

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

% **Date of Decision:20th October, 2010**

+ **W.P.(C) 6802/2010**

**PAARDARSHITA PUBLIC
WELFARE FOUNDATION**

..... Petitioner

Through: Mr. Harkrishan Das Nijhawan,
petitioner in person.

versus

UOI AND ORS

..... Respondents

Through: Mr. Parag Tripathi, ASG with
Mr. Ajay Vohra, Mr. Kapil Dutta
and Mr. Anuj Bhandari, Advocates
for MCD.
Mr. Anil Amrit, Advocate for
NDMC.
Mr. Vikas Pahwa, Advocate with
Ms. Suchiti Chandra, Advocate for
CBI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE MANMOHAN

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| 1. Whether the Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to the Reporter or not? | Yes |
| 3. Whether the judgment should be reported in the Digest? | Yes |

DIPAK MISRA, CJ:

If there has been abuse of the process of public interest litigation in a court in its conceptual essentiality and connotative eventuality, it can irrefragably be stated that the present litigation which has been styled as a 'Public Interest Litigation' by a non-Governmental organisation represented by its General Secretary frescoes a picture and projects the scenario in the complete sense inasmuch as it fits into the

said compartment in an apple pie order for the conduct shown by the representative not only buries all sense of propriety but also, as the facts would unfurl, endeavours in a maladroit manner to gain advantage of certain beneficial legislation and judge made law. We have commenced the order with a prologue of this nature as the gradual undraping of the factual matrix would vividly so reveal.

2. The petitioner-Paardarshita Public Welfare Foundation, a non-Governmental organization, represented by Mr. Harkrishan Das Nijhawan, the General Secretary has preferred this Public Interest Litigation with the following prayers:-

- “(i) To direct the respondents to initiate thorough investigation on this matter being a very serious issue and register F.I.R. against the indicted government official as well as the contractor, private agencies for bringing shame to our nation and large scale bungling in public fund (Government Money).
- (ii) Pass such other or further order as this Hon’ble Court may deem fit so these kind of ill malpractices being carried out by government engineers of various department may not reoccur in future besides fixing responsibilities for causing loss to the government exchequer. Further it is humbly submitted that Hon’ble Court may pass orders for ensuring recovery of looted fund, attachment of their properties, lockers and other non declared assets from the culprits government officials, contractors and other private persons those found involved in the above illegal act will be prosecuted as per the law of the land, which alone being an non Government Organisation we cannot do without a strict norms and orders issued by this Hon’ble High Court.”

3. It is asserted in the petition that the General Secretary of the Non-

Governmental Organisation is a social worker and is dedicated to expose the corruption and initiate proceedings against the corrupt government officers. It is asseverated that the petitioner received information from various sources that officials of MCD, NDMC and other Government Engineering Departments entrusted with the execution of engineering works under Common Wealth Games have flouted CVC guidelines and CPWD specifications for their personal gains at the cost of public exchequer.

4. It is urged that the petitioner has submitted numerous complaints to the higher authorities but the same have fallen on deaf years, the authorities have maintained a sphinx-like silence. Allegations have been made how their favourite officers have allotted work to their favourite contractors without following the norms. In this background, the aforesaid reliefs have been sought.

5. Be it noted, with regard to allegations made in respect of siphoning of funds, Union of India has constituted a Committee namely, Shunglu Committee. Today, in two other writ petitions, this Court has directed that the Shunglu Committee shall look into the grievances put forth and liberty has been granted to the petitioners therein to file documents before the Committee. Mr. A.S. Chandhiok, learned ASG appearing in those cases had fairly acceded that the same shall be looked into by the Committee.

6. When this matter was called out first time, a pass over was sought on behalf of Mr. Parag Tripathi, learned ASG appearing for the

Municipal Corporation of Delhi. After Mr. Parag Tripathi, learned ASG appeared, he submitted that ordinarily he would not have opposed for issuance of similar directions but the present petition is an abuse of the process of the Court especially by the present NGO, namely, Paardarshita Public Welfare Foundation, which is represented by its General Secretary.

7. Mr. Parag Tripathi, learned ASG has brought to our notice the information sought for by the NGO from Public Information Officer, MCD South Zone, Green Park, New Delhi. On a query being made from the petitioner who appeared in person whether he had asked for such informations, he accepted that he had sought such informations.

