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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.HRISHIKESH ROY
&

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 25TH DAY OF JUNE 2019/4TH ASHADHA, 1941

WP(C).No.3594 of 2019

PETITIONER:

SHAHEER ALI @ SHAHEER CHINGATH,
AGED 38 YEARS
S/O. BEEKKUTY, CHINGATH HOUSE, TIROOKKAD P.O.,
MALAPPURAM, KERALA STATE, PIN-679 321

BY ADV. SRI.RAJESH R. NAIR

RESPONDENTS:

- 1 CHAIRMAN,
STATE BANK OF INDIA, CORPORATE OFFICE,
STATE BANK BHAVAN, MADAME CAMA ROAD,
NARIMAN POINT, MUMBAI, MAHARASHTRA STATE,
PIN-400 021
- 2 GEENRAL MANAGER,
STATE BANK OF INDIA,
LOCAL HEAD OFFICE (KERALA STATE)
SS KOVIL ROAD, THAMPANOR, THIRUVANANTHAPURAM,
KERALA STATE, PIN-695 001

BY ADVS.SRI.GEORGE THOMAS (MEVADA) (SR.)
SRI.AMAL GEORGE, SC, SBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25.06.2019, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J U D G M E N T

Hrishikesh Roy, C.J.

Heard Sri.Rajesh R. Nair, the learned counsel representing the petitioner. Also heard Sri.George Thomas Mevada, the learned senior counsel representing the *State Bank of India [SBI]* and their General Manager.

2. The petitioner claims to be the Co-Ordinator of the *National Council for Peoples Right To Information, Perinthalmanna*. Projecting himself to be a conscious citizen, he has filed this Public Interest Litigation [PIL] alleging security lapse in the conduct of banking operation by the *SBI*. The allegation is based on the news paper report dated 1.2.2019, which, according to the petitioner, indicated that there are serious lapses by the Bank and this has resulted in customer data leakage and disruption of online services. With this projection, the petitioner seeks investigation by an independent agency, and a further direction on the General Manager of the *SBI* to remit Rs.5 Crore to the Kerala State Legal Services Authority [KELSA].

3. The respondents have filed a counter affidavit stoutly denying the allegation that there was any leakage of the customers' data, maintained by the *SBI*. On the specific allegation relating to compromising the interest of the Bank's customers, the respondents assert that the customers details are fully secure in

the servers maintained by the *SBI*, and there are enough inbuilt safeguards in the conveyance of data, for the usual banking transactions. The allegations made in the PIL were therefore described as "*false*" and "*irresponsible*". On the minimal disruption of the ATM operations on 31.1.2019, the same is projected to be on account of the connectivity issue at the Hyderabad Centre and not because of any data compromise.

4. When the respondents projected as above and the petitioner had no explanation, the Court felt that the PIL mechanism is being misutilised by the litigant since he made no verification of the material, which was the basis for the litigation. Accordingly, time was granted to him to file his response.

5. The rejoinder affidavit filed by the petitioner on 30.5.2019 is perused. It is seen therefrom that the petitioner couldn't indicate any basis for the case projected in the PIL that, data of the customers was compromised by the failure of the *SBI* authorities. But most surprisingly even without any material support, the petitioner reiterates the irresponsible and incorrect assertion made in the PIL.

6. The above would suggest that this was a frivolous petition filed by a busybody. The petitioner claims himself to be a social worker and the Co-Ordinator of the *National Council for Peoples Right To Information*, but he does not indicate any past activity from which one can verify the credential of the litigant. In this connection, we must remind ourselves that, as early as in 2010,

the Supreme Court in *State of Uttaranchal v. Balwant Singh Chaufal and Others* reported in (2010) 3 SCC 402 issued the following guidelines:

“

181. We have carefully considered the facts of the present case. We have also examined the law declared by this Court and other courts in a number of judgments. In order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions:-

- (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 PIL.
- (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.

.....”

