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For Petitioner(s)	:	Mr. Akhil Simlot Mr. R.S. Bhardwaj
For Respondent(s)	:	Mr. R.D. Rastogi, Sr. Adv. (ASG) with Mr. Devesh Yadav & Mr. C.S. Sinha, (for U.O.I.) Mr. Bharat Vyas, (AAG) with Mr. Jay Vardhan Joshi Mr. Shashwat Purohit, (for respondent No.7) Mr. Tarun Agarwal, Mr. Bhaskar Agarwal & Ms. Mitali Karwa, (for respondent No.8) Mr. Arnav Singh, Court Commissioner

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**HON'BLE MR. JUSTICE PANKAJ BHANDARI**  
**HON'BLE MR. JUSTICE BHUWAN GOYAL**

**Order**

**REPORTABLE**

**20/02/2024**

1. Petitioners have filed this Civil Writ Petition (PIL) with the following reliefs:-

- "i) Issue a writ, order or direction in the nature thereof thereby the respondents may kindly be directed to cancel the mining Lease No.57/2006 & 58/2006, Masonry Stones situated in Khasra No.1542, 1543 & 1606 Village Papurna (Bhaslad Ki Dhani) Tehsil Khetri, District Jhunjhunu.
- ii) The respondents may further be directed to stop the Heavy blasting activities and running Crasher and JCB Machines nearby within the redial of 300 Meter from the residential areas of



Dhani Sainthala Bhaislana, Kalighati, Karwala,  
Village Papurna, Tehsil Khetri, District  
Jhunjhunu.

iii) Any other order which this Hon'ble Court  
deemed just and proper in the facts and  
circumstances of the case may also be passed  
in favour of the petitioners."

2. An application (No.1/24) was filed on behalf of the  
petitioners for deleting the name of Petitioner No.5 from cause  
title of Civil Writ Petition (PIL).

3. It is contended by counsel appearing for the petitioners that  
Petitioner No.5 is an illiterate person, who was party to the suit  
earlier filed by the villagers and that suit was withdrawn on the  
basis of compromise. This fact was not in the knowledge of  
Petitioner No.5, when he filed the present Civil Writ Petition (PIL).  
Prayer is made by counsel appearing for the petitioners that  
name of Petitioner No.5, be deleted and since cause of action qua  
Petitioner Nos.1 to 4 is surviving, the present Civil Writ Petition  
should be disposed of accordingly.

4. It is further contended by counsel for the petitioners that  
Respondent No.8 in the wee hours of the night came to the  
disputed area and wanted to start mining, which was opposed by  
the villagers. It is also contended that due to blasting, cracks  
have occurred in the buildings which are in proximity with the  
mining area. It is contended that crushing of the stones seriously  
pollutes the air and affects environment, and the life of the  
villagers has been made hell.

5. It is further contended that as per the report of the Pollution  
Board, there is a temple near the vicinity of the mining lease



area. It is also contended that there is a well near the allotted mining lease area. The mining area is within 300 meters of the residential area and as such mining activities cannot be permitted and the mining lease is required to be cancelled to save environment and to protect the houses in the vicinity.

6. Counsel appearing for the petitioners has shown to the Court the photographs of nearby houses, wherein cracks are visible. Counsel has also drawn attention of this Court towards the orders passed in the case of "**Mahendra Singh vs. State of Rajasthan & Ors.**" (**D.B. PIL Petition No.7114/2011**) passed by Rajasthan High Court, Bench Jaipur.

7. It is also contended that as per the Inspection Report which was submitted in compliance of order dated 26.07.2023, the well is at the distance of 40 meters from pillar X of the mining lease.

8. Mr. R.D. Rastogi, learned Additional Solicitor General as well as learned Additional Advocate General have vehemently opposed the present Civil Writ Petition (PIL) and application filed for deletion of the name of Petitioner No.5 from the cause title. It is contended that in the order dated 26.07.2023, Para No.4 made it clear that in case the assertions that have been made by the petitioners in the writ petition (PIL), is found to be not correct, the writ petition would be dismissed with heavy cost. It is also contended that petitioners have concealed the material facts and have pleaded in their writ petition that they are not involved in any civil, revenue and criminal litigation in any capacity before any Court or Tribunal, whereas, Petitioner No.5 has filed the civil suit seeking same relief, as claimed in the present PIL. It is



further contended that F.I.Rs. were lodged against the relatives of petitioners i.e. husband of Petitioner No.1, son of Petitioner No.2, brother of Petitioner No.3 and father of Petitioner No.4 with regard to same khasra number, which fact has been concealed by the petitioners.

