



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

Date of decision: 03rd JULY, 2023

IN THE MATTER OF:

+ **W.P.(C) 8346/2023 and CM APPL. 31930-31931/2023**

RAJIV JOLLY KHOSLA

..... Petitioner

Through: Mr. Sanjeev Kumar Dubey, Senior Advocate with Mr. Amit Bhatia, Mr. Venus Anand, Mr. Asif Inam and Mr. Simran, Advocates.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Chetan Sharma, ASG and Mr. Anurag Ahluwalia, CGSC with Mr. Amit Gupta, Mr. Saurabh Tripathi and Mr. Vikramaditya Singh, Advocates for Respondent/UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

SUBRAMONIUM PRASAD, J

1. The instant writ petition under Article 226 of the Constitution of India has been filed as a Public Interest Litigation with the following prayers:

"i. Issue a writ in nature of Certiorari or any other similar Writ, Order/Directions whereby setting aside/quashing the new parking rates to be implemented by the respondent no.2 as per its order/tender dated 12.8.2022 No 5-9/2021/Parking Estate.



ii. *Issue a Writ of mandamus or any other writ, order or direction thereby directing the respondent no. 1 to formulate a uniform Parking Fees Policy to be followed by all its Government Hospitals in order to avoid any excessive rates being implemented by the Estate officers of respective Government Hospitals being funded by Central Government.*

iii. *To Direct the respondents to immediately pass the necessary order to have a price capping on parking charges and the contractors should not be given unfettered right to fleece the general public.*

iv. *Pass any such further order or orders, direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case in favour of the petitioner and against the respondents.*

v. *Allow the present writ petition of the petitioners with cost."*

2. The Petitioner, who is associated with National Panthers Party and is the President of its Delhi Unit, came to know about the enhancement of parking fees in the Safdarjung Hospital/Respondent No.2 payable by the visitors/attendants and patients who visit regularly to attend OPD and park their cars and two wheelers in the parking area earmarked in the hospital. It is stated that there is a substantial increase in the parking fees for the parking area in the hospital. The new rates for the parking in the hospital reads as under:

<i>DURATION</i>	<i>SCOOTER.MOTOR CYCLE</i>	<i>CAR</i>
<i>1ST 2 HOURS</i>	<i>RS 10/-</i>	<i>RS 20/-</i>
<i>EVERY HOURS AFTER 2 HOURS</i>	<i>RS 10/-</i>	<i>RS 20/-</i>



3. It is stated that there is no capping in the parking fees that can be charged for parking the vehicle. It is stated that the person who wants to park his vehicle for 24 hours will have to pay Rs.230/- for two wheeler and Rs.460/- for cars for a single day.

4. It is this hike of parking fee which is under challenge in the instant petition.

5. Material on record shows that the Petitioner had earlier filed a writ petition bearing W.P.(C) 1053/2023 before this Court challenging the enhancement of parking charges in VMMC and Safdarjung Hospital. This Court on 27.01.2023 passed the following Order:

"The Petitioner before this Court has filed the present Writ Petition as a Public Interest Litigation for quashment of order dated 12.08.2022 issued in respect of parking charges by Respondent No.2 VMMC and Safdarjung Hospital.

Learned Counsel, at the outset, has stated that he has submitted a detailed representation (Annexure P9 at Page 57 of the Writ Petition) to the Authority and sought that the authorities be directed to look into the representation and the grievances which have been placed in public interest at large. The prayer appears to be a genuine prayer, and the Learned Counsel appearing for Respondent Hospital was fair enough in stating before this Court that the Hospital shall look into the grievances raised by the Petitioner in a time bound manner, and the representation shall be decided, in accordance with law, within a period of four months from today.

With the aforesaid, the present PIL stands disposed of."



