

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11943 of 2025

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Digvijay Jha Son of Laxmi Nath Jha, Resident of Vill- Baraitha, P.S- Aurai,
Dist- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through The Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Additional Secretary, Health Department, Government of Bihar, Patna.
3. The Director in Chief, (Health Department) (Pharmacy), Health Department, Government of Bihar, Patna.
4. The Drug Controller of Bihar, Health Department, Government of Bihar, Patna.
5. The Chairman Bihar State Pharmacy Council, B.M. Das Road, P.S- Pirbahore, District- Patna.
6. Mr. Arjesh Raj S/o Narmdeshwar Prasad, R/o Village Godhwa, P.O- Pataura, District- East Champaran, Pin code- 845401.
7. Mr. Abhitosh Rana S/o Ram Haresh Singh, R/o Mohalla Adarsh Colony Kadma Road, P.S- Aurangabad, District- Aurangabad, Pin code 824101.
8. Mr. Vikash Kumar Singh, S/o Upendra Pratap Singh, R/o Village Kadma Kudra, P.S Kaimur, District- Kaimur, Pincode- 821108.
9. Mr. Prakash Kumar Jha, S/o Mahesh Jha, R/o Village Bishanpur, P.S Karpurigram, District- Samastipur, Pin code-848129.
10. Mr. Satish Shankar Pathak S/o RamaNand Pathak, R/o Bhuneshwar Enclave, Flat No. 101 Krishi Nagar, AG Colony Shastri Nagar Patna, Pin Code- 800023.
11. Mr. Manish Kumar S/o Dinesh Prasad Rai, R/o Village Nanhakchak, Ward no. 11, Dilwarpur, Gobardhan, PS- Bidupur, District- Vaishali, Pin Code- 844503.
12. Mr. Ranjeet Ranjan, S/o Surendra Prasad Singh, R/o Village- Bangpur, P.S- Parwalpur, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Shilpi Keshri, Advocate
For the State	:	Mr. P.K. Shahi, AG
For the BPC	:	Mr. Girijesh Kumar, Advocate
		Mr. Akash Anand, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER



(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

4 04-12-2025 The present writ application has been filed in form of a Public Interest Litigation (PIL) for the following reliefs:

“i. For issuance of writ in nature of quo warranto calling upon the private respondent under what authority the person who is the Nominated Member is holding the post of Registrar of the Bihar Pharmacy Council Patna, as he has been appointed as Acting Registrar misinterpreting the order dated 23.06.2022 passed in CWJC No.20704/21 by issuing the public notice in the light of the order passed by this Hon'ble Court and conducting the election in a very hush hush manner and against the provision as laid down in and appointing the Registrar who did not have the requisite qualification as per Notification dated 08.06.1960 Rule 1 issued by the Health Department.

ii. For issuance writ of mandamus directing the respondent authorities to withdraw the notification/order appointing the private respondent who is also a nominated member as the Acting Registrar-cum- Secretary, Bihar Pharmacy Council as he is not eligible for being appointed as Registrar, Bihar Pharmacy Council as he is not holding the said po the due procedure of law mandated under the rules and Act.

iii. For issuance of direction to cancel the entire election process conducted by the Bihar Pharmacy Council, Patna in the light of the order 23.06.2022 passed in CWJC No.- 20704 of 2021 as the same has been conducted while bypassing the governing rules and laws and conducted vide online mode where no



such mode is permissible under the rules.

iv. Further for issuance of any other writ/writs, order/or direction/directions as this Hon'ble Court may deem fit and proper as the facts and circumstances of this case.”

2. From perusal of reliefs sought for and the materials on record it is clear that the petitioner has challenged the entire election conducted by the Bihar Pharmacy Council, Patna. However, it is important to note that the petitioner has neither participated in the said election nor he was a voter in the said election. Thus, the locus of the petitioner to challenge the said election in the present application is not made out.

3. It is also noteworthy that the appropriate forum to challenge elections conducted by the Bihar Pharmacy Council, Patna shall be the state government. Thus, the appropriate recourse regarding election disputes could have been taken as per Section 24 of the Pharmacy Act, 1948, which reads as under:

“24. Mode of elections.-Elections under this Chapter shall be conducted in the prescribed manner, and where any dispute arises regarding any such election, it shall be referred to the State Government whose decision shall be final.”

