

CASE NO.:
Writ Petition (crl.) 197-198 of 2004

PETITIONER:
Rajiv Ranjan Singh 'Lalan' & Anr.

RESPONDENT:
Union of India & Ors.

DATE OF JUDGMENT: 21/08/2006

BENCH:
Dr. AR. Lakshmanan

JUDGMENT:
J U D G M E N T

Dr. AR. Lakshmanan, J.

I had the privilege of perusing the judgment proposed by my learned Brother - Hon'ble Mr. Justice K.G. Balakrishnan. While respectfully concurring with the conclusion arrived by the learned Judge, I would like to add the following few paragraphs:-

The first petitioner is a Member of Parliament and the second petitioner is the Deputy Chief Minister of Bihar. The above writ petition, ostensibly in public interest, has been filed by them for the following relief:

a. issue an appropriate writ, order or direction monitoring the conduct of the trials relating to the fodder scam case proceeding against respondent nos. 4 and 5 in the State of Bihar & State of Jharkhand;

b. issue an appropriate writ, order or direction directing the Director, CBI to reinstate the prosecutors who were handling the cases in the Trial Court and the High Court and directing that no prosecutor or any CBI officer attached with the investigation and the trial of these scam cases should be removed, harassed or victimized for discharging their duties, without specific orders from this Hon'ble Court;

c. issue an appropriate writ, order or direction directing the Director, CBI to provide the logistics and ensure that it is represented by at least one Inspector in each of the 7 courts by Special Judge, CBI in the State of Jharkhand which is trying the fodder scam cases so that no adjournments are sought and granted;

d. issue an appropriate writ, order or direction canceling the bail granted to respondent nos.4 and 5

e. issue an appropriate writ, order or direction directing the respondent no.1 and/or 3 to file an appeal against the order passed by the Hon'ble Income Tax Appellate Tribunal"

On our direction, the Registrar General of the Patna High Court was present in Court on 26.07.2006. He filed an affidavit and also explained the procedure followed in the appointment of Shri Munni Lal Paswan as a special Judge to try the disproportionate assets cases with reference to the

records.

We heard Mr. Mukul Rohatgi and Mr. Kailas Vasudev learned senior counsel for the petitioners and Mr. Ram Jethmalani, learned senior counsel assisted by Mr. P.H.Parekh and Mr. G.E. Vahanvati, learned Solicitor General and Mr. Mohan Parasan, learned ASG for the respondents.

Mr. Mukul Rohatgi and Mr. Kailash Vasudev, learned senior counsel made elaborate submissions on the question of maintainability of the writ petitions and also submitted that Mr. Munni Lal Paswan was promoted recently and posted at Patna for disposing off the case filed against respondent Nos. 4 and 5 and that the said Munni Lal Paswan is not a desirable person to be posted in the said post to conduct the case. He also requested that the Public Prosecutors who were proving to be inconvenient to respondent Nos. 4 and 5 are being supplanted with chosen ones. Like that, Member (Judicial) in the Income-tax Appellate Tribunal - Mr. R.K. Tyagi who had been hearing the appeal of respondent Nos. 4 and 5 was curiously sent on deputation and was replaced by Mr. Mohanarajan, a person who was on the verge of retirement to head the Tribunal. Within 2 weeks, the matter was heard and allowed in favour of the assesses. He also submitted that the case relating to disproportionate assets before the Special Judge, CBI is at the final stage of hearing. The Director, CBI has started changing the prosecutors mid-way when the case was nearing completion and that the public prosecutor who was conducting the cases from the very beginning has been replaced by Shri Om Shankar Singh, a retired Deputy Superintendent of Delhi Police who has commenced law practice recently. It is also submitted that respondent Nos. 4 and 5 are deliberately protracting the trial by taking unnecessary adjournments which, by itself, would be a ground for cancellation of bail. He further submitted that by virtue of the new political equations between the party in power in the State of Bihar and at the Centre, respondent No.5 one of the main accused in the fodder scam now has substantial administrative control and political say in the functioning of the Government of India and that the CBI and the Central Board of Direct Taxes, respondent Nos. 2 and 3 have become a party in an effort to shield respondent Nos. 4 and 5. He continued to submit that this Court shall monitor the case since the accused are using state machinery to block the judicial process and subvert the trial and dilatory tactics being adopted by the accused to delay the trial on one pretext or the other. He also submitted that the prosecutors or investigators connected with the fodder scam matters in the State of Bihar who have till date been discharging their functions in the trial Court should not be disturbed, replaced or sidelined. Mr. Rohatgi, in support of his contentions, invited our attention to the various documents, annexures, income-tax records and the paperbooks.

