



2025:DHC:1531-DB



\$~53

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

+ LPA 170/2025, CM APPL. 13062/2025, CM APPL. 13063/2025 & CM APPL. 13064/2025

MANISH KUMAR

.....Appellant

Through: Mr. Moni Chinmoy, Mr. Rahul Ranjan Verma and Mr. Abhishek, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. V.S.R. Krishna, Advocate for DMRC.

Mr. Ankur Chibber, Adv. for R-4.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

%

06.03.2025

C. HARI SHANKAR, J.

1. The appellant is working as an Additional General Manager (Legal) in the Delhi Metro Rail Corporation¹.

2. He instituted OA 1360/2021 before the Central Administrative Tribunal², with the following prayer clause:

“a. Pass an order directing the Respondents to grant applicant all the benefits which he is otherwise entitled to in terms of the order dated 23.02.2018 and as defacto HOD since 23.05.2017 with all consequential benefits in time a bound manner.

¹ “DMRC”, hereinafter

² “the Tribunal”, hereinafter



b. Quash/Set aside the illegal appointment of the Respondent No.4 inasmuch as admittedly, the advertisement for the post of GM (Legal) was on direct recruitment basis but the appointment was curiously made on deputation basis for reasons best known to the Respondents. Moreover, the Respondent No.4 who was eventually appointed to the said post did not even possess the requisite qualification as prescribed by the service rule of DMRC.

c. Pass an order directing the Respondent Authorities to consider the candidature of the Applicant who is otherwise competent and well qualified to be appointed to the said post GM (Legal).

d. Pass any order or further orders as this Hon'ble Court may deem fit and proper in the interest of Justice.”

3. The Tribunal dismissed the OA by order dated 22 July 2021. The concluding paragraph of the said decision, which also stands reproduced in the impugned judgment of the learned Single Judge, read thus:

“6. As regards the second aspect, the applicant was not a contender for that post at all. It is not his case that he submitted any application in response to the advertisement. Therefore, it should not make any difference for him, whether the 4th respondent or somebody else is appointed on that post. At any rate, the Tribunal does not have jurisdiction to adjudicate upon the appointment of persons unless the challenge is by another, who too competed for that post.

7. We, therefore, dispose of the OA declining to interfere with the order of appointment of the 4th respondent but directing that the respondents shall examine the case of the applicant for payment of amounts on his being kept in charge of the post of General Manager (Legal) and in case any amount remained unpaid, it shall be released within four weeks.

There shall be no order as to costs.”

4. Thereafter, it appears that the appellant filed two more writ petitions, once again challenging the appointment of Respondent 4 as



2025:DHC:1531-DB



General Manager (Legal), on which notice stands issued and which are pending before a Single Judge of this Court.

5. This is the third writ petition filed by the appellant once again aggrieved by the continuance of Respondent 4 as General Manager (Legal). Mr. Chinmoy, learned counsel for the appellant, submits that this writ petition was necessitated in view of the extension in service granted to Respondent 4.

6. Thus, the situation that emerges is that after having lost in OA 1360/2021, wherein the appellant chose to challenge the appointment of Respondent 4 as General Manager, *and never having elected to file any writ petition challenging the said decision*, the appellant has instituted three separate writ petitions, all of which independently challenge the appointment of Respondent 4 as General Manager (Legal) on one ground or the other.

7. The present appeal is directed against order dated 22 January 2025 passed by the learned Single Judge in the third of the afore-noted writ petitions, i.e. WP (C) 819/2025³.

8. We deem it appropriate to reproduce paras 3 to 10 of the impugned judgment:

“3. Learned counsel for the respondents, who appears on advance notice, raises a preliminary objection that the disputes are amenable to the jurisdiction of the Central Administrative Tribunal [“CAT”] as DMRC is notified for the purposes of jurisdiction of the Tribunal.



4. Learned counsel for the petitioner submits that two writ petitions filed by the petitioner are pending before this Court. The first one is W.P.(C) 13738/2021, which seeks a writ of quo warranto in respect of appointment of respondent No.4. The order dated 03.12.2021, passed in the said writ petition, specifically notes that the question of maintainability is left open. In the second petition, i.e., W.P.(C) 3840/2024, the petitioner has challenged an earlier extension granted to respondent No.4.