7. Concern about frivolous PIL was raised recently in *Tehseen Poonawalla v. Union of India and Another* reported in (2018) 6 SCC 72, where the Court underlined the following:-

“

98. The misuse of public interest litigation is a serious matter of concern for the judicial process. Both this court and the High Courts are flooded with litigation and are burdened by arrears. Frivolous or motivated petitions, ostensibly invoking the public interest detract from the time and attention which courts must devote to genuine causes. This court has a long list of pending cases where the personal liberty of citizens is involved. Those who await trial or the resolution of appeals against orders of conviction have a legitimate expectation of early justice. It is a travesty of justice for the resources of the legal system to be consumed by an avalanche of misdirected petitions purportedly filed in the public interest which, upon due scrutiny, are found to promote a personal, business or political agenda. This has spawned an industry of vested interests in litigation. There is a grave danger that if this state of affairs is allowed to continue, it would seriously denude the efficacy of the judicial system by detracting from the ability of the court to devote its time and resources to cases which legitimately require attention. Worse still, such petitions pose a grave danger to the credibility of the judicial process. This has the propensity of endangering the credibility of other institutions and undermining public faith in democracy and the rule of law. This will happen when the agency of the court is utilised to settle extra-judicial scores. Business rivalries have to be resolved in a competitive market for goods and services. Political rivalries have to be resolved in the great hall of democracy when the electorate votes its representatives in and out of office. Courts resolve disputes about legal rights and entitlements. Courts protect the rule of law. There is a danger that the judicial process will be reduced to a charade, if disputes beyond the ken of legal parameters occupy the judicial space.

.....”

8. Considering the frivolous nature of this PIL and the above ratio in *Balwant Singh's case* and *Tehseen Poonawalla's case [supra]*, we feel that, while dismissing the PIL, exemplary costs should be imposed so that such litigations, without proper verification of the assertion, are discouraged. Taking note however of the earnest plea raised by the petitioner's lawyer that sympathy be shown since his client belongs to the Below Poverty Line category, we restrain from imposing very heavy cost, and limit the cost amount to Rs.10,000/- [Rupees Ten thousand only]. This cost amount should be paid within 3 weeks to the KELSA. The Writ Petition is dismissed with cost.

**Sd/-
HRISHIKESH ROY
CHIEF JUSTICE**

**Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE BELOW POVERTY LINE CERTIFICATE DATED 23.10.2018 I/R/O THE PETITIONER ISSUED BY SECRETARY, ANGADIPURAM GRAMA PANCHAYATH AND ENGLISH TRANSLATION.
- EXHIBIT P2 TRUE COPY OF THE MADHYAM NEWS PAPER DATED 01.02.2019 AND ENGLISH TRANSLATION OF THE SUBJECT MATTER NEWS.
- EXHIBIT P3 TRUE COPY OF THE MALAYALA MANORAMA NEWS PAPER DATED 01.02.2019 AND ENGLISH TRANSLATION OF THE SUBJECT MATTER NEWS.
- EXHIBIT P4 TRUE COPY OF THE APPLICATION DATED 22.3.2019 LODGED WITH PIO OF SBI UNDER RTI ACT, 2005.
- EXHIBIT P5 TRUE COPY OF THE REPLY DATED 18.4.2019 BY PIO OF SBI UNDER RTI ACT, 2005.
- EXHIBIT P6 TRUE COPY OF THE FIRST APPEAL DATED 17.5.2019 LODGED WITH FIRST APPELLATE AUTHORITY OF SBI UNDER RTI ACT, 2005.

RESPONDENTS EXHIBITS:

- EXHIBIT R2 (A) TRUE COPY OF RBI (KYC) DIRECTIONS 2016 ISSUED BY THE RBI.
- EXHIBIT R2 (B) TRUE COPY OF THE KYC FORM REQUIRED TO BE FILED BY THE SHAREHOLDERS OF ROLTA INDIA LTD.
- EXHIBIT R2 (C) TRUE COPY OF THE APPLICATION FORM TO BE FILED BEFORE AVAILING THE SERVICES PROVIDED BY STOCK HOLDING CORPORATION OF INDIA.

EXHIBIT R2 (D)

TRUE COPY OF THE E-CIRCULAR PERTAINING
TO STANDARD OPERATING PROCEDURE FOR KYC
UPDATION DATED 8.2.2019 ISSUED BY THE
BANK BASED ON THE MASTER DIRECTION ON
KYC ISSUED BY RBI DATED 20/4/2018.

//TRUE COPY//

P.S. TO JUDGE