

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.25012 OF 2020(S)

PETITIONER:

M.V.ARUN  
AGED 33 YEARS  
S/O.M.V. VENUGOPAL MADATHOLLY (H), MANALLOOR  
PANCHAYATH, P.O. KANJANY - 680 612.

BY ADVS.  
SRI.C.A.ANOOP  
SMT.R.KRISHNA

RESPONDENTS:

- 1 THE DISTRICT COLLECTOR  
FIRST FLOOR, CIVIL STATION, CIVIL LANES ROAD,  
KALYAN NAGAR, AYYANTHOLE, THRISSUR - 680 003.
- 2 THE PANCHAYATH SECRETARY,  
MANALLOOR GRAMA PANCHAYATH OFFICE, KANJANY  
VADANAPPALLY ROAD, KARAMUKK, MANALUR,  
THRISSUR - 680 612.
- 3 THE EXECUTIVE ENGINEER,  
PWD DEPARTMENT, UDAYA NAGAR, CHEMBUKAVU,  
THRISSUR - 680 020.
- 4 ASSISTANT EXECUTIVE ENGINEER,  
LSGD SUB DIVISION, CHAVAKKAD BLOCK PANCHAYATH,  
MANATHALA, THRISSUR 680 506.

SENIOR GOVERNMENT PLEADER SRI.SURIN GEORGE IPE FOR  
R1

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
16.11.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

**S. MANIKUMAR, CJ**

This public interest writ petition is filed by the petitioner, who has claimed himself to be an active social worker and a resident of Manaloor Panchayat, Kanjani. Petitioner has stated that, there is a bridge situated across the Perumbuzha river in Thrissur – Kanjani road and it is the main route of transport used by private vehicles, private transport buses, etc., and around 140 buses were conducting their services through this route and now it is in a dilapidated condition.

2. According to the petitioner, the Executive Engineer, Bridges Department, Public Works Department, Ernakulam Division had visited the site and studied the condition of the bridge and accordingly, it was decided to close down the bridge and to start the renovation work. Petitioner has further stated that the bridge is the main route of transportation to Thrissur – Kanjani route and a large number of heavy vehicles are using the bridge for transportation and that, a large number of people are depending on private buses for their transportation.

3. Petitioner has also stated that, due to the regulations for the transport of vehicles through Perumbuzha bridge, the public at large is severely affected. Further, the private bus transportation is not allowed through the bridge and, therefore, people have to walk a long distance. According to the petitioner, most of the private bus owners have to stop their services through this route and due to the regulations for light vehicles, there

is heavy traffic block. The buses have to stop before the bridge and have to return, without continuing the service. Hence, it is causing a great loss to the private bus owners, and they usually, wait there, by parking in the way to the nearby fields. Therefore, the farmers are not able to take their machineries to their fields for cultivation. Petitioner has produced a report appeared in the Malayala Manorama Daily newspaper on 11.08.2020 (Exhibit-P1), regarding the dilapidated condition of the bridge.

4. On the above averments, petitioner has sought for a writ of mandamus directing the respondents to complete the reconstruction work of the Perumbuzha bridge, within a time bound period. Supporting the averments and prayers sought for, except paper reports, material on record disclose that, petitioner has not made any efforts to ascertain from the competent authorities, as to the stage of construction of the bridge, reasons for the delay, nor it is mentioned in the writ petition, the date of commencement of the work, reason, why it was delayed.

5. Added to that, it is also brought to the notice of this Court by Mr. Surin George Ipe, learned Senior Government Pleader, that materials on record do not satisfy Rule 146A of the Rules of High Court of Kerala, 1971, dealing with public interest writ petition.

6. Heard the learned counsel for parties and perused the material available on record.

7. Public Interest Litigation filed purely on the basis of paper report is

not maintainable. On that aspect, reference can be made to a few of the decisions.

“(i) In **S.P.Anand v. H.D.Deve Gowda** reported in (1996) 6 SCC 734, the Hon'ble Supreme Court, at Paragraph 18, held as follows:

