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

Date of decision: 19th December, 2022

IN THE MATTER OF:

\+ **W.P.(C) 16857/2022 & CM APPL. 53402/2022**

GORANG GUPTA ..... Petitioner

Through: In person

versus

GOVT OF NCT OF DELHI & ORS. ..... Respondents

Through: Mr. Sanjana Nangia, Advocate for Mr. Sameer Vashisht, ASC for GNCTD
Mr. Sanjay Vashishtha, Standing Counsel for MCD with Mr. Rahul Kumar, Mr. Yogesh Devnani, Advocates
Ms. Sakshi Popli, Additional Standing Counsel for NDMC
Mr. Tarveen Singh Nanda, Standing Counsel for Respondent No.3

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner before this Court, who is appearing in person, has filed the present writ petition under Article 226 of the Constitution of India as a Public Interest Litigation ("**PIL**") seeking a prohibition of affixing photographs of gods/goddesses on walls to prevent public urination, spitting on and littering around such sacred images. The Petitioner, who is a

practising advocate, states that he is a public-spirited person and has filed several PILs in the interest of the general public.

2. It is stated by the Petitioner that he has made representations to the Municipal Corporation of Delhi ("**MCD**"), New Delhi Municipal Council ("**NDMC**"), the Delhi Cantonment Board ("**DCB**") and the Government of NCT of Delhi ("**GNCTD**") apprising the authorities of the issue pertaining to affixation of photographs of religious deities on walls to prevent public urination, spitting and littering. The use of such photographs in various places leads to hurting religious sentiments of the public at large and therefore the Petitioner requested the various authorities to prohibit the affixation of such images on walls.

3. The Petitioner contends that such use of sacred images of religious deities on walls is in violation of Article 25 of the Constitution of India. The Petitioner further states that this Court has acknowledged the menace created by public urination in its order dated 26.03.2014 passed in Manoj Sharma v. Govt. of NCT of Delhi and Anr., **W.P.(C.) 1969/2014**. The order dated 26.03.2014 passed by this Court reads as under:

> *"1. The writ petition raises an issue which this Court, if at all it can solve could do so in a clumsy way. The petitioner has filed photographs showing that residents of buildings and especially Group Housing Complex, fed up with the Indian habit of relieving the pressure on the bladder by unzipping and peeing on the first wall seen by the person is sought to be curtailed, if not at all prohibited, by affixing photographs deities on the walls. The hope would be that man, the greatest creation of the infinite artist, would not dare his privies in front of his lord and would not urinate on the road.*

> *2. In spite thereof, the photographs evidence that the pressure on the bladder is blatantly relieved by virtually peeing on the photographs of once God.*
>
> *3. Not only that the photographs at page 26 would reveal that to shame the offender the owners of the complex have written graffiti that ?Look here a dog and a donkey is peeing?. In spite thereof, a man is seen peeing on the wall.*
>
> *4. Now, nobody can prevent a person from affixing photographs of deities on the walls of his house or on the walls of a Group Housing Complex. The direction sought to be issued against the residents that photographs of Gods be directed to be removed cannot be issued by us. The menace of urinating in public has to be solved elsewhere.*
>
> *5. Surely this Court cannot makes a man walks out of his house his zip should be locked.*
>
> *6. The writ petition stands disposed of."*

4. The Court in the aforesaid order has in clear terms stated that the solution to the menace of public urination lies elsewhere and not before the Court. This Court, exercising its extraordinary jurisdiction under Article 226 of the Constitution cannot pass the directions which are being sought for in the present PIL. It is unfortunate that the Petitioner, who is a practising lawyer, has approached this Court and filed a PIL, being aware of the aforesaid order wherein a similar plea was raised. The present PIL is nothing but a sheer abuse of the doctrine of Public Interest Litigation developed by the judiciary as a tool to espouse the cause of the oppressed and marginalised sections of the society.

5. The doctrine of PIL has been developed by the judiciary by liberalising the traditional rules of *locus standi* to enable those sections of the public, which have been oppressed and marginalised, to effectively realise and enforce their rights enshrined under the Constitution of India. Persons belonging to the downtrodden section of our society, who have found it difficult to access justice through judicial forums and seek redressal of their issues, have benefitted from the doctrine of Public Interest Litigation. The decisions in Hussainara Khatoon vs. State of Bihar**, (1980) 1 SCC 81**,Bandhua Mukti Morcha v Union of India, **(1984) 3 SCC 161,** and Vishaka v. State of Rajasthan, **AIR 1997 SC 3011,** highlight how the doctrine has been an effective tool in realising and propagating the idea of social justice as envisaged within our Constitution.