Appearing for respondent Nos. 4 and 5, Mr. Ram Jethmalani, learned senior counsel argued that the petition had been filed only to achieve personal or political gain, no case had been made out for the cancellation of bail to Mr. Lalu Prasad Yadav and his wife and this court should not monitor the trial as it would send wrong signals. He also cited many decisions with regard to the maintainability of the writ petitions at the instance of practicing politicians. He sought dismissal of the writ petitions with exemplary costs. Appearing for the CBI, learned Solicitor General G.E. Vahanvati denied point by point the allegations of the petitioners made in their pleadings with reference to various documents and records and proved to our satisfaction that the statements made by the petitioners are not true and correct

and have been made with an ulterior motive. Learned Solicitor General further submitted that there had been no interference by Mr. Lalu Prasad Yadav or his wife in any of the matters whether in the appointment of Judges or in the change of the prosecutor or on the decision not to file an appeal in the income-tax cases. The learned Solicitor General cited T.N. Godavarman Thirumulpad (98) vs. Union of India and Others, 2006 (5) SCC 28 (Hon. Y.K. Sabharwal, C.J., Arijit Pasayat and S.H. Kapadia, JJ.) and submitted that howsoever genuine a case brought before the Court by a public interest litigant maybe, the Court has to decline its examination at the behest of a person who, in fact, is not a public interest litigant and whose bonafides and credentials are in doubt and that no trust can be placed by the Court on a mala fide applicant in public interest litigation. Learned Solicitor General submitted now it is time to give a severe warning and sound alert since these are basic issues which are required to be satisfied by every public interest litigant. He also cited paras 25 and 26 in support of the contention that the writ petition is not maintainable at the instance of the political rivals. Mr. Ram Jethmalani in regard to the maintainability of the writ petition cited the following decisions: Janata Dal vs. H.S. Chowdhary and Others, (1992) 4 SCC 305 (2 Judges) para 109.

"It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the court for vindicating any personal grievance, deserves rejection at the threshold."

Dattaraj Nathuji Thaware vs. State of Maharashtra and Others, (2005) 1 SCC 590 (Hon. Arijit Pasayat and Hon. S.H.Kapadia, JJ) and invited our attention to para 4,5,9,10,12 and 14.

Ashok Kumar Pandey vs. State of W.B., (2004) 3 SCC 349 para 12

"12. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity-seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity-oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or a member of the public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases, with exemplary costs."

S.P. Gupta vs. Union of India and Another, 1981
(Supp) SCC 87 (7 Judges) para 24

"24. But we must be careful to see that the member of the public, who approaches the Court in cases of this kind, is acting bona fide and not for personal gain or private profit or political motivation or other oblique consideration. The Court must not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain a political objective. Andre Rabie has warned that "political pressure groups who could not achieve their aims through the administrative process" and we might add, through the political process, "may try to use the Courts to further their aims". These are some of the dangers in public interest litigation which the Court has to be careful to avoid. It is also necessary for the Court to bear in mind that there is a vital distinction between locus standi and justiciability and it is not every default on the part of the State or a public authority that is justiciable. The Court must take care to see that it does not overstep the limits of its judicial function and trespass into areas which are reserved to the Executive and the Legislature by the Constitution. It is a fascinating exercise for the Court to deal with public interest litigation because it is a new jurisprudence which the Court is evolving, a jurisprudence which demands judicial statesmanship and high creative ability. The frontiers of public law are expanding far and wide and new concepts and doctrines which will change the complexion of the law and which were so far as embedded in the womb of the future, are beginning to be born."

Mr. Rohatgi submitted that this Court should monitor the conduct of the trial relating to the fodder scam cases against respondent Nos. 4 and 5.