"It is of utmost importance that those who invoke this Court's jurisdiction seeking a waiver of the locus standi rule must exercise restraint in moving the Court by not plunging in areas wherein they are not well-versed. Such a litigant must not succumb to spasmodic sentiments and behave like a knight-errant roaming at will in pursuit of issues providing publicity. He must remember that as a person seeking to espouse a public cause, he owes it to the public as well as to the court that he does not rush to court without undertaking a research, even if he is qualified or competent to raise the issue. Besides, it must be remembered that a good cause can be lost if petitions are filed on half-baked information without proper research or by persons who are not qualified and competent to raise such issues as the rejection of such a petition may affect third party rights. Lastly, it must also be borne in mind that no one has a right to the waiver of the locus standi rule and the court should permit it only when it is satisfied that the carriage of proceedings is in the competent hands of a person who is genuinely concerned in public interest and is not moved by other extraneous considerations. So also the court must be careful to ensure that the process of the Court is not sought to be abused by a person who desires to persist with his point of view, almost carrying it to the point of obstinacy, by filling a series of petitions refusing to accept the Court's earlier decisions as concluding the point. We say this because when we drew the attention of the petitioner to earlier decisions of this Court, he brushed them aside, without so much as showing willingness to deal with them and without giving them a second look, as having become stale and irrelevant by passage of time and challenged their

correctness on the specious plea that they needed reconsideration. Except for saying that they needed reconsideration he had no answer to the correctness of the decisions. Such a casual approach to considered decisions of this Court even by a person well-versed in law would not be countenanced. Instead, as pointed out earlier, he referred to decisions having no bearing on the question, like the decisions on cow slaughter cases, freedom of speech and expression, uniform civil code, etc., we need say no more except to point out that indiscriminate of this important lever of public interest litigation would blunt the lever itself."

(ii) In **Narmada Bachao Andolan v. Union of India and Others**, reported in (2000) 10 SCC 664, the Hon'ble Supreme Court observed as follows:-

"232. While protecting the rights of the people from being violated in any manner utmost care has to be taken that the Court does not transgress its jurisdiction. There is, in our constitutional framework a fairly clear demarcation of powers. The Court has come down heavily whenever the executive has sought to impinge upon the Court's jurisdiction.

233. At the same time, in exercise of its enormous power, the Court should not be called upon to or undertake governmental duties or functions. The Courts cannot run the Government nor can the administration indulge in abuse or non-use of power and get away with it. The essence of judicial review is a constitutional fundamental. The role of the higher judiciary under values of the Constitution and the rights of Indians. The Courts must therefore, act within their judicially permissible limitations to uphold the rule of law and harness their power in public interest. It is precisely for this reason that it has been consistently held by this Court that in matters of policy the Court will not interfere. When there is a valid law requiring the Government to act in a particular manner the Court ought not to, without striking down the law, give any direction which is not in accordance with law.

In other words, the Court itself is not above the law.

(iii) In **Balco Employees' Union (Regd.) v. Union of India** reported in (2002) 2 SCC 333, the Hon'ble Supreme Court, held that,

"Public interest litigation, or PIL as it is more commonly known, entered the Indian judicial process in 1970. It will not be incorrect to say that it is primarily the judges who have innovated this type of litigation as there was a dire need for it. At that stage, it was intended to vindicate public interest where fundamental and other rights of the people who were poor, ignorant or in socially or economically disadvantageous position and were unable to seek legal redress were required to be espoused. PIL was not meant to be adversarial in nature and was to be a cooperative and collaborative effort of the parties and the court so as to secure justice for the poor and the weaker sections of the community who were not in a position to protect their own interests. Public interest litigation was intended to mean nothing more than what words themselves said viz. "litigation in the interest of the public...."

97. Judicial interference by way of PIL is available if there is injury to public because of dereliction of constitutional or statutory obligations on the part of the Government. Here it is not so and in the sphere of economic policy or reform the court is not the appropriate forum. Every matter of public interest or curiosity cannot be the subject matter of PIL. Courts are not intended to and nor should they conduct the administration of the country. Courts will interfere only if there is a clear violation of constitutional or statutory provisions or non-compliance by the State with its constitutional or statutory duties. None of these contingencies arise in this present case."

(v) In **Ashok Kumar Pandey v. State of W.B.**, reported in (2004) 3 SCC 349, the Hon'ble Apex Court, after considering few decisions, on the aspect of public interest litigation, observed as follows:

"4. When there is material to show that a petition styled as a

public interest litigation is nothing but a camouflage to foster personal disputes, said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. Public Interest Litigation which has now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "private interest litigation" or "politics interest litigation" or the latest trend "paise income litigation". If not properly regulated and abuse averted it becomes also a tool in unscrupulous hands to release vendetta and wreck vengeance, as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of knight errant or poke ones into for a probe. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. These aspects were highlighted by this Court in **The Janta Dal v. H.S.Chowdhary** [(1992) 4 SCC 305] and **Kazi Lhendup Dorji v. Central Bureau of Investigation** (1994 Supp (2) SCC 116). A writ petitioner who comes to the Court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective. See **Ramjas Foundation v. Union of India** (AIR 1993 SC 852) and **K.R.Srinivas v. R.M.Premchand** [(1994) 6 SCC 620].