5. In neither of the aforesaid petitions has the question of maintainability been finally decided.

6. In the present petition, the petitioner has stated that he earlier filed proceedings before CAT challenging the original appointment of respondent No.4 (OA No. 1360/2021), seeking the following reliefs:

“a. Pass an order directing the Respondents to grant applicant all the benefits which he is otherwise entitled to in terms of the order dated 23.02.2018 and as defacto HOD since 23.05.2017 with all consequential benefits in time a bound manner.

b. Quash/Set aside the illegal appointment of the Respondent No.4 inasmuch as admittedly, the advertisement for the post of GM (Legal) was on direct recruitment basis but the appointment was curiously made on deputation basis for reasons best known to the Respondents. Moreover, the Respondent No.4 who was eventually appointed to the said post did not even possess the requisite qualification as prescribed by the service rule of DMRC.

c. Pass an order directing the Respondent Authorities to consider the candidature of the Applicant who is otherwise competent and well qualified to be appointed to the said post GM (Legal).

d. Pass any order or further orders as this Hon'ble Court may deem fit and proper in the interest of Justice.”

7. The proceedings were disposed of by CAT *vide* order dated 22.07.2021. On the question of challenge to the appointment of respondent No.4., the Tribunal held as follows:

“6. As regards the second aspect, the applicant was not a contender for that post at all. It is not his case that he



submitted any application in response to the advertisement. Therefore, it should not make any difference for him, whether the respondent or somebody else is appointed on that post. At any rate, the Tribunal does not have jurisdiction to adjudicate upon the appointment of persons unless the challenge is by another, who too competed for that post.

7. We, therefore, dispose of the OA declining to interfere with the order of appointment of the 4th respondent but directing that the respondents shall examine the case of the applicant for payment of amounts on his being kept in charge of the post of General Manager (Legal) and in case any amount remained unpaid, it shall be released within four weeks.

There shall be no order as to costs.”

8. It is evident that the petitioner’s challenge before CAT was not entertained on the grounds that he was not an applicant for the post as on that date. Learned counsel for the petitioner states that he is at present also not eligible for the post of General Manager (Legal), but seeks to challenge the appointment of respondent No.4 on the grounds that the procedure for appointment of respondent No.4 was illegal.

9. As far as those aspects are concerned, the petitioner’s earlier writ petitions are still pending, and will be adjudicated on the questions of maintainability and merits independently. The filing of the present petition is not evidently premised on any new grounds of challenge, and only contributes to multiplicity of litigation. If the petitioner wishes to bring on record the fact of the subsequent extension granted to respondent No.4, he may file an appropriate application in those proceedings.

10. The present writ petition is disposed of, leaving it open to the petitioner to take such alternative remedies as may be available to him in accordance with law.”

9. Aggrieved by the aforesaid judgment, the petitioner before the learned Single Judge has filed the present Letters Patent Appeal under Clause X of the Letters Patent as applicable to this Court.

10. We have heard Mr. Chinmoy, learned counsel for the appellant



2025:DHC:1531-DB



and Mr. Krishna and Mr. Ankur Chhibber, learned counsel for the respondents.

11. To our mind, WP (C) 819/2025, filed before the learned Single Judge was a completely misguided attempt, *ab initio*.

12. We pointed out to Mr. Chinmoy that there is a complete proscription on the High Court acting as a court of first instance in any service matter concerning a Central Government employee. This proscription, which is by now part of legal lore, is to be found in para 93 of the judgment of the seven-Judge Bench of the Supreme Court in *L Chandra Kumar v UOI*⁴ :

