



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

956 CRIMINAL WRIT PETITION NO. 844 OF 2023

SYED AZHAR S/O. SYED NAZEM

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Mr. A. P. Gaikwad, Advocate for the Petitioner

Mr. V. M. Jaware, APP for the Respondent – State

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CORAM : SANDIPKUMAR C. MORE AND
Y. G. KHOBRAGADE, JJ.

DATE : November 26, 2025

ORAL ORDER (PER : Y. G. KHOBRAGADE, J.) :-

1. Heard at length the learned counsel appearing for the petitioner and the learned APP for the respondent, at length.

2. By the present petition in the form of public interest litigation, the petitioner put forth prayer clauses (B) and (C), as under:-

“(B) By issuing Writ of Mandamus or any other Writ order or directions in the like nature, this Hon’ble Court may kindly be pleased to direct the Respondent No. 1 to 4 to lodge the F.I.R./ complaint with Nanal Peth Police Station at Parbhani against Shrikrushna Nilkanth Nakate a Assistant Road Transport Officer for offence committed at Deputy Regional Transport Office, Parbhani.

(C) By issuing Writ of Mandamus or any other Writ, Order or direction in like nature, this Hon'ble Court may kindly be directed to the Respondent No.1 to 3 to suspend the service of Shrikrushna Nilkanth Nakate a Assistant Regional Transport Officer and direction also may kindly be given to conduct the Departmental enquiry by establishing special enquiry committee."

3. The petitioner claimed that he is the activist member of Indian Communist Party and the member of All India Youth Federation. Since 2015, he agitating and fighting against the malpractices, mismanagement as well as corruption in the office of Deputy Regional Transport, Parbhani. He further canvassed that, one Shrikrushna Nilkanth Nakate, the then Assistant Regional Transport Officer, was working as Deputy Regional Transport Officer with the office of R.T.O. at Parbhani since 2020 but said officer was suspended with effect from 16.03.2023 because of dishonest, notorious, tainted, nefarious and unprincipled officer, who after joining with the R.T.O. office, Parbhani, was allowed to do any work legal or illegal against illegal gratification. He was motivated his private and unregistered agents for acceptance of any work legal or illegal against the gratification. The said officer was also indulged into registration of

various stolen heavy vehicles though he was knowing about alteration and fabrication, change of original chassis and engine including numbers of the vehicles. Therefore, detailed inquiry was conducted by Crime Branch in Crime No.19 of 2020 registered with Vedant Nagar Police Station, Aurangabad, for the offences punishable under Sections 406, 420, 468, 471, 120-B, 201 of I.P.C.. After due investigation, a charge-sheet No.48 of 2021 came to be filed against him, which is registered as R.C.C. No.1621 of 2021.

4. Learned counsel appearing for the petitioner further canvassed that a Crime No.9 of 2023 was also registered against said R.T.O. Officer with Tadkalas Police Station, District Parbhani at the instance of one Mr. Shaikh Rizwan Abdul Khalil due to assault on him by agent of said R.T.O., and hunger strike was arranged in front of the office of Transport Commissioner, Mumbai for removal from service of said Shrikrushna Nakate. The petitioner has given details of vehicle numbers which are allegedly transferred in the regime of said Shrikrushna Nakate, the then R.T.O. Therefore, prayed for registration of F.I.R. against the said Assistant R.T.O. Shrikrushna Nakate.

5. The petitioner prayed for issuance of directions against respondent Nos. 1 to 3 to suspend the services of Shrikrushna Nilkanth Nakate, from the post of Assistant R.T.O. officer.

6. Shri Vijay Laxamn Kathole, the Regional Transport Officer filed reply affidavit and raised about locus of the petitioner to file present petition. However, the Respondent Authority admitted about registration of two crimes against Shri Shrikrushna Nakate, bearing Crime No. 19 of 2020 with Kranti Chowk Police Station for the offences punishable u/s 120-B, 406, 420, 468 and 471 of IPC and Sec. 47, 48, 49, 50 and 51 of the Motor Vehicles Act, 1988 and Crime No. 30 of 2023 with Beed Rural Police Station for the offences punishable u/s 120-B, 409, 467, 468 471, 201 r/w 34 of IPC. Further due to registration crimes, the then RTO Shri Shrikrushna Nakate suspended vide order dated 16-03-2023 and disciplinary action already initiated against him.