5. It is necessary to take note of the meaning of expression 'public interest litigation'. In Strouds Judicial Dictionary, Volume 4 (IV Edition), 'Public Interest' is defined thus:

"Public Interest (1) a matter of public or general interest

does not mean that which is interesting as gratifying curiosity or a love of information or amusement but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected."

6. In Black's Law Dictionary (Sixth Edition), "public interest" is defined as follows :

"Public Interest something in which the public, or some interest by which their legal rights or liabilities are affected. It does not mean anything the particular localities, which may be affected by the matters in question. Interest shared by national government...."

7. In ***Janata Dal*** case (supra) this Court considered the scope of public interest litigation. In para 52 of the said judgment, after considering what is public interest, has laid down as follows :

"The expression 'litigation' means a legal action including all proceedings therein initiated in a Court of law for the enforcement of right or seeking a remedy. Therefore, lexically the expression "PIL" means the legal action initiated in a Court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected."

8. In paras 60, 61 and 62 of the said judgment, it was pointed out as follows:

"Be that as it may, it is needless to emphasis that the requirement of locus standi of a party to a litigation is mandatory, because the legal capacity of the party to any litigation whether in private or public action in relation to any specific remedy sought for has to be primarily ascertained at the threshold."

9. In para 96 of the said judgment, it has further been pointed out as follows:



"While this Court has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly developed doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that Courts should not allow its process to be abused by a mere busy body or a meddlesome interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration."

10. In subsequent paras of the said judgment, it was observed as follows:

"109. It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have as locus standi and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly a vexatious petition under the colour of PIL, brought before the Court for vindicating any personal grievance, deserves rejection at the threshold".

11. It is depressing to note that on account of such trumpety proceedings initiated before the Courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievance go unnoticed, un-represented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death facing gallows under untold agony and persons

sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters - government or private, persons awaiting the disposal of cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenu expecting their release from the detention orders etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, the busy bodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffing their faces by wearing the mask of public interest litigation and get into the Courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the Courts and as a result of which the queue standing outside the doors of the court never moves, which piquant situation creates frustration in the minds of the genuine litigants and resultantly they loose faith in the administration of our judicial system.

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 consideration. The Court must not allow its process to be abused for oblique considerations. Some persons with

vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. 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.

13. The Council for Public Interest Law set up by the Ford Foundation in USA defined the "public interest litigation" in its report of Public Interest Law, USA, 1976 as follows:

"Public Interest Law is the name that has recently been given to efforts provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in the recognition that ordinary market place for legal services fails to provide such services to significant segments of the population and to significant interests. Such groups and interests include the proper environmentalists, consumers, racial and ethnic minorities and others."

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 motives, 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. The Court has to act ruthlessly while dealing with imposters and busy bodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of Pro Bono Publico, though they have no interest of the

public or even of their own to protect.

15. Courts must do justice by promotion of good faith, and prevent law from crafty invasions. Courts must maintain the social balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good. (See **State of Maharashtra v. Prabhu** [(1994) 2 SCC 481] and **Andra Pradesh State Financial Corporation v. M/s.GAR Re-Rolling Mills and Another** [AIR 1994 SC 2151]. No litigant has a right to unlimited drought on the Court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as a licence to file misconceived and frivolous petitions. [See **Buddhi Kota Subbarao (Dr.) v. K.Parasaran**, [(1996) 7 JT 265]. Today people rush to Courts to file cases in profusion under this attractive name of public interest. They must inspire confidence in Courts and among the public.

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. Whenever such frivolous pleas 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."

8. Rule 146A of the rules framed by the High Court of Kerala dealing with Public Interest Litigation, is extracted hereunder:

"**146A.** Affidavits in Public Interest Litigation,-A person filing a Public Interest Litigation, in addition to the requirements stipulated in the other rules of this chapter, shall precisely and specifically affirm in the affidavit to be sworn to by him the public cause he is seeking to espouse, that he has no personal or private interest in the matter, that there is no authoritative pronouncement by the Supreme Court or the High Court on the question raised and that the result of the litigation shall not lead to any undue gain to himself or to anyone associated with him."

9. Giving due consideration to the decisions of the Hon'ble Supreme Court, on Public Interest Litigations, merely on news paper reports, no writ petition can be entertained and further, due to the imperatives contained under Rule 146A of the Rules of High Court of Kerala, we are also of the view

that the instant writ petition filed as Public Interest Litigation, does not satisfy the requirement.

In the light of the above decisions and discussion, writ petition is dismissed.

**sd/-**

**S. MANIKUMAR  
CHIEF JUSTICE**

**sd/-**

**SHAJI P. CHALY  
JUDGE**

smv

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXHIBIT P1**

**THE TRUE COPIES OF THE MALAYALA MANORAMA  
DAILY NEWSPAPERS.**