interest involved. The court must maintain strict vigilance to ensure that there is no abuse of the process of court and that, “ordinarily meddlesome bystanders are not granted a Visa. Many societal pollutants create new problems of non-redressed grievances, and the court should make an earnest endeavour to take up those cases, where the subjective purpose of the lis justifies the need for it.

15. Even as regards the filing of a Public Interest Litigation, this Court has consistently held that such a course of action is not permissible so far as service matters are concerned. (Vide : Dr. Duryodhan Sahu v. Jitendra Kumar Mishra, (1998) 7 SCC 273 : AIR 1999 SC 114; Dattaraj Natthuji Thaware v. State of Maharashtra, (2005) 1 SCC 590 : AIR 2005 SC 540; and Neetu v. State of Punjab, (2007) 10 SCC 614 : AIR 2007 SC 758)”

23. At this juncture, we deem it is necessary to extract Article 141 of the Constitution of India, which reads as follows:—

“141. Law declared by Supreme Court to be binding on all courts.- The law declared by the Supreme Court shall be binding on all courts within the territory of India.”

24. In view of the above, when Public Interest Litigation (Writ Petition) is not maintainable in service matters and time and again been reiterated by the Hon'ble Supreme Court in series of decisions as referred above, the present Public Interest

Litigation (writ petition) is not maintainable in law and the same is dismissed accordingly. No order as to costs."

14. This Court in the light of the aforesaid judgments and also keeping in view the counter affidavit filed by Respondent Nos. 2 and 3 is of the opinion that as Respondent Nos. 5 to 17 were holding requisite qualification for the post of Teacher, does not find any reason to review the order dated 22.11.2022 as there is no error apparent on the face of the record warranting review.

15. The Hon'ble Supreme Court in the case of Pancham Lal Pandey v. Neeraj Kumar Mishra and Others, a Review Petition arising out of Special Leave Petition (C) No. 3329 of 2021, decided on 15.02.2023, in paragraph No. 15 has held as under:

"15. The provision of review is not to scrutinize the correctness of the decision rendered rather to correct the error, if any, which is visible on the face of the order / record without going into as to whether there is a possibility of another opinion different from the one expressed. "

16. In the light of the aforesaid, as there is no error apparent on the face of the record, the review petition is dismissed.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J.

FEBRUARY 14, 2023

N.Khanna

W.P.(C.) No.4301/2017

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