Union of India and Others vs. Sushil Kumar Modi and Others, (1998) 8 SCC 661 (3 Judges) para 6

"6. This position is so obvious that no discussion of the point is necessary. However, we may add that this position has never been doubted in similar cases dealt with by this Court. It was made clear by this Court in the very first case, namely Vineet Narain vs. Union of India, (1996) 2 SCC 199 that once a charge-sheet is filed in the competent court after completion of the investigation, the process of monitoring by this Court for the purpose of making the CBI and other investigative agencies concerned perform their function of investigating into the offences concerned comes to an end; and thereafter it is only the court in which the charge-sheet is filed which is to deal with all matters relating to the trial of the accused, including matters falling within the scope of Section 173(8) of the Code of Criminal Procedure. We make this observation only to reiterate this clear position in law so that no doubts in any quarter may survive. It is, therefore, clear that the impugned order of the High Court dealing primarily with this aspect cannot be sustained."

(emphasis supplied)

It is thus clear from the above judgment that once a charge-sheet is filed in the competent Court after completion of the investigation, the process of monitoring by this Court for the purpose of making the CBI and other investigative agencies concerned perform their function of investigating into offences concerned comes to an end and thereafter, it is only the Court in which the charge-sheet is filed which is to deal with all matters relating to the trial of the accused including matters falling within the scope of Section 173(8). We respectfully agree with the above view expressed by

this Court. In our view, monitoring of pending trial is subversion of criminal law as it stands to mean that the Court behind the back of the accused is entering into a dialogue with the investigating agency. Therefore, there can be no monitoring, after the charge sheet is filed.

This Court issued a direction on 22.02.2005 to the President of the Income-tax Appellate Tribunal to submit a detailed report in regard to the allegations made by the petitioners. Pursuant to the directions of this Court, the President of ITAT filed a detailed report dated 09.03.2005. A perusal of which shows that there is not an iota of truth in the allegation and all the aforesaid averments are completely baseless. As noticed earlier, certain allegations were made against Mr. R.K.Tyagi and Mr. Mohanarajan whom, according to the petitioners, were due for retirement was appointed to head the Tribunal. It was further stated that on 02.07.2004 Mr. R.K.Tyagi who had been hearing the appeal of respondent Nos. 4 and 5 was sent on deputation for 2 weeks and was replaced by Mr. Mohanarajan, a person who was on the verge of the retirement to head the Tribunal and that the said Mohanarajan picked up only the cases pertaining to respondent Nos. 4 and 5 and heard the matter and allowed in favour of the assesses and that no appeal has been filed against the said order.

On 22.02.2005, an order was passed by this Court directing the Union of India to produce before this Court the proposal of CBI dated 20.07.2004 and the entire file including notations pertaining to the appointment of Mr. Uma Shankar Sharma as prosecutor. The President, ITAT was directed to send to this Court all papers pertaining to constitution of the Bench of Mr. Mohanarajan and Mr. M.K. Sarkar and also to send copies/order sheets of ITA Nos. 233-237 of 2000 etc. etc. The President, ITAT was directed to state whether Mr. R.K.Tyagi was sent on deputation for two weeks during the period the other two persons were appointed and if so why and on whose behalf he was sent on deputation.

On 09.03.2005, Mr. Vimal Gandhi, President, ITAT submitted his report. Flash figures of investigation, disposal and dependency of appeals for the month of April, 2004 and the position as on 01.05.2004 with reference to the various benches in the country was furnished (Annexure-2). It is seen from the report that Mr. D.K. Tyagi, JM, Patna had left India without obtaining permission as required under the rules and he was accordingly issued a show cause notice to explain about the acts of indiscipline. This was done in early June. Mr. Tyagi also explained the circumstances under which he had gone abroad etc. The President acceded to his request on compassionate grounds and permitted him to remain in Delhi without any T.A. D.A. for 1 month from June, 21 onwards. The President, ITAT, therefore, has stated that it is not correct to suggest that Tyagi was shunted out of Patna by him. Insofar as Mohanarajan is concerned, the President has explained the position with regard to Mohanarajan and M.K. Sarkar. He said Mr. Mohanarajan joined the Tribunal as Judicial Member in November, 1995 and posted at Jabalpur, Chennai, Patna and Bangalore and he served in Patna from 02.09.2002 onwards till he was transferred to Bangalore in March, 2003. He is sobre in nature and that he is to retire on 06.11.2009 and he had never sat with Mr. Sarkar earlier. When Mr. Agarwal's inability to tour Patna was made known to the President in Bangalore, Mohanarajan's name came to his mind as an appropriate person to replace Mr. D.K. Agrawal and he was accordingly directed to camp at Patna in June, 2004 and that the camp was organized accordingly. Insofar as Mr. M.K.Sarkar is concerned, he before joining the Appellate

