

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.63 OF 2003**

Janhit Manch and Ors. : Petitioners

Vs.

Shri Vilasrao Deshmukh & Ors. : Respondents

**WITH
NOTICE OF MOTION NO.37 OF 2013
IN
WRIT PETITION NO.63 OF 2003**

Shri Pramod Shende,
Dy. Speaker
Maharashtra Legislative Assembly
and Anr. : Applicants

In the matter between

Janhit Manch and Ors. : Petitioners

Vs.

Shri Vilasrao Deshmukh & Ors. : Respondents

**WITH
WRIT PETITION NO.774 OF 2003**

Brashtachar Nirmoolan Sanghatana,
Mumbai and Anr. : Petitioners

Vs.

State of Maharashtra and Ors. : Respondents

**WITH
NOTICE OF MOTION NO.38 OF 2013
IN
WRIT PETITION NO.774 OF 2003**

Shri Pramod Shende & Anr. : Applicants

In the matter between

Brashtachar Nirmoolan Sanghatana,
Mumb ai and anr. : Petitioners

Vs.

State of Maharashtra and Ors. : Respondents

**WITH
WRIT PETITION NO.1602 OF 2003**

Padmakar Nandekar
Secretary General,
Cuffe Parade Residents Association
and Anr. : Petitioners

Vs.

State of Maharashtra and Ors. : Respondents

**WITH
NOTICE OF MOTION NO.36 OF 2013
IN
WRIT PETITION NO.1602 OF 2003**

Mr. Arun Gujrathi,
the Speaker,
Maharashtra Legislative Assembly
and Anr. : Applicants

In the matter between

Cuffe Parade Residents Association
and Anr. : Petitioners

Vs.

State of Maharashtra and Ors. : Respondents

**WITH
WRIT PETITION NO.2644 OF 2004**

Janhit Manch
through its President
Bhagvanji Raiyani and Ors. : Petitioners

Vs.

The Municipal Commissioner,
Brihan Mumbai Municipal Corporation
and Anr. : Respondents

**WITH
CHAMBER SUMMONS NO.379 OF 2007
IN
WRIT PETITION NO.2644 OF 2004**

Janhit Manch
through its President
Bhagvanji Raiyani and Ors. : Petitioners

Vs.

The Municipal Commissioner,
Brihan Mumbai Municipal Corporation
and Anr. : Respondents

AND

Janhit Manch
through its President : Petitioner/
Bhagvanji Raiyani Applicant

**WITH
WRIT PETITION NO.435 OF 2005**

Janhit Manch
through its President
Bhagvanji Raiyani and Ors. : Petitioners

Vs.

State of Maharashtra and Ors. : Respondents

**WITH
NOTICE OF MOTION NO.82 OF 2007
IN
WRIT PETITION NO.435 OF 2005
WITH
NOTICE OF MOTION NO.166 OF 2018
IN
WRIT PETITION 435 OF 2005**

**WITH
PUBLIC INTEREST LITIGATION NO.130 OF 2009**

Janhit Manch
through its President
Bhagvanji Raiyani and Ors. : Petitioners
Vs.
State of Maharashtra and Ors. : Respondents

**WITH
NOTICE OF MOTION NO.224 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.130 OF 2009**

**WITH
NOTICE OF MOTION NO.270 OF 2018
IN
WRIT PETITION NO.2445 OF 2004**

Janhit Manch : Applicant/
Orig. Petitioner

Janhit Manch
through its President
Bhagvanji Raiyani and Ors. : Petitioners
Vs.
Hon. Minister for Information,
Broadcasting & Culture & Ors. : Respondents

Mr. Bhagvanji Raiyani – Petitioner in person in Writ Petition Nos.63 of 2003, 2644 of 2004, 435 of 2005, PIL No.130 of 2009 and for the Applicant in Notice of Motion No.270 of 2018.

None for the Petitioners in Writ Petition No.774 of 2003.

None for the Petitioner in Writ Petition No.1602 of 2003.

Mr. Girish Utangale a/w Mr. Saurabh Utangale i/by Utangale & Co. for Respondent – SRA.

Ms. P H Kantharia, GP a/w Ms. Jyoti Chavan, Addl. GP for Respondents-State in Writ Petition Nos.63 of 2003, 774 of 2003 and 1602 of 2003, 2644 of 2004, 435 of 2005

Mr. Abhay L. Patki, Addl. GP for the Respondents-State in PIL No.130 of 2009.

Mr. Milind V. More, Addl. GP for Respondents-State in Notice of Motion No.270 of 2018.

Ms. Oorja Dhond i/by Mr. S. K. Sonawane for the Respondent-MCGM in Writ Petition No.2644 of 2004, PIL No.130 of 2009

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.
DATE : 24th January 2024.**

P.C.:

1. At the outset, it is necessary for us to set out that Mr. Raiyani, who appears in person on behalf of Janhit Manch i.e.,

the Petitioners in Writ Petition Nos. 63 of 2003, 2644 of 2004, 435 of 2005, Public Interest Litigation No. 130 of 2009 and for the Applicant in Notice of Motion No.270 of 2018 has been repeatedly seeking listing of the numerous Petitions in which he appears in person. Numerous praecipes have also been filed by Mr. Raiyani seeking listing of these matters on a priority basis. It will be useful at this stage itself to reproduce the contents of two such praecipes filed by Mr. Raiyani in Writ Petition No. 2644 of 2004 which read thus, viz.

