

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 21ST DAY OF JANUARY, 2020

PRESENT

THE HON'BLE MRS. JUSTICE B.V.NAGARATHNA

AND

THE HON'BLE MS. JUSTICE JYOTI MULIMANI

W.P. No.50205/2019 (GM-RES)

BETWEEN:

K. DHANANJAY
AGED 46 YEARS,
S/O. LATE K. KRISHNAPPA,
HOUSE NO.48, 8TH CROSS,
12TH MAIN ROAD,
RAGHAVENDRA BLOCK,
SRINAGAR, BENGALURU.

... PETITIONER

(BY SRI.K.DHANANJAY, PARTY-IN-PERSON)

AND:

1. UNION OF INDIA
REPRESENTED BY ITS SECRETARY,
MINISTRY OF LAW AND JUSTICE,
GOVERNMENT OF INDIA,
4TH FLOOR, 'A' WING,
SHASTRI BHAWAN,
RAJENDRA PRASAD ROAD,
NEW DELHI - 110 001.
2. SECRETARY,
MINISTRY OF HOME AFFAIRS,
DEPARTMENT OF PERSONNEL
AND TRAINING,
GOVERNMENT OF INDIA,
ROOM NO.305, 3RD FLOOR,
LOK NAYAK BHAVAN, KHAN MARKET,
NORTH BLOCK,
NEW DELHI - 110 001.

3. ADDITIONAL CHIEF SECRETARY,
MINISTRY OF HOME AFFAIRS,
HOME DEPARTMENT
GOVT. OF KARNATAKA,
ROOM NO.222, 2ND FLOOR,
VIDHANA SOUDHA,
DR. B.R. AMBEDKAR VEEDHI,
BENGALURU – 560 001.
4. SECRETARY GENERAL,
NATIONAL HUMAN
RIGHTS COMMISSION,
FARLDKOT HOUSE,
COPERNICUS MARG,
NEW DELHI – 110 001.
5. REGISTRAR,
KARNATAKA STATE HUMAN
RIGHTS COMMISSION,
1ST - 4TH FLOOR, 5TH PHASE,
MULTISTORIED BUILDING,
DR. B.R. AMBEDKAR VEEDHI,
BENGALURU – 560 001.
6. DIRECTOR GENERAL AND INSPECTOR
GENERAL OF POLICE,
POLICE HEAD QUARTERS,
NO.1, NRUPATUNGA ROAD,
DR. B.R. AMBEDKAR VEEDHI,
BENGALURU – 560 001.
7. REGITRAR,
KARMATALA LOKAYUKTA,
MULTISTORIED BUILDING,
Dr. B.R.AMBEDKAR VEEDHI,
BENGALURU – 560 001.
8. CHIEF SUPERINTENDENT,
BENGALURU CENTRAL PRISON,
PARAPPANA AGRAHARA,
ELECTRONICS CITY POST OFFICE,
BENGALURU – 560 100.
9. SECRETARY,
CENTRAL INFORMATION COMMISSION (CIC),
CIC BHAWAN, BABA GANGNATH MARG,
MUNLRKA, NEW DELHI – 110 067.

10. PRINCIPAL REGISTRAR,
CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NO.61/35,
COPERNICUS MARG,
NEW DELHI - 110 001.
11. MR. M.DIWAKAR,
STATION HOUSE OFFICER
AND POLICE INSPECTOR
HALASURU POLICE STATION,
BENGALURU - 560 008.
12. MS. A. THOMEENA,
DY. REGISTRAR,
CENTRAL ADMINISTRATIVE TRIBUNAL
1ST AND 2ND FLOOR,
SIR VISVESVARAYA
KENDRIYA BHAWAN,
NEXT TO CPWD QUARTERS,
DOMLUR,
BENGALURU - 560 039.
13. MRS. RAJASHRI,
SECTION OFFICER,
CENTRAL ADMINISTRATIVE TRIBUNAL,
1ST - 2ND FLOOR,
SIR VISVESVARAYA
KENDRIYA BHAWAN,
NEXT TO CPWD QUARTERS,
DOMLUR,
BENGALURU - 560 039. ... RESPONDENTS