“93. Before moving on to other aspects, we may summarise our conclusions on the jurisdictional powers of these Tribunals. The Tribunals are competent to hear matters where the vires of statutory provisions are questioned. However, in discharging this duty, they cannot act as substitutes for the High Courts and the Supreme Court which have, under our constitutional set-up, been specifically entrusted with such an obligation. Their function in this respect is only supplementary and all such decisions of the Tribunals will be subject to scrutiny before a Division Bench of the respective High Courts. The Tribunals will consequently also have the power to test the vires of subordinate legislations and rules. However, this power of the Tribunals will be subject to one important exception. The Tribunals shall not entertain any question regarding the vires of their parent statutes following the settled principle that a Tribunal which is a creature of an Act cannot declare that very Act to be unconstitutional. In such cases alone, the High Court concerned may be approached directly. All other decisions of these Tribunals, rendered in cases that they are specifically empowered to adjudicate upon by virtue of their parent statutes, will also be subject to scrutiny before a Division Bench of their respective High Courts. We may add that the Tribunals will, however, continue to act as the only courts of first instance in respect of the areas of law for which they have been constituted. By this, we mean that it will not be open for litigants to directly

⁴ (1997) 3 SCC 261



approach the High Courts even in cases where they question the vires of statutory legislations (except, as mentioned, where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned.”

(Emphasis supplied)

13. We have recently had an occasion to bemoan, in our judgment in *Parikshit Grewal v UOI*⁵ the tendency of litigants, three decades after *L. Chandra Kumar* was rendered, to continue to file writ petitions before High Courts in clear breach of *L. Chandra Kumar*. We deem it appropriate to reproduce the following passages, from our decision:

1. It is a matter of some discomfiture to this Court that, nearly three decades after seven Hon'ble Judges of the Supreme Court clearly held, in the near iconic decision in *L. Chandra Kumar v. Union of India*, that all matters which lay within the province of the Central Administrative Tribunal by virtue of Section 14 of the Administrative Tribunals Act, 1985 would have to be agitated before the Tribunal and that the High Court could not act as a court of first instance in such cases, petition after petition is still preferred in the High Court, in clear violation of the judgment. Every possible argument in the book is pressed into service, to somehow avoid *L. Chandra Kumar*. Exceptions, not to be found either in Section 14 of the AT Act or in the judgment in *L. Chandra Kumar*, are sought to be read into it by implication. In the process, both Articles 141 and 144 of the Constitution of India are consigned to oblivion.

L. Chandra Kumar, deconstructed

9. It would be appropriate, before proceeding further, to understand what exactly the Supreme Court, in *L. Chandra Kumar*, held. For this, we do not intend to advert to the sequence of proceedings which led to the matter being placed before seven Hon'ble Judges of the Supreme Court. They can easily be understood by a reading of the decision in *L. Chandra Kumar* itself, and the learned Single Judge has, in the impugned judgment, also referred to it in some detail. We, therefore, intend



only to note what exactly has been held in the *L. Chandra Kumar* decision, and the circumstances in which the Supreme Court has done so.

10. The Supreme Court observed, at the outset, that the Tribunal was created in terms of Article 323-A of the Constitution. Thereafter, in para 49 of the report, the Supreme Court set out some relevant provisions of the AT Act, adverted to certain decisions rendered in the context of the said Act and distilled the submissions of learned counsel before it. The analysis of the issues involved, in the judgment, commenced from para 51. The first issue addressed by the Supreme Court was whether judicial review constitutes part of the basic structure of the Constitution, in which case, applying the ratio in *Kesavananda Bharati v. State of Kerala*⁶, any law, which compromised on the power of judicial review, would be unconstitutional. Paras 78 and 79 of the report addressed this issue :

“78. The legitimacy of the power of courts within constitutional democracies to review legislative action has been questioned since the time it was first conceived. The Constitution of India, being alive to such criticism, has, while conferring such power upon the higher judiciary, incorporated important safeguards. An analysis of the manner in which the framers of our Constitution incorporated provisions relating to the judiciary would indicate that they were very greatly concerned with securing the independence of the judiciary. [See *Chapter 7, “The Judiciary and the Social Revolution” in Granville Austin, The Indian Constitution : Cornerstone of a Nation, Oxford University Press, 1972*; the chapter includes exhaustive references to the relevant preparatory works and debates in the Constituent Assembly.] These attempts were directed at ensuring that the judiciary would be capable of effectively discharging its wide powers of judicial review. While the Constitution confers the power to strike down laws upon the High Courts and the Supreme Court, it also contains elaborate provisions dealing with the tenure, salaries, allowances, retirement age of Judges as well as the mechanism for selecting Judges to the superior courts. The inclusion of such elaborate provisions appears to have been occasioned by the belief that, armed by such provisions, the superior courts would be insulated from any executive or legislative attempts to interfere with the making of their decisions. The Judges of the superior courts have been entrusted with the task of upholding the Constitution and to



