

GAHC010093982021



**THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : PIL/36/2021**

BABITA SHARMA GOYAL  
W/O LATE R.S. GOYAL, R/O VIP ROAD, OLD PATHOR QUARRY LANE,  
GUWAHATI 781171, P.S. NOONMATI, DIST. KAMRUP (M), ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS.  
REPRESENTED BY THE CHIEF SECY. TO THE GOVT. OF ASSAM, DISPUR,  
GUWAHATI 781006, DIST. KAMRUP (M), ASSAM.

2:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM

HEALTH AND FAMILY WELFARE DEPTT.  
DISPUR  
GUWAHATI 781006  
DIST. KAMRUP (M)  
ASSAM.

3:THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM

REVENUE AND DISASTER MANAGEMENT DEPTT.  
DISPUR  
GUWAHATI 781006  
DIST. KAMRUP (M)  
ASSAM.

4:ASSAM STATE DISASTER MANAGEMENT AUTHORITY  
ANCILLARY BLOCK  
JANATA BHAWAN  
DISPUR  
GUWAHATI 781006  
DIST. KAMRUP (M)

ASSAM.

5:UNION OF INDIA

MINISTRY OF HOME AFFAIRS  
NORTH BLOCK  
NEW DELHI 11000

**Advocate for the Petitioner** : PETITIONER IN PERSON

**Advocate for the Respondent** : GA, ASSAM

**- B E F O R E -**

**HON'BLE THE CHIEF JUSTICE MR. SUDHANSHU DHULIA**

**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK**

**23-06-2021**

**(Sudhanshu Dhulia, CJ)**

The matter is taken up through video conferencing.

Heard Mrs. B.S. Goyal, the petitioner in person and Mr. D. Saikia, learned Advocate General, Assam, appearing for the respondent Nos.1 to 4 and Mr. R.K.D. Choudhury, learned Assistant Solicitor General of India, appearing for the respondent No.5.

This Public Interest Litigation has been filed by the petitioner, who is a practicing lawyer before this Court. Her argument is that in the present COVID-19 pandemic, the frontline workers, particularly, the doctors and the paramedics are not being provided with a proper Personal Protective Equipment (PPE) kits. According to the petitioner, the PPE Kit which is presently being provided to doctors and paramedics is non-porous and it does not allow air to pass in and out and it causes much discomfort to the doctors while examining the patients. In order to ease out this difficulty, the petitioner has filed the present petition

stating that now another PPE Kit is available in the market which has got "Air Purifying Respiratory Devices". The petitioner has also done some research on this aspect and in Paragraph 6 of her petition, she has named five companies who either manufacture or deal with such equipments and the prices range from Rs.10,800/- to Rs.1,19,400/- per piece of these PPE kits. The petitioner then makes a very strange request in the same paragraph of the petition (Paragraph 6) where she has offered a cheque of Rs.1,18,000/- to the Government to purchase at least ten such PPE kits on experimental basis. Her prayers in the petition are as follows:-

*"In the premises aforesaid, it is humble prayed that this Hon'ble Court may be graciously pleased to call for the records, issue Notice calling upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other appropriate Writ, Order or Direction be not issued directing the Respondents to provide PPE kits/suits powered by air purifying respiratory devices to the Corona Warriors so as to ensure minimum human working conditions to the doctors, health workers and any other paramedical staffs associated with Covid related duties and on cause or causes shown and after hearing the parties make the Rule absolute and/or pass such further or other Order or Orders as to this Hon'ble Court may deem fit and proper.*

*-and-*

*In the interim be further pleased to pass such appropriate Order, Directions that this Hon'ble Court may deem proper in the facts and circumstances of the case."*

During this COVID-19 pandemic, this Court has been dealing with a number of PILs, which have focused on various aspects of the present pandemic, such as, the condition of sex workers where they are not getting even their daily ration, conditions of the marginalized workers, even the plight of doctors, who at least in one case was manhandled.

This Court has taken cognizance in all such PILs and at different stages directions have been given in these PILs.