(BY SRI C. SHASHIKANTHA, ASG FOR R-1)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF QUO WARRANTO TO ALLOW THE WRIT PETITION CHALLENGING THE ABUSE OF OFFICIAL POWERS AND SECTIONS 353 AND 506 OF INDIAN PENAL CODE (I.P.C.) BY R.NO.11-13 TO REGISTER CRIME NO.228/2019 (ANNEX-D) TO IMPRISON INNOCENT PUBLIC (PETITIONER) FOR 38 DAYS AND ALSO, INACTION OF R.NO.4-6 TO TAKE URGENT ACTIONS ON PETITIONERS COMPLAINT (ANNEX-F) CONSEQUENTIALLY.

THIS PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, **NAGARATHNA J.**, DELIVERED THE FOLLOWING:-

ORDER

This writ petition is listed before this Court by special orders of Hon'ble the Chief Justice.

2. We have heard the petitioner, who has appeared in person and Sri C.Shashikantha, learned Assistant Solicitor General (Asst. S.G.), for respondent No.1 on advance notice and perused the material on record.

3. The petitioner has averred that he was a Central Government servant during the period from 2003 to 2018 working in Indian Institute of Astrophysics (Department of Science and Technology, Government of India). He was dismissed from service on 22/05/2018. According to the petitioner, public servants in order to fulfill their vested interest are endangering the life of public (petitioner). Hence, the writ petition is filed as a public interest litigation. The petitioner has styled this writ petition as a public interest litigation seeking the following main reliefs and interim reliefs:-

"8. PRAYER FOR MAIN RELIEF:-

Wherefore, in the afore-stated distressingly suffered injuries and in the aggravated

situations and circumstances, petitioner–public most respectfully prays this Hon’ble Court may be pleased to:-

(8.1) issue writ of quo warranto, to allow the W.P. challenging the abuse of Official Powers and Sections 353 & 506 of Indian Penal Code (I.P.C.) by R.No.11-13 to register Crime No.228/2019 (ANNEX-D) to imprison innocent public (Petitioner) for 38 days and also, inaction of R.No.4-6 to take urgent actions on Petitioner’s complaint (ANNEX-F).

Consequentially:-

(8.2) issue Refer Note to constitute Full Bench (if required) for review on Questions of Law in Para Nos.(7.1–7.3) of W.P. for giving its opinion note. This Hon’ble Court may be pleased to frame proper guidelines enshrining following matters on the basis of Full Bench Opinion Note:-

(a) necessary ingredients and principles for what kind of patent criminal acts amounts to:- (1) assault or criminal force to deter public servant from discharge of his duty under Section 353 of IPC and (2) criminal intimidation under Section 506 of IPC for taking cognizance of crimes by Police or Learned Magistrate.

(b) for simultaneous institution of criminal & disciplinary cases on all culprit public servants (Including Police), who abuse their trustworthy and responsible official powers and afore-stated statutory sections to voluntarily cause injuries to the innocent public for fulfilling their vested criminal interests.

(c) for award of monetary compensation to the victims from the pocket funds of culprits who victimize the victims.

Above guidelines are for the purpose of suitably inserting the same as sub-sections to amend the existing Sections 353 & 506 of I.P.C.

Consequentially:-

(8.3) issue writ of mandamus for directions to the R.No.1-3 to suitably amend Sections 353 & 506 of I.P.C. as per above framed guidelines and submit such proposal to the Government of India for obtaining due approvals of both houses of the Parliament and the President of India for urgent implementation to the public use on priority basis.