this end, have been conferred the power to interpret it. It is they who have to ensure that the balance of power envisaged by the Constitution is maintained and that the legislature and the executive do not, in the discharge of their functions, transgress constitutional limitations. It is equally their duty to oversee that the judicial decisions rendered by those who man the subordinate courts and tribunals do not fall foul of strict standards of legal correctness and judicial independence. The constitutional safeguards which ensure the independence of the Judges of the superior judiciary, are not available to the Judges of the subordinate judiciary or to those who man tribunals created by ordinary legislations. Consequently, Judges of the latter category can never be considered full and effective substitutes for the superior judiciary in discharging the function of constitutional interpretation. We, therefore, hold that the power of judicial review over legislative action vested in the High Courts under Article 226 and in this Court under Article 32 of the Constitution is an integral and essential feature of the Constitution, constituting part of its basic structure. Ordinarily, therefore, the power of High Courts and the Supreme Court to test the constitutional validity of legislations can never be ousted or excluded.

79. We also hold that the power vested in the High Courts to exercise judicial superintendence over the decisions of all courts and tribunals within their respective jurisdictions is also part of the basic structure of the Constitution. This is because a situation where the High Courts are divested of all other judicial functions apart from that of constitutional interpretation, is equally to be avoided.”

(emphasis supplied)

Having so read the power of judicial review of legislative or executive action vested in the High Courts and the Supreme Court to be part of the basic structure of the Constitution, the report went on to observe, in para 80, that “there is no constitutional prohibition against their (Tribunals) performing a supplemental as opposed to a substitutional role in this respect”. Deriving support from Article 32(3) of the Constitution in that regard, the Supreme Court went on, in para 81, to hold : (*L. Chandra Kumar*, para 81)

“81. If the power under Article 32 of the Constitution, which has been described as the ‘heart’ and ‘soul’ of the Constitution, can be additionally conferred upon ‘any other court’, there is no reason why the same situation cannot subsist in respect of the jurisdiction conferred upon



the High Courts under Article 226 of the Constitution. So long as the jurisdiction of the High Courts under Articles 226/227 and that of this Court under Article 32 is retained, there is no reason why the power to test the validity of legislations against the provisions of the Constitution cannot be conferred upon Administrative Tribunals created under the Act or upon Tribunals created under Article 323-B of the Constitution. It is to be remembered that, apart from the authorisation that flows from Articles 323-A and 323-B, both Parliament and the State Legislatures possess legislative competence to effect changes in the original jurisdiction of the Supreme Court and the High Courts. This power is available to Parliament under Entries 77, 78, 79 and 95 of List I and to the State Legislatures under Entry 65 of List II; Entry 46 of List III can also be availed of both by Parliament and the State Legislatures for this purpose.”

(emphasis supplied)