6. Pursuant to the Order 27.01.2023 passed by this Court, a Committee was formed to consider the issue and the said Committee gave a report dated 28.02.2023 which reads as under:

**"Govt of India
VMMC & Safdarjung Hospital
New Delhi**

No.AddlMS/K.S. 2023

Date: 28.02.2023

The Committee's report

The committee reviewed the decision of parking charges revision. It is concluded that the revised parking charges are justified in view of following facts: -

Safdarjung Hospital has got very limited parking space, and most of the patients visiting hospital are poor and commute by public buses or three wheelers (autos) and only a very small percentage of patient come to the hospital by two wheelers or four wheelers. It is observed that the large majority of peoples using parking space are metro commuters or people visiting AIIMS ,as parking of AIIMS is very far (being nearly 3 KM) away. Most of the patients who visit S.J.Hospital finish their work in 2-3 hours. Moreover, there is no major change in parking rates up to 2 hours. Only the people who misuse parking area are metro commuters and those visiting AIIMS. This is mainly a measure to decongest the traffic in hospital premises and also to dissuade people for misusing Safdarjung Hospital parking area."

7. Learned Senior Counsel appearing for the Petitioner contends that the parking charges are exorbitant and much higher than the other Government hospitals like Dr. Ram Manohar Lohia Hospital and others. He contends that the purpose of charging parking fee cannot be for generating profits. He



submits that poor patients come to the Safdarjung Hospital for treatment and their attendants cannot be forced to pay exorbitant rates for parking in the hospital premises.

8. *Per contra*, learned Counsel appearing for the Respondents submits that the Petitioner herein has been set up by the existing contractor who does not want the tender to be awarded to some other contractor.

9. The existing contractor approached this Court by filing a writ petition bearing W.P. (C) 7353/2023 before this Court challenging the award of tender to some other contractor and the said writ petition was dismissed by this Court on 25.05.2023 by passing the following Order:

"W.P.(C) 7353//2023 & CM APPL. 28628/2023 (for stay)"

3. The Petitioner in the present petition seeks setting aside of the letter dated 19th May, 2023 issued by the Respondent No.2 - Safdarjung Hospital and VMMC Ring Road has directed it to hand over possession of the parking area and all the sites which are in the occupation of the Petitioner.

4. After some hearing, Mr. Harish Malhotra, ld. Sr. counsel for the Petitioner submits that vacant and peaceful possession would be handed over to the hospital by 15th June, 2023. The undertaking to the same effect of Mr. S.L. Arora who is a partner in the Petitioner company, who is present in Court is recorded and accepted by the Court.

5. In the present case, since the new tender had already been floated and Respondent No.3 is the successful bidder, he is free to take over the site from 16th June, 2023.



6. It is made clear that if possession is not handed over, contempt action would be liable to be taken against the Petitioner.

7. The present petition, along with all pending applications, is disposed of."

10. A perusal of the above shows that the present petition is an abuse of Public Interest litigation. This Court find that the instant petition has been filed under the garb of Public Interest Litigation only to settle personal scores. It is settled law that private interests cannot be canvassed in Public Interest Litigations. The Apex Court in Janata Dal v. H.S. Chowdhary, (1992) 4 SCC 305, has held as under:

"110. 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 the genuine litigants. Though we are second to none in fostering and developing the newly invented 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 facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from the undue delay in service matters, Government or private persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorised 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 for themselves or as proxy of others or for any other extraneous motivation or for 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 a frustration in the minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system.”

11. Similarly, in B. Singh (Dr.) v. Union of India, (2004) 3 SCC 363, the Apex Court has held as under:

“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 or vendetta to bring to terms a person, not of one's liking, or gain publicity or a facade for blackmail, the said petition has to be thrown out. Before we grapple with the issues involved in the present case, we feel it necessary to consider the issue regarding the “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 and strictly regulated at least in certain vital areas or spheres and abuse averted, it becomes also a tool in unscrupulous hands to release vendetta and wreak vengeance, as well as to malign not only an incumbent-to-be in office but demoralise and deter reasonable or sensible and prudent people even agreeing to accept highly sensitive and responsible offices for fear of being brought into



disrepute with baseless allegations. There must be real and genuine public interest involved in the litigation and concrete or credible basis for maintaining a cause before court and not merely an adventure of a knight errant borne out of wishful thinking. 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 should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. The credibility of such claims or litigations should be adjudged on the creditworthiness of the materials averred and not even on the credentials claimed of the person moving the courts in such cases. 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 v. H.S. Chowdhary [(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] .)