Consequentially:-

(8.4) issue writ of mandamus for directions to the R.No.4-8 to set up their expert Officers

team to probe corruption, human rights violation, etc., routinely practiced inside Bengaluru Central Prison, which are narrated in Para Nos.(4.A-4.1) of W.P. Accordingly, R.No.4-8 to prevent all such illegalities and to take strict and urgent actions on all culprits.

(8.5) pass any other orders as may be deemed necessary on the facts and circumstances of the case to meet the ends of Justice and Equity.

9. PRAYER FOR INTERIM RELIEF:-

WHEREFORE, in the afore-stated distressingly suffered injuries and in the aggravated situations and circumstances, petitioner-public most respectfully prays this Hon'ble Court may be pleased to:-

(9.1) pass ad-interim ex-parte stay Order on further proceedings of the case pending in the 10th A.C.M.M. Court, Mayohall Unit, Bengaluru, in the case file Crime No.228/2019 (ANNEX-D), pending final Judgment in the above W.P. to meet the ends of justice & equity.

(9.2) pass any other orders as may be deemed necessary on the facts and circumstances of the case to meet the ends of Justice and Equity.”

4. Petitioner, who has appeared in person has explained to us the reliefs sought for by him. He contended that Paragraph No.8.1 is with regard to seeking a direction to respondent Nos.4 to 6 herein to take action on his complaint [a copy of which is at Annexure "H"], as there is inaction on the said complaint. Consequentially, petitioner has sought for constitution of a Full Bench to review questions of law in Paragraph Nos.7.1 to 7.3 of the writ petition for giving its opinion to frame guidelines for seeking amendment of Sections 353 and 506 of Indian Penal Code, 1860 (IPC). Consequentially, petitioner has sought a direction to respondent Nos.1 to 3 to suitably amend Sections 353 and 506 of IPC as per the guidelines to be submitted by the Full Bench of this Court to the Government of India. Consequentially, petitioner has sought a direction to respondent Nos.4 to 8 to set up an Expert Officers' Team to probe corruption, human rights violation, etc., routinely practiced inside Bengaluru Central Prison as narrated in Paragraph Nos.4(a) to 4(i) of the writ petition and respondent Nos.4 to 8 to prevent such illegalities by taking urgent action against all culprits. In the interim prayer column petitioner has sought for an ex-

parte stay of further proceedings of the case pending in the 10th ACMM Court, Mayohall, Bengaluru, in Crime No.228/2019 (Annexure "D") pending final judgment and petitioner has sought for any other order to be made in the writ petition.

5. Petitioner, who has appeared in person, sought to justify the filing of the instant public interest litigation by contending that the prayer in Paragraph No.8.1 is only a pretext and in substance, the prayers in Paragraph Nos.8.2 to 8.4 are the substantive prayers that he has sought in public interest. He submitted that these prayers have been made owing to the manner in which public servants are discharging their duties and hence, by way of public interest litigation, this petition has been filed.

6. *Per contra*, learned Asst. S.G., who appeared for respondent No.1 on advance notice took us to each of the prayers sought for by the petitioner and contended that prayer contained in Paragraph No.8.1 cannot be considered to be a prayer sought in public interest. It is a prayer pertaining to the petitioner *per se* and hence, this petition cannot be construed to be one in public interest.

He further submitted that the prayer seeking constitution of a Full Bench to frame guidelines for amendment to be made to Section 353 and Section 506 of IPC cannot be sought even in public interest. It was also contended by him that there cannot be a direction issued for amendment of any provision of law and further, in the absence of any pleadings and material on record, no prayer can be sought for seeking action against "culprits", who have committed acts of corruption, human rights violation etc, in Bengaluru Central Prison. He further contended that interim prayer in Paragraph No.9.1 is again concerning the petitioner himself and hence, the same cannot be construed to be a petition filed in the public interest. He submitted that appropriate orders may be made in this writ petition.

7. Learned Asst. S.G. also pointed out that the contents of this writ petition though sought to be filed in public interest, contains scandalous allegations against sitting Judges, particularly of the Central Administrative Tribunal and therefore, the petition may be dismissed with heavy costs.

