

Court No. - 2

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Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 72 of 2022

Petitioner :- Ravi Kumar Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Animal Husbandry Civil Secrett. Lucknow And 5 Others

Counsel for Petitioner :- Ajay Pratap Singh

Counsel for Respondent :- C.S.C.

Hon'ble Devendra Kumar Upadhyaya,J.

Hon'ble Mohd. Faiz Alam Khan,J.

Heard Shri Ajay Pratap Singh, learned counsel for the petitioner and learned State Counsel.

This petition ostensibly filed in public interest contains the following prayers:

"i. Issue a writ order or direction in the nature of mandamus commanding and directing the opposite party no.1 to take immediate and appropriate steps to shave the lives of the cattle/cows/calves collected by opposite party no.5 in the private open land of opposite party no.6.

ii. Issue a writ order or direction in the nature of mandamus commanding the opposite party no.3 to take immediate and appropriate action against the opposite party no.5 in accordance with the model code of conduct in pursuance of the enquiry report dated 24.01.2022 submitted by opposite party no.4.

iii. Issue a writ order or direction in the nature of mandamus commanding the opposite parties to conduct the proper and detailed enquiry against the illegal, arbitrary and immoral act of the opposite party no.6 and fix the liability accordingly."

It has been argued by the learned counsel for the petitioner that the respondent no.5 is a candidate for election to Uttar Pradesh Legislative Assembly from Harchandpur constituency in District-Raebareli. Once his candidature was declared from a political party, he collected thousands of stray cattles/animals in a private land belonging to one firm, M/s Pennar Industries

Limited situate in village- Nihastha, Tehsil-Lalganj, District-Raebareli though at the said land no arrangement for fodder, drinking water and shade has been made for the cattles. It has further been asserted by the petitioner that the respondent no.5 made an announcement in public with a view to woo the electors/voters of the area that he shall pay Rs.50/- per animal to any person who brings such stray cattle to the aforesaid land. It has further been stated by the learned counsel for the petitioner that since appropriate arrangements of cattle shade, drinking water and fodder etc were not made, neither any arrangement for security/protection of animals was made in the alleged shelter, the cattles have been dumped inside the alleged shelter house and several of them have died.

In the writ petition a mention of some complaint made by one Shri Surendra Vikram Singh, an Ex-Member of Legislative Assembly has also been made which has been annexed as annexure-4 to the writ petition and is dated 23.01.2022. In pursuance of the said complaint made by the said Shri Surendra Vikram Singh, an enquiry was conducted by the Sub Divisional Officer, who submitted a report on the next day i.e 24.01.2022 to the Additional District Magistrate (F & R)/Incharge Officer(MCC). In the said report the Sub Divisional Officer has stated that action against the respondent no.5 has been taken inasmuch as that against him and certain other persons a Non-Cognizable Report (NCR) has been lodged at Police Station-Khiron, district-Raebareli for violation of Model Code of Conduct issued by Election Commission of India.

At this juncture, to ascertain the bona fides of the petitioner, we may note that prayer no.2 made in the writ petition is for issuing a direction to the District Magistrate/District Election Officer, Raebareli in accordance with Model Code of Conduct pursuant to the enquiry report dated 24.01.2022 which has been annexed as annexure-5 to the writ petition and has been submitted by the Sub Divisional Officer to the Additional District Magistrate (F&R). It is further noticeable that the enquiry report dated 24.01.2022, pursuant to which direction has been sought by the petitioner in prayer no.2 made in the writ petition, was conducted in respect of the complaint made by one Shri Surendra Vikram Singh on 23.01.2022. The said complaint has been enclosed as annexure-4 to the writ petition.

Learned State Counsel, on the basis of instructions received, has submitted that the said Shri Surendra Vikram Singh is also a candidate for election to the U.P. State Legislative Assembly from a political party different than the political party from which the respondent no.5 is contesting the election. His submission, thus, is that this petition is nothing but a proxy petition moved on behalf of a rival candidate in the forthcoming election to the State Legislative Assembly and is liable to be dismissed.