7. Needless to say that as per Section 154 of the Cr.P.C., any citizen can lodge F.I.R. for the cognizable offence. The present petition is in the form of public interest litigation. The petitioner has not lodged any complaint/report with the concerned police station

alleging malpractices against the erring officer. Not only this, but the petitioner did not approach under Section 156(3) of Cr.P.C., seeking investigation/inquiry against Shri Shrikrushna Nakate, the then RTO for his alleged misconduct or dishonest and fabrication of documents or causing loss to the Government. The petitioner has not come with the case that due to inaction on the part of the erring officer, he suffered any personal loss, personal injury or he is victim due to inaction of the said officer. Therefore, the petitioner has no locus standi to file the present petition. Nonetheless no cause of action arises in favour of the petitioner to seek registration of crime against the erring officer. Further, the petitioner failed to join said erring officer as party respondent though the petitioner prayed for issuance of direction for registration of crimes.

8. Needless to say that in the entire petition, the petitioner has not come with the case that he has caused any prejudice or he suffered from personal injury or he has been victimised. It is not the case of petitioner that due to act of said erring public officer, any personal injury caused to the petitioner. However, on perusal of record it appears that, the petitioner trying to get register offence against the public officer on the basis of various allegations in the

form of P.I.L., which is not sustainable in eye of law because the cause of action in present petition does not appears about enforcement of large public interest distinguished from individual interest.

9. Rule 3(e) of the Bombay High Court Public Interest Litigation Rules, 2010, provides definition of Public Interest Litigation Petition, as under:-

“3(e) Public Interest Litigation Petition” means a petition instituted pro bono publico and includes a legal action initiated by or in the Court for enforcement of public interest or general interest as distinguished from individual interest, in which the public or a class of the community have some interest by which their legal rights or liabilities are affected or a petition filed to protect the public law interest.”

10. Rule 7 of the Bombay High Court Public Interest Litigation Rules, 2010, provides as under:-

7. The Petitioner(s) while filing a Public Interest Litigation Petition under Clause (e) of Rule 4 shall:-

(a) annexe to the petition an affidavit stating that there is no personal gain, private motive or oblique reason in filing the Public Interest Litigation and

(b) file an affidavit undertaking to pay costs as ordered by the Court, if it is ultimately held that the petition is frivolous or has been filed for extraneous considerations or that it lacks bona fides.

(c) file an undertaking that he/it will disclose the source of his/its information, leading to the filing of the Public Interest Litigation, if and when called upon by the Court, to do so.

(d) annexe to the petition, a copy of the registration certificate and an authorization resolution to file a PIL Petition when the petition is filed by an Association or a like body.

7A. *(i) In cases covered by clauses (d) and (e) of Rule 4 the Court may, in its discretion, direct the petitioner to deposit a sum, by way of security deposit, in the Court, which shall be subject to final or interim order of the Court.*

(ii) If the Court finds that petition is vexatious, motivated or not pro-bono-publico, then the amount so deposited shall be forfeited and this shall be in addition to the exemplary costs, if any, which may be imposed by the Court.”

11. Rule 8 provides that if at any stage, the Court comes to the conclusion that the petition initiated under Clause (e) of Rule 4 is *bona fide* but does not come within the definition of PIL Petition, as defined in clause (e) of Rule 4, the Court may direct it to be converted to an appropriate category for being dealt with in accordance with law and may issue such directions as deemed fit, in that regard.

12. Rule 7A provides that the Court may in its discretion direct the petitioner to deposit a sum by way of security to ascertain the substantial and *bona fide* cause.

13. In the case in hand, though the petitioner claimed about issuance of directions against respondent Nos. 1 to 4 to lodge F.I.R. against the then public officer RTO Shri Shrikrushna Nilkanth Nakate, however, the R.T.O. department already suspended said Officer vide order dated 16-03-2023 and disciplinary action initiated against him. Therefore, it *prima facie* appears that the petitioner has instituted present petition for his publicity. Therefore, the present petition is totally misuse of writ jurisdiction of this Court, hence, it is liable to be dismissed with heavy cost.

14. In view of above discussion, the present petition is dismissed with cost of Rs.1,00,000/-(Rupees One Lakh). The petitioner is hereby called upon to deposit cost amount in this Court, within a period of one month from today, failing which the District Collector, Parbhani, shall recover the cost amount toward arrears of land revenue under the M.L.R. Code.

[Y. G. KHOBRADE, J.]

[SANDIPKUMAR C. MORE, J.]

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