(2009) 03 CAL CK 0013

Calcutta High Court

Case No: Writ Petition No. 3981 (W) of 2009

Asian Front of Human Tights		APPELLANT
	Vs	
State of West Bengal and Others		RESPONDENT

Date of Decision: March 6, 2009

Citation: (2009) 03 CAL CK 0013

Hon'ble Judges: Surinder Singh Nijjar, C.J; Biswanath Somadder, J

Bench: Division Bench

Advocate: Amal Baran Chatterjee, P.S. Deb Burman and Biswarup Chowdhury, for the Appellant; Sandip Srimani, Suchita Saha and Sharmila Basu, for the Respondent

Final Decision: Dismissed

Judgement

The Judgment of the Court was as follows:

1. We have heard the learned Counsel for the petitioners. We have also heard Mr. Srimani for the State. The challenge herein is to the transfer of

policemen from various districts. It has been stated by Mr. Srimani that on the same issue this Court has already dismissed the writ petition being

W.P. No. 2311(W) of 2009 on 13th February, 2009 after noticing number of judgments of the Supreme Court.

2. We have considered the submissions made by the learned Counsel. Repeatedly law has been laid down by the Supreme Court that it is

incumbent on the High Court to satisfy itself with regard to the bona fides of the writ petition. It is also necessary for the High Court to ensure that

frivolous and vexatious public interest writ petitions are not entertained specially at the instance of the petitioners which fail to establish the

necessary credentials for espousing the cause in public interest. In the present case, the petitioners claim to be Asian Front of Human Rights. It

claims to be a registered organization. Its stated functions are ""to look after the safety, security and convenience of the public and give necessary

assistance in the event of violation of human rights."" The petitioners claim to have fought for the cause of the people on several occasions by

making representations to the police authorities, statutory bodies and other institutions as well as by filing public interest litigation petitions. The

immediate cause for the filing of the writ petition as stated in paragraph 5 of the writ petition is that people of Santipur town Chapra, Gagnapur and

Nakashipara of Nadia district met the Secretary of the Society, i.e., petitioner No. 2 and made a representation that the police authorities are not

looking into their grievances and are not taking any steps for preventing the breach of peace solely for the reasons that they will be transferred

outside the district of Nadia by 28th February, 2009. It is not disputed before us by the learned Counsel Mr. Chatterjee appearing for the

petitioners that all the transfers have actually been effected. The mobilization of police personnel from one station to another has been completed.

This writ petition, it is stated, has been filed only to ensure that the grievances of the individual police officers are duly considered by the competent

authority, i.e., the Chief Electoral Officer. It is also submitted before us by the learned Counsel that pending criminal cases are not being

investigated due to the transfer.

3. Mr. Srimani has submitted that this writ petition is not maintainable as the petitioners have failed to establish their locus standi. The petitioner No.

1 is a purely voluntary organization and solicits representations from the locality just to justify its existence. The writ petition has been med only to

justify its continuance as an N.G.O. It has no legal authority to take up the cause of the transferred police personnel. Individual remedies are

available to any aggrieved police official.

4. We have considered the submissions made by the learned Counsel for the parties. We are not satisfied with the bona fides of the writ petitioner

in filing the present writ petition, nor are we satisfied with the locus standi of the writ petitioner in filing the writ petition. A perusal of the petition,

shows that petitioners have given no details as to:

i) With whom the petitioners are registered;

ii) For what purposes is it registered;

iii) What is the legal status of such a registration;

iv) What is the administrative set up of the petitioners;

v) Who provides the finances;

vi) What other social causes related to the protection of the Fundamental Rights of poor or the deprived sections of the society have been

espoused by the petitioners.

5. That apart we are unable to rule out the possibility that the writ petition may have been filed for ulterior motives, given the proximity of the

Parliamentary Elections. The writ petition could also be filed at the behest of some disgruntled police personnel who may have particular interest to

cling on to a particular locality or a particular case. Therefore, it would be wholly inappropriate to entertain the writ petition. We find support for

this view from a number of judgments of the Supreme Court. We may mention here only a few. In the case of Janata Dal Vs. H.S. Chowdhary and

Others, it has been observed as follows:

109. It is thus clear that only a person acting bona fide and having sufficient interest in the proceedings of PIL will alone have a locus standi and

can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their Fundamental Rights but not a person for

personal gain or private profit or political motive or any oblique consideration, Similarly a vexation petition under the colour of PIL brought before

the Court for vindicating any personal grievance, deserves rejection at the threshold.

