



2024:DHC:3224-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5558/2024 & C.M.Nos.22914-22915/2024

VIJAY KUMAR

..... Petitioner

Through: Mr.Anuj Kumar Garg with Mr.Vipin  
Kumar and Ms.Parul Verma,  
Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.Arjun Mahajan with Mr.Jitendra  
Kumar Tripathi, Ms.Neha Rai and  
Mr.Rishabh Bhalla, Advocates for  
UII.  
Mr.Ravinder Agarwal, Advocate for  
R-2 & 5.  
Ms.Tatini Basu with Mr.Kumar  
Shashank, Advocates for CUC.

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Date of Decision: 23<sup>rd</sup> April, 2024

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**JUDGMENT**

**MANMOHAN, ACJ: (ORAL)**

1. Present public interest petition has been filed seeking issuance of directions to the respondents to consider the representation of the petitioner dated 18<sup>th</sup> March 2024 and to adjudicate the same in a time bound manner and accordingly take action with respect to the illegal posting of Shri Aunjaneya Kumar Singh, IAS (Respondent no.6) in Uttar Pradesh since



2015 on deputation and further extension on the ground that it is contrary to Rule 6 (2) (ii) of the All India Services Rules and Clauses 15 and 16 of the respective cadre rules under the Indian Administrative Service Cadre Rule, 1954.

2. In the petition, it has been averred that the petitioner is an eighth class pass who has interest in social activities. It is further stated that he had contested one election for the Vidhan Sabha in 1993 unsuccessfully.

3. It is settled law that public interest litigation is not maintainable in service matters and that only the non-appointees can assail the legality of the appointment or extension of the successful candidate/officer. The Supreme Court in *Girjesh Srivastava & Ors. vs. State of Madhya Pradesh & Ors., (2010) 10 SCC 707* has held as under:-

*“15. In Duryodhan Sahu (Dr.) v. Jitendra Kumar Mishra [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802] a three-Judge Bench of this Court held that a PIL is not maintainable in service matters. This Court, speaking through Srinivasan, J. explained the purpose of administrative tribunals created under Article 323-A in the backdrop of extraordinary jurisdiction of the High Courts under Articles 226 and 227. This Court held: (SCC p. 281, para 18)*

*“18. ... If public interest litigations at the instance of strangers are allowed to be entertained by the [Administrative] Tribunal, the very object of speedy disposal of service matters would get defeated.”*

*Same reasoning applies here as a public interest litigation has been filed when the entire dispute relates to selection and appointment.*

*16. In B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Assn. [(2006) 11 SCC 731 (2) : (2007) 1 SCC (L&S) 548 (2)] this Court held that **in service matters only the non-appointees can assail the legality of the appointment procedure** (see SCC p. 755, para 51 of the Report).*

*17. This view was very strongly expressed by this Court in Dattaraj Nathuji Thaware v. State of Maharashtra [(2005) 1 SCC 590] by pointing out that despite the decision in Duryodhan Sahu [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802], PILs in service matters “continue unabated”. This Court opined that the High Courts should “throw out” such petitions in view of the decision in Duryodhan Sahu [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802] (SCC p. 596,*



para 16).

18. *Same principles have been reiterated in Ashok Kumar Pandey v. State of W.B. [(2004) 3 SCC 349] (SCC at p. 358, para 16).*

19. *In a recent decision of this Court delivered on 30-8-2010, in Hari Bansh Lal v. Sahodar Prasad Mahto [(2010) 9 SCC 655] , it has been held that except in a case for a writ of “quo warranto”, PIL in a service matter is not maintainable (see SCC para 15).”*

(emphasis supplied)

4. Likewise in the case of ***Vishal Ashok Thorat & Ors. vs. Rajesh Shrirambapu Fate & Ors., (2020) 18 SCC 673***, the Supreme Court has held as under:-

*“40. Although, the learned counsel for the parties have made elaborate submissions on the validity of Rule 3(iii) proviso, Rule 3(iv) proviso and Rule 4 but in the facts of the present case, where the writ petitioner i.e. Respondent 1 was held by the High Court not competent to challenge Advertisements Nos. 2 and 48 of 2017, the High Court committed error in proceeding to examine the validity of the 2016 Rules. The challenge to the 2016 Rules in the background of the present case ought not to have been allowed to be raised at the instance of the writ petitioner. Respondent 1, who did not participate in the selection and the High Court had specifically rejected the entitlement of Respondent 1 to challenge Advertisements Nos. 2 and 48 of 2017, as held in para 49 of the judgment [Rajesh v. State of Maharashtra, 2018 SCC OnLine Bom 17538], permitting him to challenge the validity of the Rules in reference to the same advertisements is nothing but indirectly challenging something which could not be challenged directly by Respondent 1. The High Court in the facts of the present case, where Respondent 1 was not allowed to challenge the advertisements or the select list should not have been allowed to challenge the 2016 Rules insofar as the selection in question was concerned. The writ petition filed by Respondent 1 was not styled or framed as PIL. **It is well settled that with regard to service jurisprudence, PIL are not entertained.***

41. *In Ayaaubkhan Noorkhan Pathan v. State of Maharashtra [Ayaaubkhan Noorkhan Pathan v. State of Maharashtra, (2013) 4 SCC 465 : (2013) 2 SCC (Civ) 658 : (2013) 2 SCC (L&S) 296], this Court has reiterated that **PIL should not be entertained in service matter.** In para 15 the following has been laid down : (SCC p. 477)*

*“15. **Even as regards the filing of a public interest litigation, this Court has consistently held that such a course of action is not permissible so far as service matters are concerned.** (Vide Duryodhan Sahu v. Jitendra Kumar*



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*Mishra [Duryodhan Sahu v. Jitendra Kumar Mishra, (1998) 7 SCC 273: 1998 SCC (L&S) 1802], Dattaraj Nathuji Thaware v. State of Maharashtra [Dattaraj Nathuji Thaware v. State of Maharashtra, (2005) 1 SCC 590] and Neetu v. State of Punjab [Neetu v. State of Punjab, (2007) 10 SCC 614].)*

(emphasis supplied)

5. In view of the above, this Court is of the view that the present writ petition is not maintainable. Accordingly, the same is dismissed along with the applications.

**ACTING CHIEF JUSTICE**

**MANMEET PRITAM SINGH ARORA, J**

**APRIL 23, 2024**  
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