11. From paras 81 to 89, the Supreme Court flagged the issue of the alarming state of pendency of matters in the High Courts as one of the reasons why it was necessary to preserve the conferment of jurisdiction on Tribunals. Thereafter, in para 90, the report addressed “the issue of exclusion of the power of judicial review of the High Courts”. After holding that “the jurisdiction of the High Courts under Articles 226/227 cannot wholly be excluded”, the Supreme Court rejected the contention that Tribunals be allowed to adjudicate only on matters in which constitutional issues were not raised, and particularly not to be allowed to adjudicate upon matters where the vires of legislations were in question. As the Supreme Court held, “if such a view were to be adopted, it would be open for litigants to raise constitutional issues, many of which may be quite frivolous, to directly approach the High Courts and thus subvert the jurisdiction of the Tribunals”. Moreover, observed the Supreme Court, even in these special branches of law, certain provisions of the Constitution would invariably, arise for consideration; for instance, in service matters, Articles 14, 15 and 16 would routinely be pressed into service. Rather than excluding such issues from the purview of the jurisdiction of Tribunals, therefore, the better alternative was found to be subjection of the decisions rendered by the Tribunals to judicial review by the High Court under Articles 226/227 of the Constitution. This, it was observed, would “ensure that frivolous claims are filtered out through the process of adjudication in the Tribunal”. Keeping in view these factors, and following the proposal, mooted in its earlier decision in *R.K. Jain v Union of India*⁷ that “the possibility of an



appeal from the Tribunal on questions of law to a Division Bench of a High Court within whose territorial jurisdiction and the Tribunal falls, be pursued”, the Supreme Court went on to hold, in para 91 of the report, that “all decisions of tribunals, whether created pursuant to Article 323-A or Article 323-B of the Constitution, will be subject to High Court's writ jurisdiction under Articles 226/227 of the Constitution, before a Division Bench of the High Court within whose territorial jurisdiction the particular Tribunal falls”. This was clarified, in para 92, by further holding that “no appeal from the decision of a Tribunal will directly lie before the Supreme Court under Article 136 of the Constitution; but instead, the aggrieved party will be entitled to move the High Court under Articles 226/227 of the Constitution and from the decision of the Division Bench of the High Court the aggrieved party could move this Court under Article 136 of the Constitution”. Para 93 of the report proceeded to summarise the conclusions, in the judgment, on the jurisdictional powers of tribunals, thus :

“93. ... The Tribunals are competent to hear matters where the vires of statutory provisions are questioned. However, in discharging this duty, they cannot act as substitutes for the High Courts and the Supreme Court which have, under our constitutional set-up, been specifically entrusted with such an obligation. Their function in this respect is only supplementary and all such decisions of the Tribunals will be subject to scrutiny before a Division Bench of the respective High Courts. The Tribunals will consequently also have the power to test the vires of subordinate legislations and rules. However, this power of the Tribunals will be subject to one important exception. The Tribunals shall not entertain any question regarding the vires of their parent statutes following the settled principle that a tribunal which is a creature of an Act cannot declare that very Act to be unconstitutional. *In such cases alone, the High Court concerned may be approached directly.* All other decisions of these tribunals, rendered in cases that they are specifically empowered to adjudicate upon by virtue of their parent statutes, will also be subject to scrutiny before a Division Bench of their respective High Courts. *We may add that the Tribunals will, however, continue to act as the only courts of first instance in respect of the areas of law for which they have been constituted. By this, we mean that it will not be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except, as mentioned, where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal*



concerned.”

(emphasis supplied)

12. Thus, the Supreme Court clarified, in terms as unequivocal as could be, that it would not be open to a litigant to approach the High Court in matters relating to the areas of law in which the Tribunal concerned is constituted, and that the Tribunal would continue to act as the court of first instance in all such matters, the only exception being where the very legislation under which the Tribunal is constituted is challenged. *In other words, save and except for cases in which the litigant challenges one or the other provision of the AT Act, it is not open to the litigant to approach the High Court in the first instance, in respect of matters which the Central Administrative Tribunal is competent to adjudicate; in other words, in respect of matters which fall within the purview of Article 14 of the Constitution. In all such matters, the Central Administrative Tribunal would be the only court of first instance, available to the litigant.*

13. Para 99 of the report summarises the judgment, in the proverbial nutshell, thus:

“99. In view of the reasoning adopted by us, we hold that Clause 2(d) of Article 323-A and Clause 3(d) of Articles 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the ‘exclusion of jurisdiction’ clauses in all other legislations enacted under the aegis of Articles 323-A and 323-B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Articles 323-A and 323-B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. *The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations*



(except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated.”

