

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 2633 of 2023

Sanjay Paswan, Member of Legislative Council, Bihar S/o Late Mahavir Ram
Resident of Flat No.- 203, Neelambar Apartment, East Boring Canal Road,
Panchmukhi Hanuman Mandir, P.S.- Buddha Colony, Patna- 800001, District-
Patna, Bihar.

... .. Petitioner/s

Versus

1. The Union of India, represented by the Secretary, Department of Disaster Management, Govt. of India, New Delhi.
2. Vice-Chairperson, National Disaster Management Authority, Govt. of India, New Delhi.
3. The State of Bihar, Represented by the Chief Secretary, Govt. of Bihar, Patna.
4. The Additional Chief Secretary, Department of Excise and Prohibition, Govt. of Bihar, Patna.
5. The Director General of Police, Govt. of Bihar, Patna.
6. The District Magistrate, Saran at Chappra.
7. The District Magistrate, Siwan.
8. The Superintendent of Police, Saran at Chappra.
9. The Superintendent of Police, Siwan.
10. The Superintendent of Excise and Prohibition, Saran at Chappra.
11. The Superintendent of Excise and Prohibition, Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr Vivekanand Prasad Singh, Advocate
For the Respondent/s	:	Mr Vikas Kumar, AC to Advocate General

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 24-02-2023

Heard learned counsel for the petitioner and the
respondents.



2 The petitioner, in this writ application filed under Article 226 of the Constitution of India in the nature of Public Interest Litigation (for brevity, *PIL*), is a politician. As has been stated in paragraph 2 of this application, the petitioner is a Member of the Bihar Legislative Council. He is seeking a direction from this Court to provide adequate compensation to the families of the victims who died by consuming illicit liquor in the State of Bihar. Relying on newspaper clippings of a local daily *Dainik Bhaskar*, it is his case that after consumption of liquor, initially 27 people had died which figure went up to 81. It was suspected that they died of consumption of toxic liquor. He has referred to a statement made by the Chief Minister of Bihar in the State Assembly on the said hooch tragedy in which he had declined to accede to the demand for compensation to the families of the victims. He is said to have stated that as the death was because of consumption of liquor, there was no question of grant of compensation. He has quoted the statement of the Chief Minister, said to have been made in the State Assembly, refusing to grant compensation to the families of the victims who died consequent upon consumption of illicit liquor.

3 Mr Vivekanand Prasad Singh, learned counsel for the petitioner argued the case at length with his usual vehemence



despite the Court's repeated observations on the point of *bona fide* of the petitioner in approaching directly to this Court in a PIL without approaching any other authority/State functionary for rehabilitation of the families, who became victims of consumption of toxic liquor. He argued that no useful purpose would have been served by approaching other functionaries of the State in view of the aforesaid statement of the Chief Minister in the House. He has submitted that the refusal by the State to allow compensation to the families of the victims of the tragedy amounts to violation of fundamental rights under Article 21 of the Constitution of India and the provisions of the Disaster Management Act, 2005.

4 After having carefully perused the pleadings on record and having considered the nature of submissions advanced on behalf of the petitioner during the hearing of this case, we are of the view that this writ application, in the garb of PIL, is in fact politically motivated litigation and is more in the nature of publicity interest litigation. The petitioner has totally failed to establish his *bona fides* in directly approaching this Court based on newspaper reports, apparently without making any effort to take the case of the persons who, according to him, are sufferers of the tragedy, before the authorities. His entire case is based on



newspaper clippings and the statement of the Chief Minister of Bihar said to have been made in the Bihar Legislative Assembly.

5 It is worthwhile mentioning that the Supreme Court has repeatedly cautioned the Courts against abuse of PIL. In the case of *S P Gupta -Versus- Union of India and Another*, reported in *1981 (Supp) Supreme Court Cases 87*, the Supreme Court remarked that the Courts must be careful to see that the member of the public who approaches the Court in the cases of this kind (PIL), is acting *bona fide* and not for personal gain or private profit or political motivation or other oblique consideration. The Court must not allow its process to be abused by politicians to gain a political objective. It is necessary for the Court to bear in mind that there is a vital distinction between *locus standi* and justiciability and it is not every default on the part of the State or a public authority that is justiciable. The Court must take care to see that it does not overstep the limits of judicial function and trespass into the area which was reserved to the Executive and Legislature by the Constitution, the Supreme Court remarked. (*See Paragraph 24, 1981 (Supp) Supreme Court Cases 87*).

