



2024:DHC:5347-DB



\$~19, 20 & 23

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

+ W.P.(C) 12580/2022 & CM APPL. 38080/202

AMIT GUPTA

.....Petitioner

Through: Mr. Nikhil Rohatgi, Advocate with
Mr. Shashank Khurana, Advocate

versus

LAND & DEVELOPMENT OFFICE & ORSRespondents

Through: Mr. Rakesh Kumar CGSC with Mr. Q
Sunil Advocate for UOI.

+ W.P.(C) 13366/2022 & CM APPL. 40565/2022

TATHAGAT MEWARA

.....Petitioner

Through: Mr. Kartik Bhardwaj, Advocate.

versus

UNION OF INDIA AND ANR

.....Respondents

Through: Mr. Udit Malik, ASC (Civil) with Mr.
Vishal Chanda, Advocate for UOI.
Mr. Anupam Srivastava, ASC for
GNCTD with Ms. Savita Pandey, Mr.
P.C. Mann and Mr. Sandeep Sharma,
Advocate for R-2.

+ W.P.(C) 12420/2022 & CM APPL. 37350/2022

SHIVOM ASTHANA

.....Petitioner

Through: Mr. Kartik Bhardwaj, Advocate,
(through video conferencing), Mr.
Jaideep Singh Advocate with Ms.
Kavaljit Kaur, Advocate

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Prashant Rawat, Govt. Pleader
with Mr., Kabir Singh, Advocate for
UOI.
Ms. Arunima Dwivedi, CGSC with
Ms. Pnky Pawar, Advocate for
L&DO.

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SINGH RAWAT
Signing Date: 19.07.2024
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Date of Decision: 18th July, 2024**CORAM:****HON'BLE THE ACTING CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****MANMOHAN, ACJ : (ORAL)**

1. Present public interest petitions have been filed primarily seeking quashing of letters, office memorandums issued by respondent No.1 by virtue of which plot and flat owners were directed to seek 'No Objection Certificate' from L&DO for registration of sale deeds of freehold properties.
2. At the outset, learned counsel for respondents raise a preliminary objection to the maintainability of the public interest petitions. They state that people who own houses, flats and buildings cannot be said to be so handicapped that they cannot approach the Courts directly.
3. Learned counsel for the petitioners have drawn our attention to the judgment of the Supreme Court in State of *Uttaranchal vs. Balwant Singh Chaufal & Ors.*, (2010) 3 SCC 402 wherein it has been held as under:-

"181. We have carefully considered the facts of the present case. We have also examined the law declared by this Court and other courts in a number of judgments. In order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions:

(1) The Courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.

(2) Instead of every individual Judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is

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directed to ensure that a copy of the rules prepared by the High Court is sent to the Secretary General of this Court immediately thereafter.

(3) The Courts should prima facie verify the credentials of the petitioner before entertaining a PIL.

(4) The Courts should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

(5) The Courts should be fully satisfied that substantial public interest is involved before entertaining the petition.

(6) The Courts should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.

(7) The Courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The Court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation.

(8) The Courts should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations.

4. This Court is of the view that the rule of locus standi is relaxed in cases of public interest litigation, but that is to be done only to ensure that the poor or socially and economically backward or persons with disability are not denied their rights. The concept of public interest litigation is linked to the enforcement of the social and economical rights in India. The Supreme Court in ***Guruvayoor Devaswom Managing Committee & Anr. vs. C.K. Rajan & Ors., (2003) 7 SCC 546*** has held as under:-

41. The courts exercising their power of judicial review found to their dismay that the poorest of the poor, the depraved (sic), the illiterate, the urban and rural unorganized labour sector, women, children, those handicapped by "ignorance, indigence and illiteracy" and other downtrodden persons have either no access to justice or had been denied justice. A new branch of



proceedings known as “social action litigation” or “public interest litigation” was evolved with a view to render complete justice to the aforementioned classes of persons. It expanded its wings in course of time. The courts in pro bono publico granted relief to inmates of prisons, provided legal aid, directed speedy trials, maintenance of human dignity and covered several other areas. Representative actions, pro bono publico and test litigations were entertained in keeping with the current accent on justice to the common man and a necessary disincentive to those who wish to bypass real issues on merits by suspect reliance on peripheral procedural shortcomings. (See Mumbai Kamgar Sabha v. Abdulbhai Faizullabhai)

42. The Court in pro bono publico proceedings intervened when there had been callous neglect as a policy of State, a lack of probity in public life and abuse of power in control and destruction of the environment. It also protected inmates of prisons and homes. It sought to restrain exploitation of labour practices.

5. The Supreme Court in ***State of Uttaranchal vs. Balwant Singh Chaufal & Ors***, (supra) has reiterated the aforesaid principle.
6. Since the issue canvassed in the present public interest petitions pertains to flat owners and plot owners in Delhi, this Court is in agreement with the learned counsel for respondents that the rule of locus standi should not be relaxed. Accordingly, present public interest litigations and pending applications are dismissed.
7. However, the issues of law raised in the present petitions are left open.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

JULY 18, 2024

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