

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE SUSHRUT ARVIND  
DHARMADHIKARI**

**&**

**HON'BLE SHRI JUSTICE HIRDESH**

**ON THE 14<sup>th</sup> OF JULY, 2023**

**WRIT PETITION No. 12557 of 2023**

**BETWEEN:-**

**KRISHNA KUMAR MISHRA S/O LATE  
GANGAPRASAD MISHRA, AGED ABOUT 65  
YEARS, OCCUPATION: SOCIAL ACTIVIST 67-  
68, SWASTIK NAGAR, RANJIT HANUMAN  
ROAD, INDORE (MADHYA PRADESH)**

**.....PETITIONER**

***(SHRI AJAY BAGADIYA SENIOR ADVOCATE WITH SHRI JAYESH GURNANI,  
ADVOCATE)***

**AND**

- THE STATE OF MADHYA PRADESH**
- 1. THROUGH CHIEF SECRETARY VALLABH  
BHAWAN BHOPAL (MADHYA PRADESH)  
PRINCIPAL SECRETARY DEPARTMENT OF**
  - 2. URBAN ADMINISTRATION VALLABH  
BHAWAN BHOPAL (MADHYA PRADESH)  
COMMISSIONER, DIVISION UJJAIN,**
  - 3. KOTHI ROAD VIKRAM UNIVERSITY  
UJJAIN (MADHYA PRADESH)  
DISTRICT COLLECTOR OFFICE OF**
  - 4. DISTRICT COLLECTOR SETHI NAGAR  
UJJAIN (MADHYA PRADESH)**
  - 5. SUPERINTENDENT OF POLICE OFFICE OF**

THE SUPERINTENDENT OF POLICE  
POLICE CONTROL ROOM MADHAV  
NAGAR FREEGANJ UJJAIN (MADHYA  
PRADESH)

6 STATION HOUSE OFFICER POLICE  
STATION MAHAKAL UJJAIN (MADHYA  
PRADESH)

7 UJJAIN SMART CITY LIMITED THR ITS  
DIRECTOR MELA KARYALAY BEHIND  
BRAHASPATI BHAWAN KOTHI PALACE  
UJJAIN (MADHYA PRADESH)

8 M/S M.P. BABARIYA THROUGH ITS  
AUTHORIZED PERSON 5,  
MARUTINANDAN SOCIETY NEAR  
MARUTI CHOWK MOTA VARACHHA  
SURAT GUJRAT (GUJARAT)

9 M/S D.H. PATEL THROUGH ITS  
AUTHORIZED PERSON 305-306, RATAN  
SAGAR APPARTMENT, VARACHHA ROAD  
SURAT GUJRAT (GUJARAT)

10 M/S GAYATRI ELECTRICAL THROUGH ITS  
AUTHORIZED PERSON 93, TASHKAND  
SOCIETY VADODARA GUJRAT (GUJARAT)

.....RESPONDENTS

*(SHRI PRASHANT SINGH SENIOR ADVOCATE (ADVOCATE GENERAL)  
WITH SHRI ANAND SONI, ADDITIONAL ADVOCATE GENERAL)*

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*This petition coming on for admission this day, JUSTICE  
SUSHRUT ARVIND DHARMADHIKARI passed the following:*

**ORDER**

Heard on the question of maintainability of the writ petition as well  
as on the admission.

The present petition has been filed under Article 226 of the  
Constitution of India by way of Public Interest Litigation (PIL). The  
petitioner has sought for the following reliefs:-

1. That, an independent judicial inquiry monitored by any retired  
judge of the Hon'ble Supreme Court of India or this Hon'ble Court

may kindly be directed to inquire about the unfortunate incidents dated 28.05.2023 and 01.06.2023, when the religious idols of Saptrishi were fallen and destroyed and also the religious structure/ sculpture installed over the entry gate had fallen over the floor and damaged the floor tiles in the Mahakal Rudrasagar Integrated Development Area, Ujjain, hurting the religious feelings of the devotees of Bhagwan Shri Mahakaleshwar, visitors of the said Area and other Sanathan Hindus to ascertain the cause and reasons therefor;

2. That, an independent judicial inquiry monitored by any retired judge of the Hon'ble Supreme Court of India or this Hon'ble Court may kindly be directed to inquire as to whether the construction work done in the Mahakal Rudrasagar Integrated Development Area, Ujjain, is as per the standard and requirements mentioned in the tender documents and work allotment considering the safety and security of life of the visitors and devotees of the Bhagwan Shri Mahakaleshwar;