8. By way of a reply, petitioner, who has appeared in person reiterated that the prayer in Paragraph No.8.1 is only a pretext to seek the other reliefs and he does not press any interim prayer. He further submitted that there is no merit in the submissions of learned Asst. S.G., and therefore, the writ petition may be considered.

9. We have closely perused the prayers sought for by the petitioner and we have also analyzed the same. The prayer sought for in Paragraph No.8.1 is a prayer pertaining to the petitioner himself inasmuch as he complains that there is no action taken on his complaint. Therefore, the said prayer is one concerning the petitioner himself and it is not one in public interest. Consequentially, the other prayers have been sought. Be that as it may. Petitioner has sought constitution of a Full Bench of this Court based on what is stated in Paragraph Nos.7.1 to 7.3 for giving its opinion to frame guidelines for the purpose of amendment to Sections 353 and 506 of IPC. We emphasize that no citizen can seek constitution of Benches as desired by him by the Court even in public interest. Constitution of Benches is the prerogative of the Hon'ble

Chief Justice of the High Court. Such a prayer cannot be sought in public interest. To seek such prayers is beyond the right of any petitioner/litigant.

10. Further, the petitioner herein has sought a direction to the Full Bench to issue guidelines to respondent Nos.1 to 3 to amend Sections 353 and 506 of IPC. This again is a prayer, which cannot be sought. No Court can direct the Parliament or any Legislature to either enact, amend or modify any Legislation. Under our Constitution, the doctrine of separation of powers is clearly entrenched and each organ of the Constitution would function within its respective field and jurisdiction as empowered under the Constitution without threading to the other jurisdiction or field. Therefore, the judiciary cannot direct the Parliament or the State Legislatures to do or not to do any act pertaining to Legislation.

In this regard, we may place reliance on the dictum of the Hon'ble Supreme Court as under:-

(a) In ***A.K.Roy vs. Union of India [(1982) 1 SCC 271]***, a Constitution Bench of the Hon'ble Supreme Court held that it is not for the Court to compel the Government to do that which, according to the mandate of the Parliament, lies in its discretion to do when it considers it opportune to do it. The executive is responsible to the Parliament. The Parliament does not irretrievably lose its power to bring the amendment into force by reason of the empowerment in favour of the Central Government to bring it into force. It has been categorically held that Courts cannot issue a writ in the nature of mandamus to the Governments obligating them to bring into force certain provisions of any enactment.

(b) Following the decision in *A.K.Roy's* case in ***Aeltemesh Rein vs. Union of India and Others, [(1988) 4 SCC 54]***, it has been held that Courts cannot issue a writ in the nature of mandamus

directing the Central Government to bring any provision into force.

(c) Further, in ***State of Jammu and Kashmir vs. Zakki [1992 Supp. (1) SCC 548]***, it has been held that a writ of mandamus cannot be issued to the Legislature to enact a particular legislation. The same holds good even when the executive is to exercise its power to make rules, which are in the nature of subordinate legislation. The power to make rules is legislative in nature. Hence, a direction cannot be issued to the Central Government to make rules in accordance with the proposal made by the High Court.

11. Further, action sought for by the petitioner herein against "all culprits" in respect of acts of corruption, human rights violation etc., in Bengaluru Central Prison, is once again unrelated to rest of the petition, which is a vague prayer and the same cannot be considered and has to be rejected for its vagueness.

12. Further, in Paragraph No.9.1 of the interim relief column, petitioner has sought for an ad-interim *ex-parte*

stay of further proceedings in X ACMM Court, Mayohall Court, Bengaluru, in Crime No.228/2019 (Annexure "D"), which is again a prayer, which is personal to the petitioner and cannot be made a part of public interest litigation.

