

(2019) 02 MP CK 0081

Madhya Pradesh High Court (Indore Bench)

Case No: Writ Petition No. 3045 Of 2019 (PIL)

Manoj Dhanwani And Others

APPELLANT

Vs

Chairman, Governing Body, Shri
Govind Ram Saksaria Institute Of
Technollgy & Science And Others

RESPONDENT

Date of Decision: Feb. 25, 2019

Hon'ble Judges: S. C. Sharma, J; Virender Singh, J

Bench: Division Bench

Advocate: T N Singh, Hemlata Gupta, HY Mehta, Abhinav Dhanodkar

Judgement

The petitioners before this Court have filed this present Petition Pro Bono Publico.

The contention of the petitioners is that various advertisements were issued from time to time inviting applications for Teaching Posts at Shri Govind

Ram Saksaria Institute of Technollgy & Science (S.G.I.T.S.) which is a prime educational Institution situated at Indore. The petitioners have stated in

the Writ Petition that they have submitted their applications for various teaching posts. They have enclosed their Bio â€" Data as B-1 to B-3 and in

paragraphs No. 2.1 to 2.3 it has been categorically stated that the petitioners have participated in the process of selection and they were unsuccessful.

The petitioners being unsuccessful in the process of selection have challenged the process of selection, meaning thereby, after playing the game, they

are challenging the rule of the game.

Learned senior counsel has vehemently argued before this Court that the present petition relating to service matter is maintainable as Public Interest

Litigation. Learned senior counsel has placed reliance upon the judgment delivered by the apex Court in the case of Dr. Duryodhan Sahu and others

vs. Jitendra Kumar Mishra and others reported in (1998 AIR SCW 3467. Heavy reliance has been placed upon paragraphs 18 and 21 of the aforesaid

judgment. His contention is that PIL is certainly maintainable.

On the other hand, Mr. Abhinav Dhanodkar, learned counsel for the respondent State has placed reliance upon the judgment delivered by the apex

Court in the case of Bholanath Mukherjee and others Vs. Ramakrishna Mission Vivekananda Centenary College and others reported in (2011) 5 SCC

464. He has placed reliance upon paragraph 49 of the aforesaid judgment. Paragraph 49 of the judgment reads as under :

49. This Court has repeatedly disapproved the tendency of disgruntled employees disguising pure and simple service dispute as public interest litigation.

The observations made by this Court in the case of Dr. B. Singh vs. Union of India & Ors.⁹ would be of some relevance and we may notice the

same. In paragraph 16, it is observed as follows :

As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is

shocking to note that courts are flooded with a large number of so-called public interest litigations, whereas only a minuscule

percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court

in a large number of cases, yet unmindful of the real intentions and objectives, courts at times are entertaining such petitions and wasting valuable

judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in Duryodhan Sahu (Dr) v. Jitendra Kumar

Mishra this Court held that in service matters PILs should not be entertained, the inflow of the so-called PILs involving service matters continues

unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision.

This Court in the light of the aforesaid is of the considered opinion that the petitioners, in fact, after being aggrieved by non-selection have filed a PIL

and such petition can never be treated to be a PIL, as argued by the learned senior counsel.

Learned senior counsel for the petitioner has placed reliance upon the judgment delivered by the Punjab and Haryana High Court in the case of Gurpal

Singh Vs. State of Punjab and others reported in (2005 AIR SCW 3144). Paragraphs 6, 7, 8, 11, 13 and 14 of the aforesaid judgment reads as under :

6. The scope of entertaining a petition styled as a public interest litigation, locus standi of the petitioner particularly in matters involving service of an

employee has been examined by this court in various cases. The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie

correctness or 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 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 busy bodies or meddlesome interlopers impersonating as public-spirited holy men. They

masquerade as crusaders of justice. They pretend to act in the name of Pro Bono Publico, though they have no interest of the public or even of their

own to protect.

7. Courts must do justice by promotion of good faith, and prevent law from crafty invasions. Courts must maintain the social balance by interfering

where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good. (See State of Maharashtra. v.

Prabhu MANU/SC/0648/1994 : (1995)ILLJ622SC , and Andhra Pradesh State Financial Corporation v. GAR Re-Rolling Mills and Anr.

MANU/SC/0454/1994 : [1994]1SCR857. No litigant has a right to unlimited draught on the Court time and public money in order to get his affairs

settled in the manner as he wishes. Easy access to justice should not be misused as a licence to file misconceived and frivolous petitions. (See Dr.