3. That, the respondent authorities may kindly be suspended to ensure free and fair inquiry to check the element of corruption involved in the construction of the Mahakal Rudrasagar Integrated Development Area, Ujjain by sub-standardized the equality of construction affecting and hurting the religious feelings of the devotees of Bhagwan Shri Mahakaleshwar and other Sanatan Hindus;

4. That, the judicial inquiry officer may kindly be directed to file a periodic status report fortnightly so as to bring within the notice and cognizance of this Hon'ble Court as to what action has been taken with respect to the issue raised in the instant petition;

5. That, the monetary loss caused to the public exchequer only because the destruction caused in the Mahakal Rudrasagar Integrated Development Area, Ujjain as a result of negligent and lethargic act of the respondents, may kindly be recovered from the erring respondents from their personal assets and the respondent companies be blacklisted for the illicit act caused by them;

6. That, no further payment shall be made by the respondent authorities to the respondent companies till a safety audit report be submitted before this Hon'ble Court by a duly competent Fire and Safety Engineer, giving a safety certificate for the public and common use of the Mahakal Rudrasagar Integrated Development Area, Ujjain.

7. That, the competent authority may kindly be directed to register a criminal case against erring respondents and other co-accused persons for committing corruption, causing loss to the public exchequer, hurting religious feelings to Sanatan Hindus,

committing illicit acts endangering human life and safety;

8. Any other relief which this Hon'ble Court may consider appropriate in the light of equity, justice and good conscience, may also be granted in favor of the public at large.

2. Shri Ajay Bagadiya, learned Senior Counsel appearing for the petitioner contended that the petitioner is a social activist by profession and is a public spirited person, therefore, the present PIL has been filed espousing the interest of public at large and for the protection of life and safety of the visitors of Mahakal Lok; devotees of Bhagwan Shre Mahakaleshwar; pilgrims of Shri Mahakaleshwar Jyotirling Temple, Ujjain and other Sanatan Hindus.

3. The respondent No.7 was entrusted with the task of construction of Mahakal Lok consisting of religious idols, structures, sculptures and symbols. The respondents have spent crores of rupees from the public exchequer and therefore, it was least expected from the respondents to act in accordance with law and to raise good quality construction with higher standard material with the assistance of best engineers, architects and designers, keeping in mind the safety, security and religious feelings of the visitors of the Mahakal Lok. However, it is unfortunate that the respondents in collusion with each other and under a criminal conspiracy were involved in corruption and have deliberately caused the huge loss to the public exchequer. Due to inaction on the part of the respondents in raising sub-standard construction has seriously effected the religious feelings and religious sentiments of the visitors of the Mahakal Lok. As per the agreement the religious idols and structures constructed and developed in pursuance to the work order dated 07.03.2019 are not up to the mark as before completion of defect liability period of three years, the religious idols and structures have been destroyed/ damaged therefore, the petitioner

being a public spirited person has brought forward the illegalities committed by the respondents before this Court so that a suitable action/ inquiry is undertaken to find out as to whether the construction work done in the Mahakal Rudrasagar Integrated Development Area, Ujjain is as per the standard and requirements mentioned in the tender documents and also the safety and security of life of the visitors and devotees of the Bhagwan Shri Mahakaleshwar can be ascertained.

4, Per contra, Shri Prashant Singh learned Advocate General, vehemently opposed the prayer and submitted that apart from the merits, the writ petition itself is not maintainable.

5. Learned counsel for the respondents contended that basically the petitioner is alleging corruption in the matter of construction and installation of statutes etc. in Mahakal Rudrasagar Integrated Development Area at Ujjain and has prayed for an inquiry into the corruption alleged against the Government officers by way of the present PIL.