13. We wish to recall that public interest litigation is an innovation of the judiciary of India particularly, the Hon'ble Supreme Court of India, for ensuring justice and for also ensuring that citizens of the Country are meted with social justice and in order to ensure that the State performs its functions so as to achieve the goals under the Constitution of India. Hon'ble Supreme Court as well as the High Courts have entertained public interest litigations in appropriate cases and have issued directions from time-to-time which have achieved their purpose. But off-late the trend has been for persons to file petitions styled as "Public Interest Litigation" (PIL), which are in substance "Private Interest Litigation", "Publicity Interest Litigation" or we are constrained to say in a colloquial way "Paisa Interest Litigation", all these are not "PIL", they are an abuse of the process of law and process of Court and are often filed out of vengeance, frustration or for oblique

motives. Constitutional Courts are not meant to entertain such kind of petitions. It is a complete waste of precious public time of the Courts. In this regard, it is necessary to observe that public interest litigation which is an innovation of constitutional Courts is meant for realization of the Constitutional obligation of the Courts. The object and purpose of public interest litigation is to provide access to justice to the poor and vulnerable sections of the Society, to the deprived and marginalized people and is a by-product of the Courts urge to redeem the obligations it has under the Constitution. Hence, the doctrine of *locus standi* has been diluted and the traditional meaning of "aggrieved person" has been broadened for the purpose of achieving the goals of the Constitution through class action litigation or social action litigation.

14. Public interest litigation in India has evolved over the decades. Initially, it was meant to ameliorate the conditions of the poor, illiterate and the ignorant. Public Interest Litigations transformed itself to matters of protection of environment and ecology and then, to dealing with cases pertaining to transparency and probity in

governance and administration. In fact, public interest litigation in India has had a wide impact on the legal and judicial systems in the neighbouring countries. But, unfortunately, in recent times, there is a greater need felt to discourage frivolous public interest litigation, motivated litigation, litigation for enhancing ones "name and fame", litigation on account of enmity and vengeance, which are also the draw-backs of public interest litigation. Hence, the need to curtail cases styled as public interest litigation which are frivolous, vexatious and consume valuable time of Constitutional Courts.

15. We have in detail analysed the prayers sought for by the petitioner and we have adverted to the reasons as to why this petition cannot be construed to be a Public Interest Litigation. That apart, petitioner is totally confused and is not conscious of the separation of the powers, a Constitutional doctrine, which is a basic feature of our Constitution.

16. This PIL is also frivolous, motivated and filed for seeking prayers that are not maintainable in law and they cannot also be considered by the Courts for their sheer

misconception on account of the ignorance of the petitioner. In this regard, we would like to rely on the judgment of the Hon'ble Supreme Court in the case of ***State of Uttaranchal vs. Balwant Singh Chaufal and Others*** reported in ***[(2010) 3 SCC 402]*** wherein the Hon'ble Supreme Court, after analysing the nature of public interest litigation, has spoken about the abuse of public interest litigation in Paragraph No.143 and has issued the following directions at Paragraph No.181. The same are usefully extracted as under:-

"143. Unfortunately, of late, it has been noticed that such an important jurisdiction which has been carefully carved out, created and nurtured with great care and caution by the courts, is being blatantly abused by filing some petitions with oblique motives. We think time has come when genuine and bona fide public interest litigation must be encouraged whereas frivolous public interest litigation should be discouraged. In our considered opinion, we have to protect and preserve this important jurisdiction in the larger interest of the people of this country but we must take effective steps to prevent and cure its abuse on the basis of monetary and non-monetary directions by the courts.

x x x

181. We have carefully considered the facts of the present case. We have also examined the law declared by this court and other courts in a number of judgments. In order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions:-

(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 P.I.L.

(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.”

17. In the circumstances, we have no hesitation to dismiss this petition. Hence, this writ petition is dismissed.

We are constrained to observe that it is unfortunate that such kind of petitions are filed, which takeaway precious time of this Court. We, however, refrain, from imposing any costs in this matter.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

**mvs*