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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 the citizens. The attractive brand name of public interest litigation should not be allowed to 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, courts must be careful to see that a body of persons or member of 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 by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives and try to bargain for a good deal as well to enrich themselves. 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.”

12. In Kalyaneshwari v. Union of India, (2011) 3 SCC 287, the Apex Court has held as under:

“41. In Ashok Kumar Pandey v. State of W.B. [(2004) 3 SCC 349 : (2011) 1 SCC (Cri) 865] this Court took a cautious approach while entertaining public interest litigations and held that public interest litigation is a weapon, which has to be used with great care and circumspection. The judiciary has to be extremely careful to see that no ugly private malice, vested interest and/or seeking publicity lurks behind the beautiful veil of public interest. 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.



42. In Rajiv Ranjan Singh ‘Lalan’ (8) v. Union of India [(2006) 6 SCC 613 : (2006) 3 SCC (Cri) 125] , this Court reiterated the principle and even held that howsoever genuine a case brought before a court by a public interest litigant may be, the court has to decline its examination at the behest of a person who, in fact, is not a public interest litigant and whose bona fides and credentials are in doubt; no trust can be placed by the court on a mala fide applicant in a public interest litigation.”

13. In Tehseen Poonawalla v. Union of India, (2018) 6 SCC 72, the Apex Court held as under:

“97. Yet over time, it has been realised that this jurisdiction is capable of being and has been brazenly misutilised by persons with a personal agenda. At one end of that spectrum are those cases where public interest petitions are motivated by a desire to seek publicity. At the other end of the spectrum are petitions which have been instituted at the behest of business or political rivals to settle scores behind the facade of a public interest litigation. The true face of the litigant behind the façade is seldom unravelled. These concerns are indeed reflected in the judgment of this Court in State of Uttaranchal v. Balwant Singh Chaufal [State of Uttaranchal v. Balwant Singh Chaufal, (2010) 3 SCC 402 : (2010) 2 SCC (Cri) 81 : (2010) 1 SCC (L&S) 807] . Underlining these concerns, this Court held thus : (SCC p. 453, para 143)

“143. Unfortunately, of late, it has been noticed that such an important jurisdiction which has been carefully carved out, created and nurtured with great care and caution by the courts, is being blatantly abused by filing some petitions with oblique motives. We think time has come when genuine and bona fide public interest litigation must be encouraged whereas frivolous public



interest litigation should be discouraged. In our considered opinion, we have to protect and preserve this important jurisdiction in the larger interest of the people of this country but we must take effective steps to prevent and cure its abuse on the basis of monetary and non-monetary directions by the courts.”

98. 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 of 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 utilised 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.”

14. The reason for revision of parking charges have been given by the Committee in its report dated 28.02.2023 wherein it has been observed that the large majority of people using parking space are metro commuters or people visiting AIIMS, as parking of AIIMS is very far (being nearly 3 KM) away and most of the patients who visit S.J. Hospital finish their work in 2-3 hours and there is no major change in parking rates up to 2 hours. The increase in parking charges was brought about to prevent misuse of the parking area by the metro commuters and those who visit AIIMS.

15. The present PIL is nothing but an abuse of the process of law as it is evident that the Petitioner herein has been set up by the existing contractor who does not want the tender to be awarded to some other contractor. This Court is, therefore, inclined to impose a costs of Rs.20,000/- upon the Petitioner to be deposited with "*Armed Forces Battle Casualties Welfare Fund*" within a period of four weeks from today.

16. The PIL is dismissed, along with pending application(s), if any.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

JULY 03, 2023

S. Zakir