6 In the case of *Dattaraj Nathuji Thaware -Versus- State of Maharashtra & Others*, reported in *(2005) 1 Supreme Court Cases 590*, the Supreme Court has expressed its anxiety and



has taken cognizance of innumerable days being wasted, which time otherwise could have been spent for disposal of cases of genuine litigants, on account of such trumpery proceedings initiated before the Courts. The Supreme Court has further cautioned that PIL is a weapon which has to be used with great care and circumspection and the judiciary should 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. The attractive brand name of PIL should not be used for suspicious products of mischief. The Court must be careful to see that a body of persons or member of the public, who approaches the Court is acting *bona fide* and not for personal gain or private motive or political motive or other oblique considerations. The Court must not allow its process to be abused for oblique considerations by “masked phantoms” who monitors at times from behind. The Supreme Court also observed that often such persons 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.

7 The manner in which the pleadings in the present writ application have been made and the casual way in which the same has been filed and arguments have been made, we are of the



considered view that the observations made by the Supreme Court in paragraphs 11 and 12 of the decision in the case of ***Dattaraj Nathuji Thaware (supra)*** aptly apply in the present facts and circumstances.

8 Similar concern has been noted by the three Judges Bench of Supreme Court in the case of Tehseen Poonawalla -Versus- Union of India & Another, reported in (2018) 6 Supreme Court Cases 72, wherein, referring to the misuse of PIL, the Supreme Court has again taken cognizance in the said case that both the Supreme Court and the High Courts are flooded with litigations and are burdened by arrears. Frivolous or motivated petitions, ostensibly invoking public interest, detract time and attention which the Courts must devote to genuine causes. It will be beneficial to reproduce Paragraph 98 of the Supreme Court's decision in the case of ***Tehseen Poonawalla (supra)*** which reads as under.

“The misuse of public interest litigation is a serious matter of concern for the judicial process. Both this Court and the High Courts are flooded with litigations and are burdened by arrears. Frivolous or motivated petitions, ostensibly invoking the public interest detract from the time and attention which courts must devote to genuine causes. This Court has a long list of pending cases where the personal liberty of citizens is involved. Those who await trial or the resolution of appeals against orders of conviction have a legitimate expectation of early justice. It is



a travesty of justice for the resources of the legal system to be consumed by an avalanche or misdirected petitions purportedly filed in the public interest which, upon due scrutiny are found to promote a personal, business or political agenda. This has spawned an industry of vested interests in litigation. There is a grave danger that if this state of affairs is allowed to continue, it would seriously denude the efficacy of the judicial system by detracting from the ability of the court to devote its time and resources to cases which legitimately require attention. Worse still, such petitions pose a grave danger to the credibility of the judicial process. This has the propensity of endangering the credibility of other institutions and undermining public faith in democracy and the rule of law. This will happen when the agency of the court is utilized to settle extra-judicial scores. Business rivalries have to be resolved in a competitive market for goods and services. Political rivalries have to be resolved in the great hall of democracy when the electorate votes its representatives in and out of office. Courts resolve disputes about legal rights and entitlements. Courts protect the rule of law. There is a danger that the judicial process will be reduced to a charade, if disputes beyond the ken of legal parameters occupy the judicial space.”

9 In the case of *Aleemuddin -Versus- State of Uttar Pradesh & Others*, reported in (2020) 18 Supreme Court Cases 419, the Supreme Court has again issued a note of caution by stating that the High Courts must remain vigilant to the attempts to misuse PILs to subserve extraneous and motivated purposes. Such efforts must be dealt with firmly and high prerogative writs cannot be utilized for such ends.



10 After having taken note of the observations made by the Supreme Court, as discussed above, in the backdrop of the pleadings mainly based on newspaper clippings and in view of the other discussions, as noted above, we are of the opinion that the petitioner, by filing the present writ application, has abused the process of this Court. We are of the view that this writ petition lacks *bona fide* and more politically motivated than for safeguarding the public interest.

11 This writ application is devoid of any merit and is, accordingly, dismissed.

(Chakradhari Sharan Singh, ACJ)

(Madhuresh Prasad, J)

M.E.H./-

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