

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION (L) NO. 3247 OF 2023

Bombay Lawyers Association  
a body registered under the  
Societies Registration Act, 1860,  
having its office at 4<sup>th</sup> Floor,  
Onlooker Building,  
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PAN No.AAAPA7545G  
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..... Petitioner

**Versus**

1. Jagdeep Dhankar,  
Vice President of India and  
Ex-Officio Chairman of  
Council of States, Office of  
the Vice President of India,  
Vice President Secretariate,  
6, Maulana Azad Road,  
New Delhi - 110011

2. Kiran Rijju,  
Law Minister, Government of India,  
4<sup>th</sup> Floor, A-Wing, Shastri Bhawan,  
New Delhi - 110001

3. Secretary General, Rajya Sabha,  
Room No.29, Parliament House,  
New Delhi - 110001

4. Union of India,  
Through Cabinet Secretary,  
Cabinet Secretariat, Rashtrapati Bhawan,  
New Delhi - 110004

..... Respondents

Mr. Ahmad Abdi with Mehmood Abdi I/b. Eknath Dhokale and Mohammad Abdi for the Petitioners

Mr. Anil C. Singh, Additional Solicitor General a/w. Mr. Aditya Thakkar, Ms. Savita Ganoo, Mr. D. P. Singh, Ms. Smita Thakur, Mr. Chaitnya Chavan and Mr. Pranav Thakur I/b. Mr. A. A. Ansari for the Respondents

**CORAM: S.V.GANGAPURWALA, ACJ & SANDEEP V. MARNE, J.**

**DATE : FEBRUARY 9, 2023**

**ORDER : (PER : ACTING CHIEF JUSTICE)**

1. The present PIL is filed with the following reliefs:

*“a. This Hon'ble Court may be please to declare that the conduct of the Respondent No. 1 & 2 have disqualified themselves for holding any constitutional posts of Vice President and Minister of the Union Cabinet respectively by expressing lack of faith in the Constitution of India and the law established by their behaviour and utterances made in public.*

*b. This Hon'ble Court may be please to restrain the Respondent No.1 from discharging his duty as Vice President of India.*

*c. This Hon'ble Court may be please to restrain the Respondent No.2 from discharging his duty as cabinet Minister of Union of India.*

*d. ....*

2. The Petitioner claims to be a body registered under the Societies Registration Act 1860 established by a group of Advocates practicing at Bombay High Court with the primary purpose to undertake activities to uphold rule of law, promote high values in legal profession and to protect independence of judiciary.

3. Mr. Abdi, the learned Counsel for the Petitioner submits that Respondent Nos.1 and 2 have disqualified themselves to hold the constitutional post by showing lack of faith in the Constitution of India by their conduct and utterances made in public and by attacking its institutions including Hon'ble Supreme Court of India and showing scant regard for the law laid down by the Hon'ble Supreme Court. The conduct of Respondent Nos.1 and 2 appeared to have shaken public faith in Hon'ble Supreme Court of India and the Constitution. Respondent Nos.1 and 2 have affirmed oath that they will bear true faith and allegiance to the Constitution of India. However, their conduct has shown lack of faith in Constitution of India. Respondent Nos.1 and 2 have launched frontal attack on the institution of judiciary, particularly the Hon'ble Supreme Court of India in most derogatory language without any recourse which is available under the constitutional scheme to change the status quo as per the law laid down by the Hon'ble Supreme Court of India. Respondent Nos.1 and 2 are attacking the collegium system as well as basic structure in public platform. This kind of unbecoming behaviour by Respondent Nos.1 and 2 who are holding constitutional posts is lowering the majesty of the Hon'ble Supreme Court of India in the eye of public at large. The learned Counsel referred to various statements made by Respondent Nos.1 and 2.