(emphasis supplied)

14. Thus, the position in law is clear as crystal. All matters, which fall within the purview of Section 14 of the AT Act have first to be agitated before the Tribunal. It is the Tribunal alone which can entertain these matters, as a court of first instance. The litigant is completely proscribed from approaching the High Court in such matters, without first approaching the Tribunal. The only circumstance in which the litigant can approach the High Court, without first approaching the Tribunal, is where the litigation challenges the vires of the AT Act itself, or of one or the other of its provisions.

15. It is completely befuddling, therefore, to see petitions, which clearly fall within the scope and ambit of Section 14 of the AT Act, being directly filed in the High Court. Going by the number of such petitions which are still coming up before this Court itself, the malaise is reaching endemic proportions. Without meaning any disrespect to High Courts which may choose to entertain such petitions, these stray examples, if any, cannot derogate from the position in law so unequivocally stated by seven Hon'ble Judges of the Supreme Court in *L. Chandra Kumar*.”

14. On our pointing out to Mr. Chinmoy that the present petition would not lie before this Court as this is a “service matter” which, as per Section 19(1)⁸ of the AT act has to be preferred before the Tribunal, Mr. Chinmoy has drawn our attention to Section 3(q)⁹ of the

⁸ 19. **Applications to Tribunals. –**

(1) Subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance.

Explanation.—For the purposes of this sub-section, “order” means an order made –

(a) by the Government or a local or other authority within the territory of India or under the control of the Government of India or by any corporation or society owned or controlled by the Government; or

(b) by an officer, committee or other body or agency of the Government or a local or other authority or corporation or society referred to in clause (a).

⁹ (q) “service matters”, in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation or society owned or controlled by the Government, as respects—

(i) remuneration (including allowances), pension and other retirement benefits;

Signature Not Verified

Digitally Signed By: AUPA 170/2025
KUMAR
Signing Date: 10.03.2025
17:11:04



2025:DHC:1531-DB



AT Act which defines “service matters”. He submits that by virtue of the said definition, a “service matter” has to be a matter relating to the conditions of service *of the person who approaches the Court*. In as much as the dispute in WP (C) 819/2025, from the order passed in which the present appeal emanates, was not a matter concerning the conditions of service of the petitioner but was in the nature of a *quo warranto* challenging the legality of appointment and continuance in office of Respondent 4, Mr. Chinmoy’s contention is that it would lie before this Court.

15. The contention, to our mind, is misguided.

16. The appellant is either a person interested in the appointment of Respondent 4, or a person who is not interested in the appointment of Respondent 4. There is no half way house.

17. In case the appellant *has* a personal interest in the appointment of Respondent 4, in that setting aside of the appointment of Respondent 4 would affect the appellant’s conditions of service, the lis in the writ petition would clearly be a “service matter” within the meaning of Section 2(q) of the AT Act, and would have to be preferred before the Tribunal under Section 19 thereof.

18. On his attention being drawn to this aspect, Mr. Chinmoy,

-
- (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
 - (iii) leave of any kind;
 - (iv) disciplinary matters; or
 - (v) any other matter whatsoever;

Signature Not Verified

Digitally Signed By: AJP
KUMAR
Signing Date: 10.03.2025
17:11:04

Page 14 of 20



2025:DHC:1531-DB



submits that as on date, his client is not eligible for the post of GM (Legal), which is occupied by Respondent 4. If that is so, it is clear that the appellant cannot maintain an individual writ petition seeking a *quo warranto* against the appointment of Respondent 4, for want of *locus standi*. On the entitlement of a person, who has no enforceable right which he seeks to espouse or enforce, to invoke Article 226 of the Constitution of India, the Constitution Bench spoke thus, as far back as in *State of Orissa v Ram Chandra Dev*¹⁰, through Gajendragadkar J. (as he then was):

“8. On the merits, the position is absolutely clear. Under Article 226 of the Constitution, the jurisdiction of the High Court is undoubtedly very wide. Appropriate writs can be issued by the High Court under the said article even for purposes other than the enforcement of the fundamental rights and in that sense, a party who invokes the special jurisdiction of the High Court under Article 226 is not confined to cases of illegal invasion of his fundamental rights alone. But though the jurisdiction of the High Court under Article 226 is wide in that sense, the concluding words of the article clearly indicate that before a writ or an appropriate order can be issued in favour of a party, it must be established that the party has a right and the said right is illegally invaded or threatened. The existence of a right is thus the foundation of a petition under Article 226. The narrow question which falls for our decision in the present appeals is whether the respondents can be said to have proved any legal right in respect of the properties of which they apprehended they would be dispossessed by the appellant.”