When we examine the submissions made in the light of the aforesaid facts and circumstances as also the material available on record, what we find is that the prayer no.2 made in the writ petition for taking action in accordance with the Model Code of Conduct is based on the report dated 24.01.2022 which was submitted pursuant to the enquiry conducted into the complaint made by the said Shri Surendra Vikram Singh on 23.01.2022. Shri Surendra Vikram Singh admittedly is a candidate contesting election against the respondent no.5 to U.P. State Legislative Assembly. Learned counsel for the petitioner has though denied that the petitioner does not have any relation with Shri Surendra Vikram Singh, however, it is strange to notice that for filing the instant writ petition the complaint dated 23.01.2022 made by Shri Surendra Vikram Singh against the respondent no.5 through e-mail has been utilized by the petitioner. It is not very difficult to infer as to from what source did the petitioner get the said complaint dated 23.01.2022. From the facts, which can be gathered, we have no hesitation to infer that the instant proceedings are nothing but a proxy petition instituted by the petitioner at the instance of a person who is contesting election as a rival candidate for U.P. State Legislative Assembly in which respondent no.5 is also a candidate from a different political party.

The forum of public interest litigation which has evolved through all these years is a result of extraneous exercise undertaken by the Apex Court of this country as also by various High Courts. Purity of the stream of the public interest litigation, in our considered opinion, thus, cannot be permitted to be polluted in a manner where a person knocking the doors of this Court purportedly in public interest, in fact, attempts to serve his personal/political interest.

In the instant case, it is clear that the petitioner is acting at the instance of a rival candidate. While making such observation, we at the same time refrain ourselves from giving any finding as to the conduct/misconduct of the respondent no.5 in relation to the Model Code of Conduct, noticing the report dated 25.01.2022 submitted by the Nodel Officer of Grievance Cell, District-Raebareli to the Chief Election Officer which will be acted upon in accordance with law.

For the reasons stated above, we deprecate the conduct of the petitioner in instituting these proceedings allegedly in public interest and as such we find it appropriate to discontinue him as petitioner in this case any more.

However, having observed as above, what we notice is the poor condition of stray cattles/animals being kept in a shabbily erected and constructed cattle shade. The safety and security of the stray cattles in the rural areas are directly related to the welfare of the peasantry in general. Unless these stray cattles in the rural areas are appropriately managed and kept, the danger of continuous damage to the standing crops and even to human life would remain unabated. Thus, on the limited issue of appropriate arrangement for the stray cattles in the rural areas, we entertain this writ petition, however, we would not permit the present petitioner to prosecute these proceedings.

We accordingly appoint Shri Yogendra Misra, a practising lawyer of this Court, who shall be assisted by Shri S.M. Singh Royekwar, Advocate to assist the Court in this matter as Amicus Curie.

Office is directed to change the cause title of the writ petition which shall now be described as "Yogindra Misra vs. State of U.P. and others.

Learned State Counsel shall seek instructions on the limited aspect of the matter as aforesaid within a period of two weeks. He shall file a counter affidavit within the said period to be sworn in by non-other than the Chief Development Officer, who under the Government Order dated 15.12.2017 is the Chairman of a Committee constituted for the safety of cattles in the cattle shades.

Before parting with this order, we also impose a cost of

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Rs.10,000/- (Rs. ten thousand) upon the petitioner for unnecessarily misusing the process of the Court in an attempt to breed his personal interest. The said cost shall be deposited by the petitioner within a period of three months from today, failing which the District Magistrate, Raebareli shall recover the same from the petitioner as arrears of land revenue and accordingly will submit his report to the Senior Registrar of this Court.

List this case on 10.03.2022.

Learned State Counsel shall communicate this order to the District Magistrate concerned forthwith.

When the case is next listed name of Shri Yogendra Misra and Shri S. M. Singh Royekwar shall also be shown as Amicus.

Order Date :- 16.2.2022

akhilesh/