(i) Praeipce dated 26th September 2022

"I would like to remind to the 1st Court through your goodself on the following points. The court on 15th march 2021, i.e. before 18 months ordered to take up my 26 PILs + 5 W.P.s on 19th June 2021, i.e. 15 months before Few times I was informed that they would come on board on such and such date and thereafter they came partly on board but never reached, except once, One.

In my earlier praecipe, I had informed the court that I have few months left in my life.

As court expects all litigants/advocates to punctually attend but without commitment to finish the board itself"

(ii) Praeipce dated 10th November 2022

"I am a retired person of 85 and have only 17 months to live more. The reason is I will sit on Fast Unto Death on 30eth January 2024, the death anniversary of Mahatma Gandhi, unless the UOI and SC don't implement the Apex Court Judgment dated 21 March 2002, increasing the judges strength from 10.5 judges to 50 judges per million population. The judgement is in favour of All India Judges Association V/s. UOI and States being, 2002 (2) SCR 712"

It is in the aforesaid backdrop that we have on a weekly basis been listing a few of the Petitions filed by Mr. Raiyani and/or in which Mr. Raiyani appears in person on behalf of the Petitioners.

2. Today however, when the above-mentioned Petitions were called out Mr. Raiyani was not present. We therefore kept the matters back to be called at 2:30 pm. When the matters were called out at 2:30 pm, Mr. Raiyani appeared and instead of arguing/making submissions on the merits of any of the Petitions, he simply tendered a two page print out which he submitted contained the guiding principles governing Public Interest Litigation (PIL) as formulated by the late Chief Justice Bhagwati. He then "advised" the Court to read, consider and follow the same when deciding all PILs, including the present

Petitions. When asked by the Court to argue the Petitions and highlight the issue/s of public interest which arose in them, Mr. Raiyani stated that he did not want to make any submissions and that the Court should decide each of the Petitions after taking into consideration the material tendered by him.

3. Given the above, two things have become manifestly clear to us. *First* is that Mr. Raiyani has taken one to many liberties with this Court in the capacity of a PIL Petitioner and the *second* is that Mr. Raiyani/the Petitioners on whose behalf he appears, cannot be said to be acting in the genuine public interest. We say so for the following reasons, viz.

A. *First*, it is important to reiterate that concept of PIL's evolved as more particularly set out by the Hon'ble Supreme Court in the case of ***State of Uttaranchal vs Balwant Singh Chaufal***¹ initially to allow public-spirited individuals etc. to approach the Courts on behalf of those who were unable to do so themselves

1 2010 (3) SCC 402

essentially because of their socio-economic conditions or otherwise distressed conditions. It was in this context that the rule of *locus standi* and the traditional meaning of "*aggrieved person*" was broadened and construed more liberally to permit such persons to approach the Court to highlight and/or espouse the cause of those who though afflicted, could not approach the Court. The second phase gave locus to individuals/organizations to highlight issues regarding protection of ecology and environment and the *third phase* gave locus to individuals/organizations to highlight issues in order to maintain purity in public administration and probity in governance. Therefore, as we can see, the foremost and only consideration, infact obligation, of a Petitioner who approaches the Court in the public interest and thus seeks relaxation of the traditional concept of *locus standi* must only be to espouse the cause for which such Petitioner approaches the Court and nothing else. In the present case as noted above, Mr. Raiyani has

despite being called upon, chosen not to make any submissions whatsoever on the merits of any of the Petitions in which he appears. Thus, in our view, Mr. Raiyani would from that moment on instantly stand denuded of the *locus standi* as a Petitioner who appears in the public interest. It is thus we have as noted above, that given the repeated mentioning of matters, the loosely worded praecipes filed by Mr. Raiyani and finally his failure to make submissions in any of the Petitions but instead to go on to “advise” the Court on the manner in which PILs should be decided that we have find Mr. Raiyani has taken one too many liberties with this Court.

- B. *Second*, given the fact that Mr. Raiyani has chosen to not make submissions on any of the Petitions leads us to the irresistible conclusion that the same were never filed in the genuine public interest in the first place. We say so because all of the present Petitions have been

filed prior to 2010 (PIL Rules) which *inter alia* require Petitioners in PILs to submit an affidavit disclosing the bonafides of the Petitioner, source of information of the Petitioner and to give an undertaking to pay the costs imposed, if any. It is the duty of the Court, as held by the Hon'ble Supreme Court in the case of **Ashok Kumar Pandey vs. State of W.B.**² 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. Mr. Raiyani having chosen to abandon all the Petitions when called upon to make submissions on merits has thus effectively preempted the Court from testing any of these aspects. It is thus we feel that Petitions do not appear to have been filed in the genuine public interest.

4. Hence for the reasons stated above, we pass the following order, viz.

² 2004 (3) SCC 349

- i. Writ Petition Nos. 63 of 2003, 2644 of 2004, 435 of 2005, Public Interest Litigation No.130 of 2009 and Notice of Motion No.270 of 2018 in Writ Petition No.2445 of 2004 are dismissed as having been abandoned by the Petitioners. We make it clear that we have not gone into the merits of any of the Petitions given the above noted conduct, we feel the same have not been filed in the genuine public interest.
- ii. Writ Petition Nos. 774 of 2003 and 1602 of 2003 which were tagged along with Writ Petition No. 63 of 2003 are dismissed for non-prosecution since non appeared on behalf the Petitioners. We make it clear that the reasoning set out in paragraph 3(A) and (B) above will not apply in any manner to these Petitions.
- iii. In view of the above, all interlocutory applications in Writ Petition Nos. 63 of 2003, 2644 of 2004, 435

of 2005, Public Interest Litigation No.130 of 2009
are also dismissed.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)