6. It is now being noticed that there has been an increase in the abuse of the doctrine of Public Interest Litigation and multiple frivolous PILs are being filed by citizens in order to gain publicity, fame and popularity. JusticeV. Khalid, in his concurring opinion in Sachidanand Pandey v. State of W.B., **(1987) 2 SCC 295,** had called for restraint on part of public interest litigants when they move the Court, as filing of such frivolous PILs would pose a threat to Courts and the Public alike. The relevant excerpts from his opinion read as follows:

> ***"59.*** *My purpose in adding these few lines of my own is to highlight the* ***need for restraint on the part of the public interest litigants when they move courts. Public interest litigation has now come to stay. But one is led to think that it poses a threat to courts and public alike. Such cases are now filed without any rhyme or reason.*** *It is, therefore, necessary to lay down clear guidelines and to outline the correct parameters for entertainment of such petitions.* ***If***

> ***courts do not restrict the free flow of such cases in the name of public interest litigations, the traditional litigation will suffer and the courts of law, instead of dispensing justice, will have to take upon themselves administrative and executive functions****."*
>
> (emphasis supplied)

7. The Hon'ble Supreme Court in Janata Dal v. H.S. Chowdhary, **(1992) 4 SCC 305**, took note of the development of the doctrine of PIL and cautioned against the entertainment of frivolous PILs by the Courts. The relevant extracts of the decision are reproduced as under:

> ***"110.*** *It is depressing to note that on account of such trumpery 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 are second to none in fostering and developing the newly invented 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 grievances go unnoticed, unrepresented and unheared; 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 the undue delay in service matters, Government or private persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorised collection of tax amounts are locked up, detenus 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 busybodies, meddlesome interlopers,*

> *wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either for themselves or as proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffling 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 a frustration in the minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system.*
>
> ***111.*** *In the words of Bhagwati, J. (as he then was) "the courts must be careful in entertaining public interest litigations" or in the words of Sarkaria, J. "the applications of the busybodies should be rejected at the threshold itself" and as Krishna Iyer, J. has pointed out, "the doors of the courts should not be ajar for such vexatious litigants".*
>
> ***112.*** *Further, we would like to make it clear that it should not be misunderstood that by the expression of our above view, there is any question of retreating or recoiling from the earlier views expressed by this Court about the philosophy of public interest litigation in many outstanding judgments which we have already referred to; on the other hand we look back to the vantage point from which we started our journey and proceed on our onward journey in the field of PIL."*

8. The Apex Court in Dattaraj Nathuji Thaware v. State of Maharashtra, **(2005) 1 SCC 590**, reiterated the issue of Courts being flooded with frivolous PILs. The Court in the aforesaid decision has held as under:

> ***"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 : 1994 SCC (L&S) 676 : (1994) 27 ATC 116] and A.P. State Financial Corpn. v. GAR Re-Rolling Mills [(1994) 2 SCC 647 : AIR 1994 SC 2151] .)* ***No litigant has a right to unlimited draught 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) 5 SCC 530 : 1996 SCC (Cri) 1038 : JT (1996) 7 SC 235] .]* ***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 a 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 a 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 utilised for disposal of genuine cases. *Though in Duryodhan Sahu (Dr.) v. Jitendra Kumar Mishra [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802 : 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 aforestated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts****.''*
>
> (emphasis supplied)

9. In Tehseen Poonawalla v. Union of India**, (2018) 6 SCC 72**, the Hon'ble Supreme Court has discussed the misuse of public interest litigation and stated 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 litigations 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."* (emphasis supplied)

10. The aforesaid decisions highlight the growing concern regarding frivolous PILs being filed for the sake of publicity and such PILs are nothing but a sheer abuse of the extraordinary jurisdiction of the High Court exercisable under Article 226 of the Constitution. Frivolous PILs encroach upon valuable judicial time which could be utilised in addressing genuine issues. Not only are such PILs to the detriment of the public at large, they are also a threat to the credibility of the judicial system and undermine the faith reposed in the judiciary by the citizens of India. Courts, while being considerate in fostering the doctrine of PIL, must be wary of PILs being filed for the sake of publicity or to promote personal, political or a business agenda and such frivolous PILs must be extinguished at the threshold itself.

11. In the opinion of this Court, the present case is nothing but a sheer abuse of the process of law and is a fit case to be crushed at the threshold itself. The present case is not a fit case for this Court to exercise its extraordinary jurisdiction under Article 226 and the prayers sought for by the Petitioner cannot be granted by this Court. It is certainly not the duty of a Constitutional Court to regulate and monitor the movement of each citizen to see whether one indulges in public urination, spitting and littering. The concern raised by the petitioner would be better addressed by civic bodies and not by this Court. Notably, the issue highlighted in the present PIL has already been addressed by a Division Bench of this Court in Manoj Sharma (supra) *vide* order dated 26.03.2014. The Petitioner being aware of the aforesaid order chose to file a fresh PIL, espousing it as a fresh cause, and it is certainly a frivolous PIL which has resulted in wasting valuable judicial time.

12. The present case is a fit case to be dismissed with exemplary costs, however, being cognizant of the fact the Petitioner-in-person is a young practising advocate, we refrain from imposing any costs upon the Petitioner. This Court advises and hopes that the Petitioner will exercise necessary diligence and restraint before filing such frivolous PILs in the future.

13. With these observations, the petition is dismissed, along with pending application(s), if any.

SATISH CHANDRA SHARMA, C.J.

SUBRAMONIUM PRASAD, J

DECEMBER 19, 2022
Rahul