



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

111

CWP-PIL-138-2024

Date of Decision: 17.07.2024

Sourabh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Onkar Singh Batalvi, Advocate, for the petitioner.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

Dr. Neha Awasthi, Advocate, for respondent No.2-HPSC.

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. The instant writ petition has been filed as a Public Interest Litigation for quashing Advertisement No.16/2024 dated 21.06.2024 (Annexure P-1) issued for filling-up the post of Ayurvedic Medical Officer (Group-B) in Health & Ayush Department, Haryana, raising the ground that respondent No.2 has though advertised vacancies for Orthopaedically Handicapped (OH) but not for other handicapped categories, which tantamounts to violation of Article 14 and 16 of Constitution and Section 20 of the Disability Act, 2016; with a further prayer to direct respondents to re-advertise the posts.

2. Looking to the facts raised and the relief sought, it is obvious that the issue raised in this PIL relates to service dispute. The Apex Court in the cases of *Dr. Duryodhan Sahu vs. Jitendra Kumar, (1998) 7 SCC 273*;



Neetu Vs. State of Punjab, (2007) 10 SCC 614; *Dattaraj Nathuji Thaware vs. State of Maharashtra*, (2005) 1 SCC 590; and *Vishal Ashok Thorat and others vs. Rajesh Shripambapu and others*, (2020) 18 SCC 675, has been of consistent view that a service dispute cannot be raised by way of a Public Interest Litigation. The relevant extract of *Dattaraj Nathuji Thaware's* case (supra) is reproduced hereunder for ready reference:-

“11. 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 large number of so-called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in 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 Dr. Duryodhan Sahu and Ors. v. Jitendra Kumar Mishra and Ors. 1998 (4) SCT 213 (SC), 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. Apart from the sinister manner, if any, of getting such copies, the real brain or force behind such cases would get exposed to find out the truth and motive behind the petition. Whenever



such frivolous pleas, as noted, are taken to explain possession, the Court 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 afore-stated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the Courts.”

3. Learned counsel for the petitioner, however, draws the attention of this Bench to a decision rendered on 03.11.2023 by the Apex Court in Special Leave Petition (Civil) Diary No.41779 of 2023, relevant extract of which is reproduced below:-

“4. In this view of the matter and having regard to the fact that the respondent nos.5 to 17 have already served for almost 15 years, we are not inclined to entertain these special leave petitions against their selection or appointment. However, the second reason assigned by the High Court, namely, that "PIL is not at all maintainable in service matters" in view of the decision of this Court in Dr. Duryodhan Sahu and Others vs. Jintendra Kumar Mishra and Others, (1998) 7 SCC 273, is a debatable issue and the said question of law is kept open, to be gone into an appropriate case.

5. With these observations, the special leave petitions are dismissed.

6. All pending applications, if any, stand disposed of.”

4. From perusal of the aforesaid observation of the Apex Court, it reveals that the issue as to whether a service matter can be entertained by way of Public Interest Litigation was though categorized as debatable issue but left open to be decided in an appropriate case. Therefore, there was no adjudication on the said issue and thus, this Court has no manner of doubt



that the prevailing law on the issue which is evident from the earlier judgments as quoted above, holds the field.

5. Accordingly, the instant petition being not maintainable is dismissed.

(SHEEL NAGU)
CHIEF JUSTICE

July 17, 2024
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(VIKAS SURI)
JUDGE

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