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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUSHRUT ARVIND DHARMADHIKARI
&
HON'BLE SHRI JUSTICE HIRDESH
ON THE 26th OF JUNE, 2023
WRIT PETITION No. 13853 of 2023**

BETWEEN:-

BHATTULAL JAIN

....PETITIONER

**(SHRI ABHISHEK TUGNAWAT, LEARNED COUNSEL FOR THE
PETITIONER)**

AND

1. **THE STATE OF MADHYA PRADESH CHIEF
SECRETARY VALLABH BHAWAN BHOPAL
(MADHYA PRADESH)**
2. **THE PRINCIPAL SECRETARY FINANCE
DEPARTMENT VALLABH BHAWAN, BHOPAL
(MADHYA PRADESH)**
3. **THE PRINCIPAL SECRETARY GENERAL
ADMINISTRATION DEPARTMENT VALLABH
BHAWAN, BHOPAL (MADHYA PRADESH)**
4. **THE PRINCIPAL SECRETARY DEPARTMENT OF
LAW AND LEGISLATIVE AFFAIRS VALLABH
BHAWAN, BHOPAL (MADHYA PRADESH)**

....RESPONDENTS

**(SHRI ANAND SONI, LEARNED ADDNL. ADVOCATE GENERAL FOR THE
RESPONDENTS/STATE)**

This petition coming on for admission this day, JUSTICE SUSHRUT

ARVIND DHARMADHIKARI passed the following:

ORDER

Heard on the question of admission.

Instant petition has been filed by the petitioner under Article 226 of the Constitution of India in the shape of Public Interest Litigation praying for the following reliefs:

" (a) Allow the present petition and a direction be issued to the Chief Minister of the State to not to make announcement/promises.

(b) A direction be issued to the competent authority of the State to have a balance of the income and expenditure of the State Governemtn so the loan of the State Government will be reduced.

(c) A Committee be constituted consisting of the Retd. High Court or Supreme Court Judge who will monitor the loan and its repayment system so the loan will not be unbearable in future and State will lead to bankruptcy.

(d) Any other remedy as the Hon'ble Court deems fit in the facts and circumstances of the present matter. "

2. Brief facts of the case are that the petitioner is a Tax Practitioner by profession and also a Social worker, member of Lion's Club, engaged in various activities of public welfare. Being a vigilant citizen, it is the duty of the petitioner to draw the kind attention of this Court to the present situation of the State exchequer which is such that about 82% of the income in the budget of the State is spent on paying salary, pension and interest. The State Government is in debt of more than the annual budget of the State Government as the

situation is so worst that Government is taking loan every month to pay the interest by mortgaging the properties which are the heritage of the State. In such situation, only 18% of the amount is saved for the basic facilities of the general public and development work and the rest of the amount is spent on unnecessary announcements/promises for political gains instead of spending it on providing basic facilities to the general public. Due to arbitrary announcements/promises by the Chief Minister, there is always a lack of funds for essential facilities in the State.

3. Learned counsel for the petitioner submitted that India is a democratic country and all the arrangements are being done as per the provisions enshrined under the Constitution of India. Every elected body has to follow the provisions of the Constitution and they have to fix a plan for the complete financial year and in the same manner for the expenditure they have to make budget to avoid any loss or burden upon the body and for smooth running of the system. Under the process of governance, different departments have been created to meet the needs of general public which give approval for that work after going through the procedure prescribed. However, at present, wherever in the State, the Chief Minister of the State is going, on the demand of general public or regional representatives, without completing the procedure prescribed, big announcements/promises were made. A copy of newspaper cutting showing announcements/promises made by the Chief Minister of the State is annexed with the petition. The petitioner had given an application under the Right to Information Act to the Chief Secretary, Law and Legislative Affairs Department for getting the information about the provisions under which Chief Minister of the State has right to make announcements/promises. Due to non-disclosure of information, an appeal was also presented by the

petitioner to the concerned Public Information Officer, but still reply is awaited. It is submitted that such announcements/promises are only made for political gain causing prejudice to the tax payers of the State because tax payers pay their hard earned money to the Government. Instead of utilizing the income earned from tax for the development purposes, the same is being utilized for other such activities. Learned counsel for the petitioner further referring to news published in the issue of Nai Duniya Newspaper submitted that financial condition of the State of M.P. is very shabby since for the second time in this financial year, the government is taking a new loan of 4 thousand crores. If the situation remains the same, the State Government can be declared bankrupt at any time. Hence, the present petition may be allowed to curb the situation prevailing in the State.