In the case of Dattaraj Nathuji Thaware Vs. State of Maharashtra and Others, , wherein it has been held as follows:

11. It is depressing to note that on account of such trumpery proceedings initiated before the Courts, innumerable days are wasted, which time

otherwise could have been spent for the disposal of cases of genuine litigants. Though we spare no efforts in fostering and developing the laudable

concept of PIL and extending our long arm of sympathy to the poor, the ignorant the oppressed and the needy whose fundamental rights are

infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet, we cannot avoid but express our opinion that while

genuine litigants with legitimate grievances rc1ating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in

which persons sentenced to death facing the gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for

long years, persons suffering from undue delay in service matters - Government or private, persons awaiting the disposal of cases wherein huge

amounts of public revenue or unauthorized collection of tax amounts are locked up, detenus expecting their release from detention orders etc. are

all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, busybodies,

meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of

themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity, break the queue muffling their faces by wearing

the mask of public interest litigation and get into the Courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of

the Courts and as a result of which the queue standing outside the doors of the Courts never moves, which piquant situation creates frustration in

the minds of genuine litigants and resultantly they lose faith in the administration of our judicial system.

12. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to

see that behind the beautiful veil of public interest, an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as

an effective weapon in the armoury of law for delivering social justice to citizens. The attractive brand name of public interest litigation should not

be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not the publicity-oriented

or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of the public, who

approaches the Court is acting bona fide and not for personal gain or private motive or political motivation or other oblique considerations. The

Court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons

with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives and try to bargain for

a good deal as well as to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such

busybodies deserved to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.

14. The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness of nature of information given by him;

(c) the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike a balance

between two conflicting interests : (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. In such case,

however, the Court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does

not encroach upon the sphere reserved by the Constitution to the executive and the legislature. The Court has to act ruthlessly while dealing with

imposters and busybodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They

pretended to act in the name of pro bono publico, though they have no interest of the public or even of their own to protect.

In the case of Common Cause (A Regd. Society) Vs. Union of India (UOI) and Others, , wherein it has been held as follows:

59. Unfortunately, the truth is that PILs dare being entertained by many Courts as a routine and the result is that the dockets of most of the

superior Courts are flooded with PILs, most of which are frivolous or for which the judiciary has no remedy. As stated in Dattaraj Nathuji

Thaware Vs. State of Maharashtra and Others, public interest litigation has nowadays largely become ''public interest litigation'', ''private interest

litigation'', or ''politics interest litigation'' or the latest trend ''paise income litigation''. Much of PIL is really blackmail.

60. Thus, public interest litigation which was initially created as a useful judicial tool to help the poor and weaker section of society who could not

afford to come to Courts, has, in course of time, largely developed into an uncontrollable Frankenstein and a nuisance which is threatening to

choke the dockets of the superior Courts obstructing the hearing of the genuine and regular cases which have been waiting to be taken up for years

together.

6. Keeping in view of the aforesaid ratio of law laid down by the Supreme Court, we are not satisfied that the present writ petition is either bona

fide or likely to serve any public interest. Any transfer made of any public servant cannot ever leave a vacuum, as the transferred officers have to

be replaced by the substitutes from some other place. If such a submission of Mr. Chatterjee is to be accepted, no transfer orders could ever be

effected.

7. Individual remedy is available to any police officer, who may wish to claim that the transfer is in contravention of the circular dated 4.2.2009.

This circuitous route of filing the public interest litigation cannot be accepted, nor can it be encouraged. In our opinion, the frivolous and vexatious

writ petitions disguised as public interest litigation have to be nipped in the bud. These petitioners cannot be permitted to eat into the time which the

Court needs to spend on examination of the genuine grievances of the genuine litigants, in bona fide litigation. On an examination of the entire

material, we are satisfied that the writ petition has to be dismissed at the threshold, so that the valuable time of the Court is not wasted.

8. With the above observations, the writ petition is dismissed.