

## Nand Kishore Vs State Of Jharkhand

**Court:** Jharkhand High Court

**Date of Decision:** Jan. 30, 2025

**Hon'ble Judges:** M.S. Ramachandra Rao, CJ; Deepak Roshan, J

**Bench:** Division Bench

**Advocate:** Ram Prakash Singh, Piyush Chitresh, Indrajit Sinha, Ankit Vishal

**Final Decision:** Dismissed

### Judgement

Deepak Roshan, J.

1. Heard learned counsel for the parties.

2. The instant writ application (PIL) has been preferred by the petitioner praying for a direction for an enquiry and investigation into the alleged illegal

construction of shops, installation of a garbage compactor machine, and allotment of land for parking vehicles by inviting tender over a piece of land by

the Dhanbad Municipal Corporation, which was leased to be used as a park. Further direction has also been sought to demolish the illegally

constructed shops, garbage compactor machine, and for removal of all sorts of nuisance in and around the public utility land (ladies and children Park).

The petitioner has also prayed that a direction be given for initiating action against the erring officials who are responsible for the change of utility over

the land and further prayer has been made to direct the respondent to operationalize, restore the beauty and greenery of the park in its original

position.

3. The land forming the subject matter of the present petition is situated at Municipal survey plot no. 1117 in Mauza Hirapur, Thana No. 07 in the

district of Dhanbad measuring 4.82 acres.

4. The petitioner claims to be a citizen of India and a public-spirited person, activist under the Right to Information Act and claims to be diligently

involved in espousing the cause of common people and has no interest in the subject matter of the instant petition. The petitioner has stated that he had

earlier filed a PIL seeking an investigation by the Central Bureau of Investigation in relation to award of tenders by the Coal Mines Provident Fund

Organisation in the year 2011, 2012 to 2016. The petitioner has also stated that he filed an application for intervention in a PIL being W.P. (PIL). No.

497 of 2023 to draw attention of this Court towards the safety measures in the apartments, particularly in the district of Dhanbad. Both the above

petition/application have been disposed of and the orders evidencing such disposal have been placed as Annexure-1 and Annexure-1/1.

5. According to the petitioner, the land in question was conveyed by way of a registered lease in favour of the Dhanbad Municipality being Deed No.

3252/3253 dated 23.02.1946 executed by and between the Governor of the erstwhile State of Bihar and the Dhanbad Municipality. According to the

petitioner, the land leased to the Dhanbad Municipality was on a condition that the same will be used for construction of a park and the nature of the

user of land would not be changed without the prior permission of the Deputy Commissioner.

Though the park was constructed, and the people of the locality were using the same, the petitioner came to learn that Dhanbad Municipal Corporation

has instead of using the land in question as a "Ladies and Children Park" has constructed certain shops, installed a garbage compactor and are

also using the land as a parking space.

The petitioner has further complained of non-compliance of the order passed by a Division Bench of this Court in a Public Interest Litigation, which

was numbered as W.P.(PIL) No. 4541 of 2004 and by an order dated 18.03.2005 it was directed that the bathrooms installed in the park must be

constructed in such a manner that it must be utilised in a way that it should not cause any inconvenience or interference with the proper use of the

park by those for whom it was meant to be established. The municipality was also directed to take proper steps to keep the toilet clean and flush and

to see that no foul smell is emitted from the toilet beyond the permissible limit.

6. Having gone through the entire petition, it transpires that the same lacks in material particulars. The petition does not indicate the number of shops

that have been constructed and rented out by the Dhanbad Municipal Corporation, and since when such arrangement has been entered into by

Dhanbad Municipal Corporation. Likewise,

no details of the installation of the garbage compactor or the land being used as a parking space has been set out in the petition such as since when the

land has been put to such use. In other words, the period since when the user of the land has changed and to what extent has not been set out in the

petition. The Supreme Court of India in the case of State of Uttaranchal versus Balwant Singh Chaufal & Ors. ,reported in (2010) 3 SCC 402 at

paragraph 181 held as follows:

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 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.

7. Further, the Apex Court in the case of Gurpal Singh versus State of Punjab & Ors., reported in (2005) 5 SCC 136 at paragraph 5, while dealing

with a Public Interest Litigation, held that the Court while entertaining a petition styled as a public litigation has to be satisfied about the correctness or

nature of information given by the petitioner and also that the information is not vague and indefinite because the court has to strike a balance between

two conflicting interest that is (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii)

avoidance of public mischief, and to avoid mischievous petitions, seeking to assail for oblique motives, justifiable executive actions. The Supreme Court

categorically held that in such cases that the Court cannot afford to be liberal. It was further held that the court has to act ruthlessly while dealing with

impostors and busybodies or meddlesome interlopers impersonating as public-spirited Holy Men.

8. Coming back to the facts of the present case it transpires; the petitioner has miserably failed to point out as to how the public interest is involved in

this petition because the causes for which Dhanbad Municipal Corporation is using the land are also in public interest. It cannot be said that using an

area for constructing shops and letting them out where the public can buy their day-to-day goods or installation of garbage compactor or assigning an

area for parking of vehicles by the public at large are not in public interest.

9. Though no affidavit has been filed by the Dhanbad Municipal Corporation, but in course of argument, it was submitted that a stadium was

constructed in the vicinity namely, Randhir Verma Stadium was being used by the people of the locality for their walks and other activities, and

therefore the use of the present land as a park had diminished.

10. Having regard to the requirement of the public, the decision to use the land for the purpose of construction of shops to be used by the common

public to purchase the day-to-day goods, installation of a garbage, compactor and ear marking an area for parking of vehicles by the public at large

cannot be said to be against the interest of the public and therefore any interference by this court in the jurisdiction meant to be a weapon in the

armory of law for delivering social justice to the citizens and aimed to address the genuine public or public injury is not at all warranted.

11. Alleged breach of a condition regarding unauthorised change of user of land conveyed under a registered lease deed, even where both the

contracting parties are "State", by itself cannot be a ground to invoke the public interest litigation jurisdiction of this court.

12. Viewed thus, the petition is dismissed with costs assessed at Rs. 2500/- to be deposited with the Dhanbad District Legal Services Authority within

3 weeks from today; failing which the same shall be recovered in accordance with law.

13. Accordingly, the instant PIL stands dismissed. Pending I.A.s, if any, stands closed.