4. Per contra, learned Addnl. Advocate General appearing for the respondents/State contended that the present petition has been filed only on the basis of newspaper cuttings by various local newspaper accompanied with certain unsubstantiated and irrelevant mails sent by the petitioner to the State Government alleging irregularities in the working of State Government.

5. Learned counsel further submitted that it is trite law that no public interest litigation can be based merely on newspaper cuttings much less a single cutting of a local evening paper who has published a news without verifying the facts from the answering respondents. Even, the credentials of the petitioner is required to be gone into as law is settled on the point that prior to entertaining the public interest litigation, the Courts are required to examine the credentials of the petitioner, correctness of the contents and what special public interest is involved in the matter. In the present case, the petitioner has not pointed out any

of the public work which have been carried out by him to demonstrate the fact that petitioner is a public spirited person. No document has been filed to demonstrate that he is a public spirited person. On the contrary, only on the basis of newspaper reports, he has gathered information and filed the instant public interest litigation. On the aforesaid grounds, learned counsel for the respondents prayed for dismissal of the writ petition with heavy cost on the petitioner for filing such frivolous petition.

6. Heard, learned counsel for both the parties and perused the record.

7. From perusal of the record, it is seen that the present petition has been filed in the nature of *pro bono publico* and under the head of antecedents of the petitioner. He has stated that he is a public spirited person, socio-political worker, sports enthusiast etc., but no document whatsoever has been filed to show the *bonafide* of the petitioner. On the contrary, on the basis of newspaper cuttings and copies of communication done under the Right to Information Act with the Government departments, petitioner has come before this Court in the instant Public Interest Litigation.

8. It is a settled law that prior to entertaining PILs', the credentials of the petitioner is required to be looked into. The Courts are required to examine that (i) who is the petitioner? (ii) what does he do? (iii) how the petition filed relates for purpose of benefit of the society?

9. The Apex Court in the case of **State of Uttaranchal Vs. Balwant Singh Chaufal & Others reported in 2010(3) SCC 402** has held as under:

" It is held that before entertaining a PIL, the Courts must prima-facie satisfy itself of the credentials of the petitioner, the correctness of the contents thereof and the special public interest

involved in it".

10. The Apex Court in the case of **Laxmi Raj Shetty Vs. State of Tamilnadu** reported in **AIR 1988 SC 1274** has held that:

"The Courts cannot take judicial notice of the facts stated in the news item published in a newspaper. A newspaper is not one of the documents referred to in Section 78 (2) of the Evidence Act and thus by a news items an allegation of fact cannot be proved. The presumption of genuineness attached u/S 81 of Act attached to a newspaper report cannot be treated as proved of the facts reported therein. The statement of fact contained in newspaper is merely hearsay and therefore inadmissible in evidence unless proved by evidence aliunde by the maker of the statement appearing in Court and deposing to have perceived the fact reported. It is well known that reporters collect information and pass it on to the editor who edits the news items and then publishes it. In this process the truth might get perverted or garbled. Such news items cannot be said to proved themselves although they being taken into account with other evidence, if the other evidence is enforceable."

11. The co-ordinate Bench of this Court in the case of **Vikas Yadav Vs. State of M.P.** passed in **W.P. No. 7166/2014** decided on 14.02.2016 as well as in the case of **Dr. Tapan Bhattacharya Vs. Union of India** passed in **W.P. No. 1936/2017(PIL)** decided on 15.02.2018 have held that no PIL can be filed on the basis of newspaper reports and also looking to the antecedents of the petitioner, the writ petitions were not entertained.

12. In view of the above and also looking to the fact that it is settled proposition of law that PIL on the basis of newspaper reporting is not maintainable, this Court finds no reason to entertain the petition and the same deserves to be and is hereby dismissed. However, petitioner is at liberty to approach this Court again by placing on record cogent documents which substantiates the grievance raised by the petition in the instant petition and not solely on the basis of newspaper cuttings.

C.C. as per rules.

(S. A. DHARMADHIKARI)
JUDGE

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(HIRDESH)
JUDGE