4. The issues raised in a Public Interest Litigation



should be of a nature that limits its scope to the public at large.

The courts have from time to time cautioned about the misuse of Public Interest Litigation so as to prevent the abuse of process of law. In **Kalyaneshwari v. Union of India, (2011) 3 SCC 287**, the Hon'ble Supreme Court had observed as under:

“43. The courts, while exercising jurisdiction and deciding a public interest litigation, have to take great care, primarily, for the reason that wide jurisdiction should not become a source of abuse of process of law by the disgruntled litigant. Such careful exercise is also necessary to ensure that the litigation is genuine, not motivated by extraneous considerations and imposes an obligation upon the litigant to disclose true facts and approach the Court with clean hands. Thus, it is imperative that the petitions, which are bona fide and in public interest alone, be entertained in this category. Abuse of process of law is essentially opposed to any public interest. One who abuses the process of law, cannot be said to serve any public interest, much less, a larger public interest. In the name of the poor let the rich litigant not achieve their end of becoming richer by instituting such set of petitions to ban such activities.”

5. In **Tehseen Poonawalla v. Union of India, (2018) 6 SCC 72** the Hon'ble Supreme Court discussed about the nature, objective and the scope of P.I.L. The Hon'ble court observed as under:



“Public interest litigation

96. Public interest litigation has developed as a powerful tool to espouse the cause of the marginalised and oppressed. Indeed, that was the foundation on which public interest jurisdiction was judicially recognised in situations such as those in Bandhua Mukti Morcha v. Union of India [Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161 : 1984 SCC (L&S) 389] . Persons who were unable to seek access to the judicial process by reason of their poverty, ignorance or illiteracy are faced with a deprivation of fundamental human rights. Bonded labour and undertrials (among others) belong to that category. The hallmark of a public interest petition is that a citizen may approach the court to ventilate the grievance of a person or class of persons who are unable to pursue their rights. Public interest litigation has been entertained by relaxing the rules of standing. The essential aspect of the procedure is that the person who moves the court has no personal interest in the outcome of the proceedings apart from a general standing as a citizen before the court. This ensures the objectivity of those who pursue the grievance before the court. Environmental jurisprudence has developed around the rubric of public interest petitions. Environmental concerns affect the present generation and the future. Principles such as the polluter pays and the public trust doctrine have evolved during the adjudication of public interest petitions. Over time, public interest litigation has become a powerful instrument to preserve the rule of law and to ensure the accountability of and transparency within structures of



governance. Public interest litigation is in that sense a valuable instrument and jurisdictional tool to promote structural due process.

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.”

6. In light of the relief sought for, and the judgments discussed above, it is clear that the present writ application goes against the basic principle of Public Interest Litigation. Challenging the election process conducted by Bihar Pharmacy Council, Patna cannot be a subject matter of a Public Interest Litigation.

7. Further, learned Advocate General submits that the present petition is not maintainable in light of Chapter XXI-CC of Patna High Court Rules, 1916, which reads as under:

“6. To facilitate the aforesaid purpose, a petitioner in a PIL shall state in clear terms the relief prayed for in paragraph-1 of the petition and grounds in paragraph-2. In paragraph-3, he must give a full and complete detail of himself to reveal his interest, credentials and qualification relevant for the PIL, alongwith a declaration that he has no personal interest, direct or indirect, in the subject matter of PIL. In addition, ordinarily, the petitioner is required to set out all relevant facts with supporting datas, reports etc.

7. After arriving at a prima facie satisfaction regarding credentials of the petitioner and correctness of the contents of the petition, if the Court finds that the



petition was filed by busy bodies for extraneous or ulterior motives, the Bench may impose exemplary costs.”

8. Upon perusal of the materials on record, it is evident that the petitioner has not made the mandatory declarations regarding his credentials and qualifications, as required for filing a Public Interest Litigation. Moreover, the issues raised in the petition cannot be said to be a subject matter of PIL.

9. In view of the discussions made above, we find no merit in the present writ application.

10. The writ application is, accordingly, dismissed.

11. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, ACJ)

(Alok Kumar Pandey, J)

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