B.K. Subbarao v. Mr. K. Parasaran, JT 1996 7 265. Today people rush to Courts to file cases in profusion under this attractive name of public

interest. They must inspire confidence in Courts and among the public.

8. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is

shocking to note that Courts are flooded with large number of so called public interest litigations where even a minuscule percentage can legitimately

be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in large number of cases,

yet unmindful of the real intentions and objectives, High Courts are entertaining such petitions and wasting valuable judicial time which, as noted

above, could be otherwise utilized for disposal of genuine cases. Though in Dr. Duryodhan Sahu and Ors. v. Jitendra Kumar Mishra and Ors.

MANU/SC/0541/1998 : (1998)IILLJ1013SC , this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs

involving service matters continues unabated in the Courts and strangely are entertained. The least the High Courts could do is to throw them out on

the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how

the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet

was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are

taken to explain possession, the Court should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the

Courts to filter out the frivolous petitions and dismiss them with costs as afore-stated so that the message goes in the right direction that petitions filed

with oblique motive do not have the approval of the Courts.

11. 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 armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be

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

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

approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. 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 to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy bodies deserve to be

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

13. When a particular person is the object and target of a petition styled as PIL, the court has to be careful to see whether the attack in the guise of

public interest is really intended to unleash a private vendetta, personal grouse or some other mala fide object. Since in service matters public interest

litigation cannot be filed there is no scope for taking action for contempt, particularly, when the petition is itself not maintainable. In any event, by order

dated 15.4.2002 this Court had stayed operation of the High Court's order.

14. Judged in the above said background the High Court was not justified in entertaining the Writ Petition. The judgment of the High Court is

indefensible and is therefore set aside.

Keeping in view the aforesaid judgment, the present Writ Petition can never be said to be a Public Interest Litigation and keeping in view the aforesaid

judgment, as it is a personal interest litigation, it cannot be treated as PIL.

Learned counsel for the petitioner has placed reliance upon the judgment delivered by the apex Court in the case of Charanjit Singh and others Vs.

Harinder Sharma and others reported in (2002 AIR SCW 2610). He has placed reliance upon paragraph 5. Paragraph 5 of the aforesaid judgment

reads as under :

5. The Government itself on the receipt of the report did not find it expedient to set aside the orders of appointments made pursuant to the selections.

None of the candidates who had participated in the process of selection and not selected have filed the writ petition. The petition is filed by the

Respondents in the nature of Public Interest Litigation and two of them being Municipal Councillors are parties to the decision of approving the

selections made. The public interest in such matters would be adequately protected if Rules are duly complied with. We do not think there was any

reason for the High Court to have interfered with the selections made. The High Court on a perfunctory consideration has upset the selections made

without examining the matter in depth. We, therefore, set aside the order made by the High Court and allow this appeal. The writ petition filed by

Respondent Nos. 1 to 3 stands dismissed. No costs.

The aforesaid case was in relation to the selection for the post of Clerk etc., In the aforesaid case, the High Court of Punjab and Haryana has set

aside the process of selection on the basis of Writ Petition filed by the strangers. The matter has travelled upto the apex Court and the apex Court has

set aside the order passed by the Punjab & Haryana High Court holding that none of the candidates who has participated in the process of selection

and not selected has filed the Writ Petition. Facts of the present case are distinguishable. The present case is a case where the persons who have

participated in the process of selection have been unsuccessful. The selection process has taken place based upon the Committee constituted in

accordance with law. There was an advertisement and a transparent process of selection was adopted by the respondent employer, as argued by

Mr. Mehta, learned counsel for the respondent, and therefore, in absence of any specific allegation in the matter of appointment and especially

keeping in view the fact that the petitioners were unsuccessful and they have filed PIL, this Court does not find any reason to interfere with the

process of selection.

It has also been stated that the process of selection was over in the year 2018 and all the persons appointed pursuant to the process of selection have

joined and they are continuing and not a single person is impleaded as respondent by the petitioners and, therefore, this Court is of the considered

opinion that the present petition deserves to be dismissed on account of non-joinder of necessary parties also, as argued by Mr. HY Mehta, learned

counsel for the respondents.

This Court is of the considered opinion that the arguments canvassed by Mr. Mehta deserves consideration and the petition also deserves to be dismissed on the ground of non-joinder of necessary parties.

Accordingly, admission is declined.