



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-PIL-152-2024 (O&M)
Date of decision:- 01.08.2024

Bhupinder Singh

...Petitioner(s)

Versus

Commandant General, Home Guards and Director Civil Defence,
Punjab, Chandigarh and others.

...Respondent(s)

CORAM: **HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE**
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Rajiv Kataria, Advocate,
 Ms. Deepshikha, Advocate,
 Ms. Sushmeet Kaur, Advocate,
 for the petitioner.

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SHEEL NAGU, C.J. (ORAL)

1. The petitioner, by way of the present petition which is categorized as Public Interest Litigation, prays for the following reliefs:-

(i) Issue a writ of mandamus directing respondents No. 1 and 2 to initiate criminal proceedings against respondent No. 4 for cheating and forgery of the certificate by virtue of which he projected himself to be middle pass and took employment with respondent No. 2 on the basis of forged certificate.

(ii) The erring officials of the department of respondents No. 1 and 2 be brought to books who mislead the police by giving false information.

2. The grievance of the petitioner, essentially, relates to inaction on the part of respondents No. 1 and 2 to initiate criminal prosecution against respondent No. 4 who is alleged to have indulged in certain acts of offences punishable under the Bharatiya Nyaya Sanhita, 2023 (BNS).



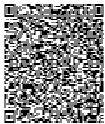
3. It is settled principle, in view of a string of judgements of Apex Court in ***Jaipur Shahar Hindu Vikas Samiti Vs State of Rajasthan and others***, (2014) 5 SCC 530 and ***Jafar Imam Naqvi Vs Election Commission of India***, (2014) 15 SCC 420, that in the event of availability of an alternative statutory remedy, the cause raised in a writ petition filed as Public Interest Litigation ought not to be entertained unless the said remedy is exhausted.

4. The relevant portions of the said judgements are reproduced below:-

Jaipur Shahar Hindu Vikas Samiti Vs State of Rajasthan and others (supra):-

“49. The concept of public interest litigation is a phenomenon which is evolved to bring justice to the reach of people who are handicapped by ignorance, indigence, illiteracy and other downtrodden people. Through the public interest litigation, the cause of several people who are not able to approach the court is espoused. In the guise of public interest litigation, we are coming across several cases where it is exploited for the benefit of certain individuals. The courts have to be very cautious and careful while entertaining public interest litigation. The judiciary should deal with the misuse of public interest litigation with iron hand. If the public interest litigation is permitted to be misused the very purpose for which it is conceived, namely, to come to the rescue of the poor and downtrodden will be defeated. The courts should discourage the unjustified litigants at the initial stage itself and the person who misuses the forum should be made accountable for it. In the realm of public interest litigation, the courts while protecting the larger public interest involved, should at the same time have to look at the effective way in which the relief can be granted to the people whose rights are adversely affected or are at stake. When their interest can be protected and the controversy or the dispute can be adjudicated by a mechanism created under a particular statute, the parties should be relegated to the appropriate forum instead of entertaining the writ petition filed as public interest litigation.”

Jafar Imam Naqvi Vs Election Commission of India (supra):-



“9. The petitioner has submitted that this Court being the guardian of the Constitution is obligated to issue notice, call for the response and issue appropriate directions. Be it stated, the Election Commission might have taken note of it and initiated certain action. The matter of handling hate speeches could be a matter of adjudication in an appropriate legal forum and may also have some impact in an election dispute raised under the Representation of the People Act, 1951. Therefore, to entertain a petition as a public interest litigation and to give directions would be inappropriate. We have said so in view of the judgments in *Manohar Joshi v. Nitin Bhaurao Patil* [*Manohar Joshi v. Nitin Bhaurao Patil*, (1996) 1 SCC 169] and *Ramchandra G. Kapse v. Haribansh Ramakbal Singh* [*Ramchandra G. Kapse v. Haribansh Ramakbal Singh*, (1996) 1 SCC 206].”

5. Accordingly, this Court declines interference and relegates the petitioner to avail the remedy under Section 173/175 or Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), as the case may be.
6. The petition stands dismissed.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

01.08.2024
Amodh Sharma

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No