9. Learned Additional Solicitor General has placed reliance on "***Dattaraj Nathuji Thaware vs. State of Maharashtra & Ors.***" **2005(1) SCC 590** & "***K.D. Sharma vs. Steel Authority of India Limited & Ors.***" **(2008) 12 SCC 481.**

10. It is contended by learned Additional Solicitor General that before grant of mining lease, clearance from the Pollution Board was obtained. In the reports that have been submitted, no mining activities have taken place in the mining lease. Petitioners have stated wrong facts in their writ petition that cracks have occurred because of mining activities, whereas no mining activities have taken place. It is also contended that as per the Inspection Report submitted in compliance of the order of this Court, Commissioner has clearly mentioned that petitioners have raised constructions on *Gair Mumkin Pahad* after grant of the mining lease, which is encroachment over the government land. It is further contended that Commissioner has given details of the persons who have caused illegal constructions encroaching over the government land, which includes brother of Petitioner No.5, son of Petitioner No.5 and husband of Petitioner No.1, who have freshly constructed a water tank, a room and one tin shed inside the mining lease area of ML 58/06.



11. It is contended that all reports which have been placed on record indicate that no mining activities have started in the mining lease area and wrong facts have been placed before the Court. It is also contended that judgment cited by counsel for the petitioners do not have applicability to the facts of this case. It is further contended that Commissioner has also mentioned in his report that in the mining lease area, there are fully grown trees and plants which indicate that mining activities have not been carried out for a long period of time.

12. It is contended by Mr. Bharat Vyas, learned Additional Advocate General that mining lease was granted after having approval of the Pollution Control Board and stalling of mining activities has caused loss of revenue to the exchequer.

13. We have considered the contentions.

14. The Apex Court in the case of "**Dattaraj Nathuji Thaware vs. State of Maharashtra & Ors.**" (supra) in Para Nos.12 & 16 has observed as under:-

"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 armory of law for delivering social justice to the 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 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 considerations. 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.

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 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, 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.* (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. Apart from the sinister manner, if any, of getting such copies, the real brain or force behind such cases would get exposed to find out the truth and motive behind the petition. Whenever such frivolous pleas, as noted, 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."

15. The Apex Court in the case of "**K.D. Sharma vs. Steel Authority of India Limited & Ors.**" (supra) in Para Nos.34, 36 & 38 has observed as under:-

"34. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the Writ Court must come with clean hands, put forward all the facts before the Court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the Court, his petition may be dismissed at the threshold without considering the merits of the claim.



36. A prerogative remedy is not a matter of course. While exercising extraordinary power a Writ Court would certainly bear in mind the conduct of the party who invokes the jurisdiction of the Court. If the applicant makes a false statement or suppresses material fact or attempts to mislead the Court, the Court may dismiss the action on that ground alone and may refuse to enter into the merits of the case by stating "We will not listen to your application because of what you have done". The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it.

38. The above principles have been accepted in our legal system also. As per settled law, the party who invokes the extraordinary jurisdiction of this Court under Article 32 or of a High Court under Article 226 of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play 'hide and seek' or to 'pick and choose' the facts he likes to disclose and to suppress (keep back) or not to disclose (conceal) other facts. The very basis of the writ jurisdiction rests in disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of Writ Courts and exercise would become impossible. The petitioner must disclose all the facts having a bearing on the relief sought without any qualification. This is because, "the Court knows law but not facts".

16. Petitioners herein have not come with clean hands before this Court and they have concealed the material facts and have stated wrong facts in their writ petition. The present PIL has been filed in the year 2022 and as per the report of the Court







Commissioner, no mining activities have taken place for last two years. The allegation that cracks have occurred due to mining, is a wrong fact stated by the petitioners. The fact that Petitioner No.5-Birbal has filed civil suit claiming the same reliefs as claimed in the present PIL was also concealed from the Court. The fact that husband of Petitioner No.1 is an accused in the F.I.R. lodged by and on behalf of respondent No.8, son of Petitioner No.5 are also accused in that case and father of Petitioner No.4 is also accused in those cases has also been concealed from the Court.

17. From the report submitted by Court Commissioner, it is evident that petitioners have encroached upon government land, which is *Gair Mumkin Pahad*, and have raised constructions, even in the mining lease area. In the report of the Mining Department also, it is mentioned that pits of size 5 meters x 3 meters, were found on the mining lease, which were very old and there were no signs of fresh mining. Petitioners have abused the process of Court by filing this PIL and petitioners have concealed the fact and stated wrong facts on affidavit.

18. In view of the above, we are not inclined to entertain the present Civil Writ Petition (PIL).

19. Accordingly, the present Civil Writ Petition (PIL) is dismissed with a cost of Rs.5,00,000/-. Out of cost of Rs.5,00,000/-, petitioners are directed to pay a sum of Rs.50,000/- to respondent No.8, as he has incurred the cost of Court Commissioner. Petitioners are further directed to deposit the remaining amount with the Rajasthan High Court State Legal Services Authority, Jaipur Bench, Jaipur, within two months.



20. Application (No.1/24) filed for deletion of Petitioner No.5, from cause title of present Civil Writ Petition (PIL) is dismissed. Other pending interim application(s), if any, shall stand(s) disposed.

21. Copy of this order be sent to Secretary, Rajasthan State Legal Services Authority, Jaipur Bench, Jaipur, for information. In case cost is not deposited, Secretary RLSA to intimate the Office. After receiving the information from the Office of Secretary, RLSA, Office is directed to list the matter before this Court.

(BHUWAN GOYAL),J

(PANKAJ BHANDARI),J

AMIT/16