19. Specifically on the right of an ineligible person to challenge the appointment of another, the Supreme Court holds thus, in para 88 of *Sudhakar Baburao Nangnure v Noreshwar Raghunathrao Shende*¹¹:

88. The answer to the submissions is simple: the appellant did not at any stage challenge the appointment of the respondent to the

¹⁰ AIR 1964 SC 685
¹¹ (2020) 11 SCC 399



post of JDTP nor did he challenge the GR dated 20-3-2003 providing for consequential seniority. *The appellant was not eligible for the post of DTP on 30-4-2016, when the vacancy occurred. He cannot, hence, challenge the appointment of the first respondent.*”

(Emphasis supplied)

20. *Ayaaubkhan Noorkhan Pathan v State of M.P.*¹² reiterated the law in this regard, thus:

18. As Respondent 5 does not belong to the Scheduled Tribes category, the garb adopted by him, of serving the cause of Scheduled Tribe candidates who might have been deprived of their legitimate right to be considered for the post, must be considered by this Court in order to determine whether Respondent 5, is in fact, in a legitimate position to lay any claim before any forum, whatsoever.

19. This Court in ***Ravi Yashwant Bhoir v District Collector, Raigad***¹³ held as under :

“58. Shri Chintaman Raghunath Gharat, ex-President was the complainant, thus, at the most, he could lead evidence as a witness. He could not claim the status of an adversarial litigant. The complainant cannot be the party to the lis. *A legal right is an averment of entitlement arising out of law. In fact, it is a benefit conferred upon a person by the rule of law. Thus, a person who suffers from legal injury can only challenge the act or omission. There may be some harm or loss that may not be wrongful in the eye of the law because it may not result in injury to a legal right or legally protected interest of the complainant but juridically harm of this description is called damnum sine injuria.*

59. *The complainant has to establish that he has been deprived of or denied of a legal right and he has sustained injury to any legally protected interest. In case he has no legal peg for a justiciable claim to hang on, he cannot be heard as a party in a lis. A fanciful or sentimental grievance may not be sufficient to confer a locus standi to sue upon the individual. There must be injuria or a legal grievance which can be appreciated and not a stat pro ratione voluntas reasons i.e. a claim devoid of reasons.*

¹² (2013) 4 SCC 465

¹³ (2012) 4 SCC 407



60. Under the garb of being a necessary party, a person cannot be permitted to make a case as that of general public interest. A person having a remote interest cannot be permitted to become a party in the lis, as the person who wants to become a party in a case, has to establish that he has a proprietary right which has been or is threatened to be violated, for the reason that a legal injury creates a remedial right in the injured person. A person cannot be heard as a party unless he answers the description of aggrieved party.”

20. A similar view has been reiterated by this Court in **K. Manjusree v State of A.P.**¹⁴, wherein it was held that *the applicant before the High Court could not challenge the appointment of a person as she was in no way aggrieved, for she herself could not have been selected by adopting either method.* Moreover, the appointment cannot be challenged at a belated stage and, hence, the petition should have been rejected by the High Court on the grounds of delay and non-maintainability alone.