Tribunal Mr. Sarkar was asked managed to Patna and other Benches on camp till regular members were available as pendency at Kolkata was also low. The details of tour of Sarkar to Patna in 2004 has also been furnished. The learned Solicitor General then invited our attention to Annexure-7 filed along with the report of the President, ITAT. Respondent No.4 \026 Mr. Lalu Prasad, by his letter dated 15.10.2003, addressed a letter to the President, ITAT, New Delhi requesting for transfer of appeals filed before Patna Bench of the Tribunal to Delhi Bench in his case. On 17.10.2003, the President made a note on the said letter to call for comments/objections, if any, from the Department/Patna Bench by fax. Mr. Lalu Prasad has stated in the said letter that since he is elected as a Member of Rajya Sabha and performed duties as a Member of Rajya Sabha he has to be present in Delhi and, therefore, the appeals may be transferred from Patna to Delhi Bench. By annexure-8, the Patna Bench gave its response on 31.12.2003 stating that the legal aspect of the matter was being examined and that a final report will follow soon. By annexure-9 dated 08.01.2004, the Directorate General of Income-tax Patna addressed a letter to Assistant Registrar, ITAT Patna Bench as to whether constituting a special Bench for early disposal of the appeals of Shri Lalu Prasad. Annexure-9 was in reply to the ITAT Patna Bench letter dated 11.11.2003 and during that time the present Government was not in power. By Annexure-10 the DGIT by their letter dated 23.04.2004 stated that it would not be possible to agree to transfer the appeals of Mr. Lalu Prasad from ITAT, Patna Bench to ITAT, Delhi Bench and it may be worthwhile to consider constituting a special Bench for early disposal of these appeals. It is seen from annexure-12 dated 11.03.2004 signed by M.A. Bakshi, V.P. ITAT, Chandigarh Zone that it may not be necessary to constitute a special Bench for disposal of the appeals relating to Mr. Lalu Prasad. In regard to the prayer for cancellation of the bail at the instance of the petitioner, we are of the opinion that the said request cannot at all be countenanced. Our attention was drawn to order dated 14.07.2003 passed by this Court which reads thus:

"We have been extending bail from time to time for a period of six months in order to monitor the trial. In our view, it is not now necessary to do so any further. We, therefore, order that the bail which has been granted by this Court will continue for the duration of the case on the same terms and conditions. We clarify that it will be open to the C.B.I to apply for cancellation of bail in accordance with law in this court. Further, if it is found that the petitioner is deliberately protracting the trial or taking unnecessary adjournments then that by itself would be a ground for cancellation of bail."

Mr. Rohatgi submitted that respondent Nos. 4 and 5 are interfering with the cause of justice so far as conduct of the trial and IT proceedings are concerned and, therefore, the bail granted to them is liable to be cancelled. This submission has no merits in view of the arguments advanced by learned Solicitor General inviting our attention to the various documents and annexures etc. to the effect that the respondent Nos. 4 and 5 have never interfered with the conduct of trial or with the IT proceedings. It is stated that respondent Nos. 4 and 5 are deliberately protracting the trial by taking unnecessary adjournments. Then that itself would be a ground for cancellation of bail. This argument has no substance. It is a fact that the matter was adjourned at the instance of the defence on various occasions. Court itself has

adjourned the matter for various reasons. We, therefore, cannot hold that the delay is solely attributable to respondent Nos. 4 and 5 which, in our opinion, cannot be a ground for cancellation of bail when it is not proved that any of the bail conditions has been violated. The delay is attributable to both the prosecution and the defence and also to the Court. Therefore, respondent Nos. 4 and 5 cannot be held responsible for the delay.