A genuine and bonafide PIL must be encouraged by all Courts but at the same time, a frivolous PIL which is being filed for extraneous reasons must be discouraged. This has been the law as laid down by the Hon'ble Apex Court in its seminal judgment, i.e. ***State of Uttaranchal -Vs- Balwant Singh Chauhal & Ors.*** reported in ***(2010) 3 SCC 402***, wherein it gave certain guidelines, which are as follows:-

*“(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 Courts should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.*

*(5) The Courts should be fully satisfied that substantial public interest is involved before entertaining the petition.*

*(6) The Courts 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 Courts 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."*

Before us, neither a doctor nor a paramedic has come up with a grievance that the present PPE kits are need to be changed. The petitioner is not a doctor or paramedic. Moreover, her claim does not rest on any verifiable data. The prayer for a direction from this Court for purchase of a particular kind of PPE kit is a matter which cannot be considered by a Court in a PIL. As if this was not enough, the petitioner has also offered a cheque of Rs.1,18,000/- to the Government through this Court, for the purchase of these "special" PPE kits. This is an absolutely strange prayer. She is indirectly asking the Court to order the State for purchasing PPE kits of a particular company, i.e. BHT Technologies LLP. This is evident from her averments in paragraph 6 of the petition which is being reproduced here under:

*"6. That from the researches made such PPE kits is marketed by few Companies/firms in India and from the information available in the website the price range of PPE kits/suits powered with the air purifying respiratory devices ranges from about Rs.10,800/- to Rs.1,19,400/- (approximate prices including/excluding Taxes) and so on. The minimum price range of a full protective suit that the petitioner could find was Rs.22,700/- fitted with the Air Purifying Respiratory device. The normal disposal PPE Kit with 90 gsm and laminated finish customized to fix the air purifying respiratory device would cost around Rs.400/- to Rs.500/- giving a full body coverage and perhaps in case of bulk purchase the price is likely to be much lower. The prices of some of the dealers of PPE Kits powered with the air purifying respiratory device as found in the website are as bellow:-*

- i) BHT Technologies LLP .....Rs.10,800/-*
- ii) Cole Parmer .....Rs.22,700/-*
- iii) Upper Ultraflo.....Rs.26,776/-*
- iv) Salvo ..... Rs.67,200/-*
- v) Ubuy .....Rs.1,19,412/-*

*As the petitioner was interested to make her own small contribution and had made an effort to procure online few such PPE Kits/suits powered with air purifying respiratory device so that it could be donated to the Health Department of the Government of Assam. To make an endeavour, the petitioner found that for a full*

*protective Suit powered with the Air Purifying Respiratory device, the lowest price was that of BHT Technologies LLP, hence the petitioner sent a query for purchase of 5 nos. of the PPE Kits/Suits in response to the said query, BHT Technologies LLP sent a proforma invoice quoting the rate @ Rs.10,800 for each PPE Kits/suit but for a quantity of 2000 pcs. Since the petitioner cannot afford to purchase in such bulk and besides such goods are not available to individual buyers not related to Medical Services, the petitioner has approached this Hon'ble Court with his PIL praying for intervention and appropriate relief. As a very humble contribution the petitioner begs to offer a cheque of Rs.1,18,000/- to cover the cost of 10 pcs. of the PPE Kits/suits inclusive of the GST.*

*The petitioner begs to state that the corona warriors who are battling the war against the virus as soldiers in the frontline while many of us are able to keep ourselves safe staying at home, the least we can think and do for our corona warriors is to ask the Government and the concerned authorities to provide such PPE kits/suits powered with air purifying respiratory devices so as to provide our Corona Warriors some relief so as to be able to breathe while they are battling the war to save people."*

*(emphasis provided)*

We are afraid that this PIL must be dismissed in limine. In order to discourage filing of such PIL, we also impose a cost of Rs.50,000/- (Rupees Fifty Thousand) on the petitioner, which shall be deposited in the Registry within a period of one week, and be then transferred to the account of Advocate/Lawyers Fund.

**JUDGE**

**CHIEF JUSTICE**

**Comparing Assistant**