

Court No. - 49

**Case :-** PUBLIC INTEREST LITIGATION (PIL) No. - 1843 of 2023

**Petitioner :-** Bhoopendra Singh

**Respondent :-** State Of U.P. And 5 Others

**Counsel for Petitioner :-** Rajeev Kumar, Prashant Yadav

**Counsel for Respondent :-** C.S.C., Krishna Kant Singh, Pradeep Kumar Upadhyay

**Hon'ble Syed Qamar Hasan Rizvi, J.**

1. Heard Sri Rajeev Kumar, learned counsel for the petitioner, Sri Dinesh Kumar Verma, learned Standing Counsel for respondent nos. 1 to 4 and Sri Krishna Kant Singh, learned counsel for the Land Management Committee-respondent no.6.

2. The present writ petition has been filed seeking the following relief:

*"(i) To issue an order or direction commanding the respondent authorities specially respondent no.3 to direct the respondent authorities to complete the installation of incomplete bore well and to construct the over head water tank also upon the Gata No. 728 area 0.144 hectare in Mauja Garhi Madusua, Pargana Patiyali, Tehsil Aliganj, District Etah according to the proposal dated 26.06.2023 passed by the authority.*

*(ii) To issue an order or direction commanding the respondent authority to restrain from shifting the bore well from Gata No. 728 area 0.144 hectare to Gata No. 581 area 0.150 hectare.*

*(iii) To issue any other writ, order or direction, which this Hon'ble Court may deem fit and proper under the circumstances of the present case.*

*(iv) Award the cost of the petition to the petitioner."*

3. At the very outset, learned Standing Counsel has raised a preliminary objection regarding the maintainability of the present Public Interest Litigation as the petitioner has not disclosed his credentials and other details that are required under Sub-Rule (3-A) of Rule 1 of Chapter XXII of the Allahabad High Court Rules (Rules of Court, 1952), which has been amended in the light of judgment passed by the Hon'ble Supreme Court in **State of Uttaranchal versus Balwant Singh Chaufal & others** reported in **2010 AIR SCW 1029**.

4. Sri Krishna Kant Singh, learned Counsel for the Land Management Committee-Respondent No. 6 submits that the present petition by way of

Public Interest Litigation has been filed by the petitioner with oblique motive and with concealment of material facts. He further submits that the petitioner has not annexed the resolution dated 26.06.2023 said to have been passed by the Gaon Sabha on the basis of which he is claiming the relief in the present petition.

5. On the question of maintainability of the present petition for want of non-disclosure of the credentials as required under Sub-Rule (3-A), Rule 1 of Chapter XXII of the Allahabad High Court Rules, it would be pertinent to note that the aforesaid Rule has been framed in exercise of the Rule making power of the High Court, which is of quasi-legislative nature and has been incorporated as an amendment to Rule 1 of XXII with effect from 01.05.2010 and the validity of the same has been tested and upheld by the Division Bench of this Court in the case of **Pankaj Srivastava versus High Court of Judicature at Allahabad** reported in (2014) 3 UPLBEC 1832.

6. For ready reference, the said Rule is reproduced as under:

*"(3-A) In addition to satisfying the requirements of the other rules in this chapter, the Petitioner seeking to file a Public Interest Litigation, should precisely and specifically state, in the affidavit to be sworn by him giving his credentials, the public cause he is seeking to spouse; that he has no personal or private interest in the matter; that there is no authoritative pronouncement by the Supreme Court or High Court on the question raised; and that the result of the litigation will not lead to any undue gain to himself or anyone associated with him, or any undue loss to any person, body of persons or the State."*

7. In the above-mentioned Rule, the words '**should precisely and specifically state**' as has been envisaged, itself indicates the importance and necessity of the disclosure of the credentials by the petitioner. The same cannot be ignored/overlooked by the Courts before entertaining a petition as Public Interest Litigation. The said Rule requires a person espousing a public cause, to file an affidavit narrating his credentials in *precise* and *specific* manner and also the public cause which is sought to be espoused.

8. The requirement of disclosure of credentials from the petitioner is indeed necessary to bring on record the complete background of the person who is coming before the Court. This information helps to establish the petitioner's credibility, locus standi, and his genuineness. Providing credentials also demonstrates that the petitioner has the necessary expertise, knowledge and understanding of the gravity and seriousness involved in the matter. The said information should not be vague and indefinite. The word 'credentials' connotes the qualities and the experience of a person that make him suitable for doing a particular job.