Mr. Rohatgi argued that Munni Lal Paswan should be changed from the present place and some other officer should be posted there. Mr. Ram Jethmalani, at the time of hearing, explained to this Court as to how and under what circumstances the earlier incumbent of the office - Mr. Yogendra Prasad was shifted at his own request and that how Munni Lal Paswan was promoted recently and posted at Patna for the conduct of the matters. We summoned the Registrar General of Patna High Court on 26.07.2006. The Registrar General Madhusudhan Singh has also filed an affidavit in regard to the three queries raised by us. The Registrar General explained to this Court in regard to the practice in the High Court of Patna and how the matter is placed before the Standing Committee and the remarks of the inspecting Judges and the guard files which are maintained separately of each officers which were made available to the Standing Committee. The said fact also finds mention in the decision dated 22.06.2005 of the Standing Committee. In regard to query No.3 the Registrar has submitted as follows:-

"That in regard to Query No.3 of this Hon'ble Court as mentioned in the order dated 26.7.2006, I respectfully say and submit that the remarks of the Hon'ble Inspecting Judge in case of Shri Jawahar Prasad Ratnesh was of the year 1985, 1986-87, 1988, 2001, 2003 and 2005 (and remarks recorded by P.O., Industrial Tribunal, Patna in 1998). In respect of Shri Ram Niwas Prasad, the remarks recorded by the Hon'ble Inspecting Judge was of 1985, 1986, 1997 and 2002. As regards Shri Munni Lal Paswan, the remarks recorded by the Hon'ble Inspecting Judge was of 1985 and 1990 and by Vice-Chairman, Industrial Tribunal, Patna Bench in 1997."

We have perused the records submitted by the High Court in regard to the officers including Munni Lal Paswan. There is absolutely no adverse entry against Munni Lal Paswan and that poor record if any is not the record of integrity and that no gradation has been given to officers after 1997 onwards including Paswan.

We have perused the proceedings of the meetings of the Standing Committee held on 22.06.2005 in the chambers of the Hon'ble Chief Justice which reads thus:

Proceedings of the meeting of the Standing Committee held on 22nd June, 2005 in the Chambers of the Hon'ble the Chief Justice:

Agenda

To consider the matter regarding Postings if three Special Judges at Patna for C.B.I. (Fodder Scam Cases), C.B.I. (South Bihar) and Vigilance Cases(Court No.1) in Place of S/Shri Yogendra Prasad, t Mungeshwar Sahoo and Jitendra Mohan Sharma, respectively(P.F. XXVII-5-98)

Decision

Having considered the relevant service records of the officers concerned and also taking into consideration the fact that no allegation petition has been recieved against Sri Muni Lal Paswan, Additional District Judge, Saharsa. It is resolved tha let him (Sri Muni Lal Paswan) be posted as Special Judge for C.B.I. (Fodder Scam Cases) at Patna. It is further resolved upo

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consideration of the relevant service record

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Of the officers concerned that Sri J.P. Ratnesh, Additional District Judge, Patna, be posted as Special Judge, C.B.I. (South Bihar) and Sri Ram Niwas Prasad, Additional District Judge, Patna as Special Judge for Vigilance Case (Court No.1).

In view of the urgency of the matter, the office is directed to take necessary steps for issue of notification immediately.

Sd/- Nagendra Rai, Actg, C.J.

Sd/- I.P.Singh, J.A.D. 1

Sd/- R.N. Prasad, J.A.D. II

Sd/- Barin Ghosh, J.

Sd/- M.L. Visa, J.

Sd/- Rajendra Prasad, J."

It is thus seen from the above that all the relevant service records of the officers concerned including Munni Lal Paswan was placed before the Standing Committee which took into consideration the fact that no allegation petition has been received against Munni Lal Paswan, Addl. District Judge. It was resolved that Munni Lal Paswan be posted as Special Judge, CBI Fodder scam cases at Patna. The Registrar General had also stated at the time of hearing that the resolution of the Standing Committee was also placed before the Full Court which also approved the same.

Article 233 of the Constitution of India deals with subordinate Courts. The appointment of persons, posting and promotion of District Judges in any State shall be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State. Likewise, under Article 235 the control over district courts and courts subordinate thereto including the posting and promotion of and the grant of leave to persons belonging to judicial service of a State and holding any post inferior to the post of District Judge shall be vested in the High Court.