4. The learned Counsel for the Petitioner submits that Article 51-A of the Constitution of India lays down the fundamental duties. It directs every citizen to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem. Respondent Nos.1 and 2 have failed to abide by their fundamental duties and have not shown respect to the constitutional institution i.e. Hon'ble Supreme Court of India. The learned Counsel submits that Respondent Nos.1 and 2 are also guilty of committing contempt of Court by lowering the authority of the Hon'ble Supreme Court. The authorities who are responsible to take action against Respondent Nos.1 and 2 have failed in their duty, as such, this Court, under Article 226 of the Constitution of India may exercise its powers. The learned Counsel relies upon the judgment of the Calcutta High Court in the case of *Babul Supriyo Vs. State of West bengal & Anr.*<sup>1</sup> and submits that it has been held by the Calcutta High Court that it is expected from a representative of the people that he must be courteous in his behaviour, dignified in his manners and cautious on the words spoken by him. The learned Counsel also relies upon the judgment of the Supreme Court in the case of *A.I.I.M.S. Students Union Vs. A.I.I.M.S. & Ors.*<sup>2</sup> to submit that the fundamental duties, though not enforceable by a writ of Court, yet provide valuable guide

1 dated on 14<sup>th</sup> October 2020

2 Appeal (Civil) No.7366 of 1996

and aid to interpretation of constitutional and legal issues.

5. Mr. Anil Singh, the learned Additional Solicitor General submits that the present PIL is filed for publicity purpose. It is false and frivolous. Respondent Nos.1 and 2 have complete faith in the Constitution. The Petitioner has annexed the statement of Respondent No.2 wherein it is said that the Central Government, under the Prime Minister has never undermined the authority of the judiciary and its independence will always remain untouched and promoted. Respondent No.1 has also said that he has highest respect for the judiciary and committed to the Constitution. The Vice President cannot be removed by orders under Article 226 of the Constitution. The learned ASG relies upon the judgment of the apex court in the case of *Dattaraj Nathuji Thaware Vs. State of Maharashtra & Ors.*<sup>5</sup> and submits that the PILs are to be admitted with great care. The PILs cannot be for redressal, publicity oriented or political disputes.

6. We have considered the submissions.

7. Juridically, the expression “Public Interest Litigation” means a legal action initiated in a Court of Law for the enforcement of public interest. The PIL is a power given to the public by the Courts

3 (2005) 1 SCC 590

through judicial activism. It is a litigation filed in the Court of law for protection of public interest. The PIL can be used for redressal of a genuine public wrong or public injury and it cannot be publicity-oriented. The parameters of PIL have been indicated by the apex court in catena of judgments.

8. In the present matter, the Petitioner claims to be established by a group of Advocates practicing at Bombay High Court with the primary object of undertaking activities to uphold rule of law, promote high values in legal profession and to protect independence of judiciary. The Petitioner seeks disqualification of Respondent Nos.1 and 2 holding constitutional post on the ground that their utterances have shaken the public faith in the Hon'ble Supreme Court of India and the Constitution.

9. The credibility of the Hon'ble Supreme Court of India is sky-high. It cannot be eroded or impinged by the statements of individuals. The Constitution of India is supreme and sacrosanct. Every citizen of India is bound by the Constitution and is expected to abide by the constitutional values. The constitutional institutions are to be respected by all, including constitutional authorities and persons holding constitutional posts.

10. The statements made by Respondent Nos.1 and 2 are

annexed with the petition. The learned Additional Solicitor General has referred to some of the statements made by Respondent Nos.1 and 2, wherein it has been said that the Government has never undermined the authority of the judiciary and its independence will always remain untouched and promoted and they respect the ideals of the Constitution. Respondent No.1 has also made a statement that he has highest respect for the judiciary and is committed to the Constitution of India. The constitutional authorities cannot be removed in the manner as suggested by the Petitioner. Fair criticism of the judgment is permissible. It is no doubt, fundamental duty of every citizen to abide by the Constitution. Majesty of law has to be respected.

11. Considering the totality of the factual matrix, we do not find it a fit case to invoke our writ jurisdiction under Article 226 of the Constitution of India in entertaining the PIL.

12. The PIL, as such, is dismissed.

**(SANDEEP V. MARNE, J)**

**(ACTING CHIEF JUSTICE)**