9. The word 'credential' has a specific connotation and meaning. It has been defined in Black's Law Dictionary, 8th Edition as "*1. A document or other evidence that proves one's authority or expertise. 2. A testimonial that a person is entitled to credit or to the right to exercise official power. 3. The letter of credence given to an ambassador or other representative of a foreign country. 4. Parliamentary law. Evidence of a delegate's entitlement to be seated and vote in a convention or other deliberative assembly.*"

10. Moreover, the Oxford English-English-Hindi Dictionary, 2nd Edition, explains credentials as the quality which makes a person perfect for the job or a document that is a proof that he has the training and education necessary to prove that he is a person qualified for doing the particular job.

11. The Hon'ble Supreme Court in the case of **Ashok Kumar Pandey versus State of West Bengal & Others** reported in AIR 2004 SC 280 has been pleased to lay down the parameters to be considered while entertaining a Public Interest Litigation, the extract of relevant para 14 is reproduced below:

*"14. 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 motive, 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..."*

12. At this stage, it is worth mentioning that the Hon'ble Apex Court in the case of **Balwant Singh Chaufal & Ors.** (*Supra*) has dealt with the issues of abuse of public interest litigation and the remedial measures by which its misuse can be prevented or curbed. The relevant portion of the said judgement is reproduced below:

*"161. Unfortunately, of late, it has been noticed that such an important jurisdiction which has been carefully carved out, created and nurtured with great care and caution by the courts, is being blatantly abused by filing some petitions with oblique motives. We think time has come when genuine and bona fide public interest litigation must be encouraged whereas frivolous public interest litigation should be discouraged.*

*162. In our considered opinion, we have to protect and preserve this important jurisdiction in the larger interest of the people of this country but we must take effective steps to prevent and cure its abuse on the basis of monetary and non- monetary directions by the courts."*

13. In another case of **Dattaraj Nathuji Thaware v. State of Maharashtra** reported in (2005) 1 SCC 590, the Hon'ble Supreme Court was pleased to hold as follows,

*"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 be publicity-oriented or founded on personal vendetta."*

14. Time and again, the Hon'ble Supreme Court has issued guidelines to the Courts entertaining the Public Interest Litigations to be extra cautious to ensure that there is no abuse of the process of the Court and further to see that in the guise of redressing a public grievance, the public interest litigation must not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature. This note of caution

has been very categorically dictated by the Hon'ble Apex Court in the case of **M/s Holicow Pictures Private Limited versus Prem Chandra Mishra and Others** reported in (2007) 14 SCC 281.

15. The Hon'ble Apex Court as well as this Court in a catena of judgments has reiterated the importance of the public interest litigation but with certain reservations. The jurisdiction of the public interest litigation is exercised by the Constitutional Courts. The said jurisdiction has been carved out by judicial creativity. However, the courts while exercising this jurisdiction must exercise the same with extreme caution and responsibility.

16. In the instant petition that has been filed in the nature of public interest litigation; all what is brought to the fore is that the petitioner is raising an issue regarding the shifting of the place of installation of the bore-well from one place to another within the same village. The petitioner has neither filed any document to show the bona fide of his contention nor he could establish any violation of basic human rights of the public at large.

17. Furthermore, from the perusal of the averments made in the present petition, the petitioner in paragraph No.4 of the same has simply stated that *"he is a resident of village Nagla Ajeet Gram Panchayat Garhi Madusua, Pragna Patiyali, Tehsil Aliganj, District Etah, and as such he is member of Gaon Sabha"*. Except the aforesaid declaration, the petitioner has not made any other averment towards his credentials. The said description is undoubtedly vague and indefinite and cannot be accepted as a disclosure of his credentials.

18. In view of the above, this Court has no hesitation to note that the petitioner has not disclosed any credential, much less in consonance with the words '**should *precisely and specifically state***' as mandated in the aforesaid Sub-Rule (3-A), Rule 1 of Chapter XXII of the Allahabad High Court Rules (Rules of Court, 1952) as amended in the light of the

judgment passed by the Hon'ble Supreme Court in the case of Balwant Singh Chaufal (*Supra*).

19. Furthermore, from the perusal of the averments made in writ petition as well as the arguments advanced by the learned counsel for the petitioner, this Court could not find any element of public interest involved in the present petition.

20. In view of the foregoing reasons, the instant petition is not entertainable as a public interest litigation and is accordingly, **dismissed**.

21. Needless to say that it is always open for the residents of the concerned village including the petitioner to raise their grievances before the concerned authorities in accordance with law and the authorities are duty bound to thoroughly look into the genuine grievances of the aggrieved people and ensure redressal of the same within the legal framework.

**Order Date :- 22.8.2023**

Abhishek Gupta