21. In **Balbir Kaur v U.P. Secondary Education Services Selection Board**¹⁵, it has been held that a violation of the equality clauses enshrined in Articles 14 and 16 of the Constitution, or discrimination in any form, can be alleged, provided that, the writ petitioner demonstrates a certain appreciable disadvantage qua other similarly situated persons. While dealing with the similar issue, this Court in **Raju Ramsing Vasave v Mahesh Deorao Bhivapurkar**¹⁶ held :

“45. We must now deal with the question of locus standi. A special leave petition ordinarily would not have been entertained at the instance of the appellant. Validity of appointment or otherwise on the basis of a caste certificate granted by a committee is ordinarily a matter between the employer and the employee. This Court, however, when a question is raised, can take cognizance of a matter of such grave importance suo motu. It may not treat the special leave petition as a public interest litigation, but, as a public law litigation. It is, in a proceeding of that nature, permissible for the court to make a detailed enquiry with regard to the broader aspects of the matter although it was initiated at the instance of a person having a private interest. A deeper scrutiny can be made so as to enable the court to find out as to whether a party to a lis is guilty of commission of fraud on the Constitution. If such an enquiry subserves the greater public interest and has a far-reaching effect on the society, in

¹⁴ (2008) 3 SCC 512

¹⁵ (2008) 12 SCC 1

¹⁶ (2008) 9 SCC 54



our opinion, this Court will not shirk its responsibilities from doing so.”

(See also *Manohar Joshi v State of Maharashtra*¹⁷.)

22. In *Vinoy Kumar v State of U.P.*¹⁸ this Court held :

“2. ... Even in cases filed in public interest, the court can exercise the writ jurisdiction at the instance of a third party only when it is shown that the legal wrong or legal injury or illegal burden is threatened and such person or determined class of persons is, by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the court for relief.”

23. Thus, from the above it is evident that under ordinary circumstances, a third person, having no concern with the case at hand, cannot claim to have any locus standi to raise any grievance whatsoever. However, in exceptional circumstances as referred to above, if the actual persons aggrieved, because of ignorance, illiteracy, inarticulation or poverty, are unable to approach the court, and a person, who has no personal agenda, or object, in relation to which, he can grind his own axe, approaches the court, then the court may examine the issue and in exceptional circumstances, even if his bona fides are doubted, but the issue raised by him, in the opinion of the court, requires consideration, the court may proceed suo motu, in such respect.”

(Emphasis supplied)

21. Mr. Chinmoy has drawn our attention to the judgment of the Supreme Court in *Duryodhan Sahu v Jitendra Kumar Mishra*¹⁹. We need not dwell on the decision, as it also holds that a prayer for issuance of a writ of *quo warranto* can lie at the instance of person who is an aspirant for the post, by way of a public interest litigation. Para 23 of *Ayaubkhan Noorkhan Pathan* also says so. Equally, however, it also underscores the parameters within which a public interest litigation would lie.

¹⁷ (2012) 3 SCC 619

¹⁸ (2001) 4 SCC 734

¹⁹ (1998) 7 SCC 273



2025:DHC:1531-DB



22. WP(C) 819/2025 filed by the appellant in which the impugned order has been passed is, in any event, not a public interest litigation.

23. In that view of the matter, WP (C) 819/2025, in our view, was not maintainable before the learned Single Judge, even on this ground.

24. Besides, we find that WP(C) 819/2025 additionally not maintainable, for another, equally significant, reason.

25. The appellant instituted OA 1360/2021 before the Tribunal challenging the appointment of Respondent 4 as GM (Legal). That OA was dismissed by the Tribunal on 22 July 2021 on the ground that, as the appellant was not even a contender for the post of GM (Legal), the OA was not maintainable. *The appellant never chose to challenge the said judgment. In other words, the appellant acceded to the position that as a person who was not a contender for the post of GM (Legal), he could not maintain an individual challenge to the appointment of Respondent 4 to the said post – which, in fact, was the correct position in law.*

26. Having not chosen to challenge the order dated 22 July 2021 passed by the Tribunal in OA 1360/2021, we are at a loss to understand how the appellant could file writ petition after writ petition challenging the appointment of Respondent 4 as GM (Legal).

27. We do not wish to say anything further.



2025:DHC:1531-DB



28. Clearly, the learned Single Judge was justified in declining to entertain the writ petition.

29. The appeal is, accordingly, dismissed, with no orders as to costs.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

MARCH 6, 2025/yg

[Click here to check corrigendum, if any](#)