

Neutral Citation No. - 2024:AHC:173968

Court No. - 6

Case :- WRIT - A No. - 16493 of 2024

Petitioner :- Mirza Iqrar Beg

Respondent :- State Of Up And 3 Others

Counsel for Petitioner :- Saral Singh

Counsel for Respondent :- C.S.C.

Hon'ble Ajay Bhanot,J.

1. Heard Shri Saral Singh, learned counsel for the petitioner and learned Standing Counsel for the State.
2. The petitioner has assailed the appointment of respondent no. 4 who was working as Shiksha Mitra. The petitioner is brother-in-law of respondent no. 4. The petitioner claims that the respondent no. 4 was illegally appointed and that he had embezzled money.
3. The petitioner has no locus standi to assail the appointment of respondent No. 4. The petitioner is a busybody who simply wants to harass the respondent No. 4. The writ petition is an abuse of the process of the court.
4. Further it is settled law that public interest litigation is not maintainable in service matters. It would be apposite to fortify the narrative with cases in point. (See: **Sriram Prasad and another Vs. State of U.P. and others¹**).
5. The existence of a right in favour of an aggrieved party furnishes the locus standi to maintain a writ petition as held in **Vinoy Kumar Vs. State of U.P. and others²** thus:

"2. Generally speaking, a person shall have no locus standi to file a writ petition if he is not personally affected by the impugned

1 2016 (6) ADJ 122

2 2001 (4) SCC 734

order or his fundamental rights have neither been directly or substantially invaded nor is there any imminent danger of such rights being invaded or his acquired interests have been violated ignoring the applicable rules. The relief under Article 226 of the constitution is based on the existence of a right in favour of the person invoking the jurisdiction. The exception to the general rule is only in cases where the writ applied for is a writ of habeas - corpus or quo warranto or filed in public interest. It is a matter of prudence, that the court confines the exercise of writ jurisdiction to cases where legal wrong or legal injuries caused to a particular person or his fundamental rights are violated, and not to entertain cases of individual wrong or injury at the instance of third party where there is an effective legal aid organisation which can take care of such cases. Even in cases filed in public interest, the court can exercise the writ jurisdiction at the instance of a third party only when it is shown that the legal wrong or legal injury or illegal burden is threatened and such person or determined class of persons is, by reason or poverty, helplessness or disability or socially or economically disadvantages position, unable to approach the court for relief."

6. Similarly in **Ayaaubkhan Noorkhan Pathan Vs. State of Maharashtra and others**³, the Supreme Court emphasized that existence of enforceable rights of aggrieved parties form the pre-condition to invoke the extraordinary jurisdiction under Article 226 of the Constitution of India vested in this Court:

"9. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the authority/court, that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order, etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can, of course, enforce the performance of a statutory

3 2013 (4) SCC 465

duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that the relief prayed for must be one to enforce a legal right. In fact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. [Vide *State of Orissa v. Madan Gopal Rungta* [AIR 1952 SC 12] , *Saghir Ahmad v. State of U.P.* [AIR 1954 SC 728] , *Calcutta Gas Co. (Proprietary) Ltd. v. State of W.B.* [AIR 1962 SC 1044] , *Rajendra Singh v. State of M.P.* [(1996) 5 SCC 460 : AIR 1996 SC 2736] and *Tamilnad Mercantile Bank Shareholders Welfare Assn. (2) v. S.C. Sekar* [(2009) 2 SCC 784].]

10. A "legal right", means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must, therefore, necessarily be one whose right or interest has been adversely affected or jeopardised. (Vide *Shanti Kumar R. Canji v. Home Insurance Co. of New York* [(1974) 2 SCC 387 : AIR 1974 SC 1719] and *State of Rajasthan v. Union of India* [(1977) 3 SCC 592 : AIR 1977 SC 1361] .)

11. In *Anand Sharadchandra Oka v. University of Mumbai* [(2008) 5 SCC 217 : AIR 2008 SC 1289] , a similar view was taken by this Court, observing that, if a person claiming relief is not eligible as per requirement, then he cannot be said to be a person aggrieved regarding the election or the selection of other persons."

7. The scope of Public Interest Litigations in service matters was elucidated by the Supreme Court in **Duryodhan Sahu (Dr.) v. Jitendra Kumar Mishra**⁴ held thus:

4 1998 (7) SCC 273

"18. The constitution of Administrative Tribunals was necessitated because of the large pendency of cases relating to service matters in various courts in the country. It was expected that the setting up of Administrative Tribunals to deal exclusively in service matters would go a long way in not only reducing the burden of the courts but also provide to the persons covered by the Tribunals speedy relief in respect of their grievances. The basic idea as evident from the various provisions of the Act is that the Tribunal should quickly redress the grievances in relation to service matters. The definition of 'service matters' found in Section 3(q) shows that in relation to a person, the expression means all service matters relating to the conditions of his service. The significance of the word 'his' cannot be ignored. Section 3(b) defines the word "application" as an application made under Section 19. The latter section refers to "person aggrieved". In order to bring a matter before the Tribunal, an application has to be made and the same can be made only by a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal. We have already seen that the word "order" has been defined in the explanation to sub-section (1) of Section 19 so that all matters referred to in Section 3(q) as service matters could be brought before the Tribunal. If in that context Sections 14 and 15 are read, there is no doubt that a total stranger to the service concerned cannot make an application before the Tribunal. If public interest litigations at the instance of strangers are allowed to be entertained by the Tribunal, the very object of speedy disposal of service matters would get defeated."

8. The consequences of entertaining Public Interest Litigations in service matters were examined by the Supreme Court in **Ashok Kumar Pandey v. State of West Bengal**⁵. Public Interest Litigations in service matters were restricted in the following terms:

"16. 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 where even

⁵ 2004 (3) SCC 349

a minuscule percentage can legitimately be called 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 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* [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802 : AIR 1999 SC 114] 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 courts 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 aforesaid so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts."

9. The law laid down by the Constitutional Courts does not permit initiation of adversarial litigation in service matters at the instance of a stranger or a busy body. The petitioners were required to satisfy that they are an aggrieved parties. The petitioners have failed to do so. The nature of legal rights sought to be enforced do not bring them in the definition of a person aggrieved. The petitioners do not have the locus standi to maintain the writ petition. Further the petitioner cannot canvass any public interest in this writ petition, in light of the restrictions imposed by judicial authorities discussed earlier.

10. In this wake, cost of Rs. 20,000/- is imposed upon the petitioner to discourage his conduct. The District Magistrate, Firozabad shall recover the said amount from the petitioner as arrears of land revenue within a period of two months and submit a report before the Chief Judicial Magistrate. The Chief Judicial Magistrate, Firozabad shall ensure that the costs are recovered and paid to the respondent No. 4 for the harassment which has been caused.

11. Chief Judicial Magistrate, Firozabad to file a compliance report before the Registrar General of this Court immediately thereafter.

12. Office to send a copy of this order to Chief Judicial Magistrate, Firozabad and District Magistrate, Firozabad for compliance.

13. Writ petition is dismissed.

Order Date :- 6.11.2024

Dhananjai