6. He contended that in para 4 of the petition the petitioner has declared that the source of information on the basis whereof the facts have been pleaded in the petition is passed upon the common information available on public domain/ social media/ daily newspaper/ websites of respondents and portals etc. The petitioner has further given a declaration that he had co-related and cross-checked the information gathered which has been pleaded in the petition. It is also pleaded that there is no alternative remedy available to the petitioner except to invoke the jurisdiction of PIL. In fact, in Para 2, the petitioner has stated himself to be a public spirited person belonging to *Sanatan Hindu Community*. However, the petitioner has mischievously suppressed the material fact

that petitioner is the Chief Spokes Person of Congress Party, M.P. The PIL has been filed by the petitioner with oblique motives and in order to settle political vendetta and to achieve political mileage on account of forthcoming Legislative Assembly Elections in the State of M.P. Reckless and vague allegations have been alleged in the present petition. The petitioner herein had approached the newspaper regarding filing of the instant PIL even before issuance of notices. Incorrect declarations have been made in para 9 as regards non-availability of alternative and efficacious remedy. There is a non-compliance of Rules 13, 14, 15, 16 and 17 of Chapter XIII-A of the M.P. High Court Rules, 2008, on this ground alone the petition deserves to be thrown out.

7. According to the aforesaid provisions, the petitioner is required to give a declaration that thorough research has been conducted in the matter and it is required to be accompanied by all such material where necessary. Rule 14 of Chapter XIII-A of the Rules of M.P. High Court Rules, 2008 (hereinafter referred to as 'The Rules of 2008') provides that a Public Interest Litigation (Writ Petition) shall disclose –

- (1) petitioner's social public standing/professional status and public spirited antecedents;
- (2) source of petitioner's finances for meeting the expenditure of the P.I.L.;
- (3) source of the information on which the averments are based;
- (4) facts constituting the cause;
- (5) nature of injury caused to the public; and
- (6) nature and extent of the personal interest of the petitioner involved in the cause, if any.

8. Rule 15 of the aforesaid Chapter provides that “*All substantive allegations/averments in a writ petition shall, as far as practicable, be supported by prima facie evidence/material. Such allegations/ averments and evidence/material shall be substantiated by an affidavit of the*

*petitioner.*” So far as alternative remedy is concerned, the petitioner can approach to the Lokayukt by filing a complaint, the said remedy has not been availed by the petitioner. Since there is a non-compliance of Rule 13, 14, 15, 16 and 17 of the the Rules of M.P. High Court Rules 2008, the petition itself is not maintainable and liable to be dismissed.

9. In reply, learned counsel for the petitioner contended that the Public Interest Litigation cannot be thrown out only because the petitioner belongs to a rival political parties. The persons with political affiliations are, as much entitle to file a PIL as any other person. Learned counsel placed reliance on the Apex Court judgment in the case of **State of West Bengal and others vs. Deepak Mishra** reported in (2021) SCC OnLine 3147

10. The Division Bench of this Court in the case of **Surendra Pratap Singh vs. State of M.P. and others** reported in [2019 (1) M.P.L.J 75] contended that the petitioner has failed to produce on record to satisfaction of the Court such social work in last couple of years in the area in respect of which Public Interest Litigation is involved. Merely spending money like lawyer's fees from their own pocket does not satisfy test of locus standi. Therefore, this writ petition is not maintainable.

11. The Apex Court in the case of **State of Uttaranchal vs. Balwant Singh Chaufal and others** reported in (2010) 3 SCC 402, have issued certain guidelines/ directions to be followed while entertaining the writ petition.

(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 P.I.L.

(4) The court should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

(5) The court should be fully satisfied that substantial public interest is involved before entertaining the petition.

(6) The court 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 court 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.

11. Heard the learned counsel for the parties and perused the record.
12. The question which arises for consideration in this Public Interest Litigation would be whether the same is maintainable in the light of non-compliance of Rules 13, 14, 15, 16 and 17 of Chapter XIII-A of the M.P. High Court Rules 2008. Moreover, the petitioner has also suppressed the fact that he is a spokesperson of the Congress Party M.P. It is informed at the bar that the Lokayukt Madhya Pradesh has already initiated *suo motu* action against the culprits to inquire and to find out the irregularities etc. in construction of Mahakal Lok. In view of the non-compliance of the Rules of 2008 as well as the pendency of the inquiry report before the Lokayukt M.P., and the guidelines laid down in the case of **Balwant Singh Chaufal**



(supra), this Court is not inclined to entertain this writ petition.

**13.** Accordingly, the same is hereby dismissed on the question of maintainability as well as on merits. However, the petitioner would be at liberty to approach competent authority raising the grievance espoused in the present Public Interest Litigation, in accordance with law, if so advised. The petition is hereby dismissed.

No order as to costs.

**(S.A. DHARMADHIKARI)**  
**JUDGE**

**(HIRDESH)**  
**JUDGE**

**Vatan**