The appointment of lawyers is the prerogative of the Government and the prosecuting agency. The petitioners are trying to find fault with every attempt with every steps taken. Cases like this the delay is inevitable.

It is also settled law that appointment of advocates, public prosecutors etc. is the prerogative of the government in power and court has no role to play.

In the above case, the Standing Committee has taken a decision to appoint Munni Lal Paswan and other officers after scrutinizing the records, ACRs etc. in accordance with Article 233 and 235 of the Constitution of India which is the prerogative right of the Standing Committee and the High Court and when a decision is taken it is not for this Court to scrutinize the correctness of the decision that too at the instance of third parties.

In regard to the prayer of the petitioner to direct the Government of India to file the appeal in the income-tax matters, we are of the opinion that the said prayer also cannot at all be countenanced. In this regard, Section 260 A(1) and (2)(a) may be referred to which reads as under:

"260A. Appeal to High Court \026 (1) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(2) The Chief Commissioner or the Commissioner or an assessee aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under the sub-section shall be \026

(a) filed within one hundred and twenty days from the date on which the order appealed against is received by the assessee or the Chief Commissioner or Commissioner;

(b) *****

(c) *****"

In this regard, counter affidavit filed on behalf of the Under Secretary to the Government of India, Ministry of Finance may be usefully referred to. It is stated in the said counter affidavit that the matter has been fully considered and legal opinion was sought by BCIT investigation, Patna and that the opinion of the learned ASG was received stating that there is no substantial question of law for filing an appeal and that the consideration of this aspect had been done properly and independently and there have been no extraneous consideration.

This apart, another affidavit was filed by Mr. L.K.Sighvi, the Chief Commissioner of Income-tax (VIII), New Delhi para 1 "I was the Director General IT (Inv.), Patna during the relevant period when decision was taken regarding filing of appeals pertaining to the ITAT orders in the cases of Smt. Rabri Devi and Shri. Lalu Prasad Yadav before the Hon'ble High Court at Patna. Considering the facts and circumstances of the case and the fact that the present petition was pending before this Hon'ble Court, I thought it fit to refer the matter to the CBDT for consideration and seeking opinion from the Ministry of Law. The CBDT and the Ministry of Finance obtained the opinion of the Ministry of Law to the effect that no substantial questions of law arose out of the judgments of the ITAT in the cases of Smt. Rabri Devi and Shri. Lalu Prasad Yadav for filing appeals before the Hon'ble High Court. Accordingly, instructions were issued by me that appeals would not be filed in respect of these cases.

It is thus seen that the Government of India has taken into consideration the views of the Ministry of Law, Ministry of Finance to the effect that no substantial questions of law arise out of the judgments of the ITAT in the case of respondent Nos. 4 and 5 for filing appeals before the High Court and that instructions were issued that appeals would not be filed in respect of those cases.

Certain allegations have been made against CBDT and the Public Prosecutors, Members of the Income-tax Tribunal etc. None of them were made parties before us. Therefore, the allegations made against them are one-sided and cannot be looked into at all. We cannot also say that all these authorities have acted in a mala fide manner.

In our opinion, public interest litigation meant for the benefit of the lost and lonely and it is meant for the benefit of those whose social backwardness is the reason for no access to the Court. We also say that PILs are not meant to advance the political gain and also settle their scores under the guise of a public interest litigation and to fight a legal battle. In our opinion, the liberty of an accused cannot be taken away except in accordance with the established procedure of law under the Constitution criminal procedure and other cognate statutes. We are also of the opinion that PIL is totally foreign to pending criminal proceedings. The records placed before us would only

go to show that respondent No.4 had no hand in any of these matters whether in the appointment of judges or in the change of the prosecutor or on the decision not to file an appeal in the income tax cases.

For the foregoing reasons, we hold that both the writ petitions have no merit and is liable to be dismissed and accordingly we do so.

In the circumstances, we order no costs. Before concluding, we say that the petitioners are waging a political battle against respondent Nos. 4 and 5 through the medium of Public Interest Litigation. The venue for political battle, in our opinion, can never be this Court by filing a writ petition under Article 32 of the Constitution of India.

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