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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 100 OF 2023

Shri Nitant Jagannath Chavan

.. Petitioner

Versus

State of Maharashtra & Ors.

.. Respondents

Ms. Neeta P. Karnik for Petitioner.

Ms. R. A. Salunkhe, AGP for Respondent Nos.1, 4 & 8.

Mr. Harshad Bhadbhade a/w Mr. P. V. Shekhawat for Respondent No.6.

Mr. S. V. Gavand for Respondent No.7.

CORAM: NITIN JAMDAR, ACTING CJ. &
ARIF S. DOCTOR, J.

DATE: 19 JULY 2023

P.C.:

. Heard the learned counsel for the parties.

2. The Petitioner has filed this Public Interest Litigation. In paragraph 2 – Particulars of Petitioner, it is stated that he is a local resident of the Respondent No.5 – Municipal Council, is a social Activist and has filed various complaints to higher authorities regarding the illegal actions of Respondent No.5. The Petitioner has stated that Petitioner has no personal interest in the matter and has come to this Court purely in the public interest.

3. The learned counsel for the Respondent No.7 has pointed out that in the Petition the Petitioner has referred that he has been a Corporator as well as Vice President of the Respondent No.5-Municipal Council. He has stated so in the column regarding source of information because he was associated with Municipal Council. He knows the procedure, regulations and rules very well. Therefore, we are not satisfied with the bona fides of the Petitioner that he has moved this Petition with only public interest at heart.

4. The misuse of this forum, that is, Public Interest Litigation, has been taken note by the Hon'ble Supreme Court in various cases. In *Ashok Kumar Pandey v. State of W.B.*¹, the Supreme Court has observed thus: -

“4. When there is material to show that a petition styled as a public interest litigation is nothing but a camouflage to foster personal disputes, the said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. Public interest litigation which has now come to occupy an important field in the administration of law should not be “publicity interest litigation” or “private interest litigation” or “politics interest litigation” or the latest trend “paise income litigation”. If not properly regulated and abuse averted it also becomes a tool in unscrupulous hands to release vendetta and wreak vengeance as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of a knight errant or poke one's nose into for a probe. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of justice

¹ (2004) 3 SCC 349 : (2011) 1 SCC (Cri) 865 : 2003 SSC OnLine SC 1279

should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. These aspects were highlighted by this Court in Janata Dal case [(1992) 4 SCC 305: 1993 SCC (Cri) 36] and Kazi Lhendup Dorji v. Central Bureau of Investigation [1994 Supp (2) SCC 116: 1994 SCC (Cri) 873]. A writ petitioner who comes to the court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective. See Ramjas Foundation v. Union of India [1993 Supp (2) SCC 20: AIR 1993 SC 852] and K.R. Srinivas v. R.M. Premchand [(1994) 6 SCC 620].

5. It is necessary to take note of the meaning of the expression “public interest litigation”. In Stroud's Judicial Dictionary, Vol. 4, 4th Edn., “public interest” is defined thus:

“Public interest. — (1) A matter of public or general interest does not mean that which is interesting as gratifying curiosity or a love of information or amusement; but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected.”

6. In Black's Law Dictionary, 6th Edn., “public interest” is defined as follows:

“Public interest. — Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything

so narrow as mere curiosity, or as the interests of the particular localities, which may be affected by the matters in question. Interest shared by citizens generally in affairs of local, State or national Government.”

7. In Janata Dal case [(1992) 4 SCC 305: 1993 SCC (Cri) 36] this Court considered the scope of public interest litigation. In para 53 of the said judgment, after considering what is public interest, the Court has laid down as follows: (SCC p. 331)

“53. The expression ‘litigation’ means a legal action including all proceedings therein, initiated in a court of law with the purpose of enforcing a right or seeking a remedy. Therefore, lexically the expression ‘PIL’ means a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected.”

8. In paras 60, 61 and 62 of the said judgment, it was pointed out as follows: (SCC p. 334)

“62. Be that as it may, it is needless to emphasise that the requirement of locus standi of a party to a litigation is mandatory, because the legal capacity of the party to any litigation whether in private or public action in relation to any specific remedy sought for has to be primarily ascertained at the threshold.”

9. In para 98 of the said judgment, it has further been pointed out as follows: (SCC pp. 345-46)

“98. While this Court has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly developed doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that courts should not allow its process to be abused by a mere busybody or a meddlesome interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration.”

10. In subsequent paras of the said judgment, it was observed as follows: (SCC p. 348, para 109)

“109. It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the court for vindicating any personal grievance, deserves rejection at the threshold.”

11. It is depressing to note that on account of such trumpety proceedings initiated before the courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot

avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death and facing the gallows under untold agony, persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters — government or private, persons awaiting the disposal of cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenus expecting their release from the detention orders etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for the glare of publicity break the queue muffling their faces by wearing the mask of public interest litigation and get into the courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the courts and as a result of which the queue standing outside the doors of the court never moves, which piquant situation creates frustration in the minds of genuine litigants and resultantly, they lose faith in the administration of our judicial system.

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.”

The Hon’ble Supreme Court has therefore cautioned the Courts, before lowering the aspect of locus standi and other procedural aspects in the larger interest of the public, to be vigilant as to who invokes this jurisdiction. The jurisdiction to entertain Petitions for public interest cannot be used in furtherance of personal vendetta with oblique motive and to settle personal score out of rivalries, business or political.

5. It is clear to us that the Petition is motivated by the personal political considerations of the Petitioner. As regard the cause raised, Respondent No.7 is currently the President of the Municipal Council. Under Sections, 55A and 55B of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (the Act), the State Government has the power to remove the President on certain established grounds. It is informed that some complaints have been made to the State Government to invoke this power.

6. Considering the drastic nature of the power, the State Government will have to be satisfied that all parameters exist before passing any order under Sections 55A and 55B of the Act. Therefore,

since this power vests in the State Government, we do not intend to issue any direction which will pre-judge the issue. Leaving it open for the State Government to decide the same as per law after following the requisite procedure at the earliest, we dispose of the PIL.

7. It is out of indulgence that we have refrained from imposing costs on the Petitioner.

(ARIF S. DOCTOR, J.)

(ACTING CHIEF JUSTICE)

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signed by
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