8. We think it condign to state the relevant portions of the application by which informations were sought under the Right to Information Act, 2005 (for brevity “the 2005 Act”) :-

“6. Provide us the information in Detail about the entire Medical History in which the disease mentioned and the preciousness was suggested to Shri Shri Deepak Hastir currently posted as Deputy Commissioner, Central Zone of MCD, New Delhi.

7. Provide us the information in detail about the all payments was paid to the above hospital for the operation of piles & sterilization, Sexual Disorder in respect of Shri Shri Deepak Hasif currently posted as Deputy Commissioner, Central Zone of MCD, New Delhi till 22-06-2010.

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9. Provide us the information in detail about the all complaint received against Shri Shri Deepak Hastir currently posted as Deputy Commissioner, Central Zone of MCD, New Delhi from MCD employees as well as from the general public, visitors to the MCD office for

molesting, misbehaviors as well as some unusual demand till date during his postings in various department of MCD.

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11. Provide us the information in Detail about the male staffs travelling with Shri Shri Deepak Hastir currently posted as Deputy Commissioner, Central Zone of MCD, New Delhi in his official cars in Central Zone, during office hours as well as after office hours.

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14. Provide us the information in detail about the Name of Mother, Surrogated Mothers, Step Mother of Shri Shri Deepak Hastir, currently posted as Deputy Commissioner, Central Zone of MCD, New Delhi as per MCD current and updated records.

15. Provide us the information in detail about the Name of Father, Biological Father, Step Father of Shri Shri Deepak Hastir currently posted as Deputy Commissioner, Central Zone of MCD, New Delhi as per MCD current and updated records.

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17. Provide us the certified copy of the Report prepared after DNA Test between Shri Shri Deepak Hastir and his mother, surrogated mother in the Din Dayal Hospital, Hindu Rao Hospital as well as any private Lab (Dr. Lal Pathological Lab) and the charges for the DNA test was paid by the MCD as per current and updated records.

18. Provide us the certified copy of HIV & AIDS Test of Shri Shri Deepak Hastir in the Din Dayal Hospital, Hindu Rao Hospital as well as any private Lab (Dr. Lal Pathological Lab) and the charges for the HIV & AIDS test paid by the MCD as per current and updated records.”

[Underlining is by us for emphasis]

9. On a perusal of the aforesaid letter issued by the petitioner-NGO,

we have no hesitation in stating that it is an abuse of the provisions contained in 2005 Act. We are not giving any kind of clean chit to Mr. Deepak Hastir, currently posted as Deputy Commissioner of MCD, but the informations which have been asked are in the realm of vengeance and clearly exposes the vindictive attitude. In fact, it is a reflection of extreme vengeance, proclivity in bad taste and definitely would not come within the realm of the 2005 Act.

10. On a query being made, the petitioner stated without any kind of hesitation that said Mr. Deepak Hastir had told him that he had been blackmailing him and, therefore, such informations were sought for by him.

11. We can only note that assuming said Mr. Deepak Hastir had so stated, the petitioner should have taken recourse to a course of action as advised in law but could not have asked for such kind of informations. As the General Secretary of Paardarshita Public Welfare Foundation, a Non-Government Organization, which is supposed to be devoted to the public welfare, it was not expected of him to ask for such kind of unwarranted and uncalled for informations. The informations asked for are bound to create a storm in any civilized mind. It is unfortunate that the General Secretary of the NGO is asking about the sexual disorder, DNA test between an officer and his surrogate mother, name of his biological father and step father, name of his mother and surrogate step mother and such other aspects which are beyond the perception of decency and in fact, an invasion into another man's privacy.

12. The 2005 Act was enacted by the Parliament with a definite purpose. We would like to reproduce the preamble to the Act:

“An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

WHEREAS the Constitution of India has established democratic Republic;

AND WHEREAS democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

AND WHEREAS revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

AND WHEREAS it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;

NOW, THEREFORE, it is expedient to provide for furnishing certain information to citizens who desire to have it.”

In this regard, it is apposite to reproduce the relevant part of Section 8 of 2005 Act. It reads as follows:

“8. **Exemption from disclosure of information** (1)....

(j) information which relates to personal information the disclosure of which has not relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the

State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.”

13. On a perusal of the preamble and Section 8(1)(j) of the Act, we have no scintilla of doubt that information relating to personal information which would cause unwarranted invasion of the privacy of the individual are not to be given unless larger public interest justify the disclosure of such information. The said principle has its own sacrosanctity. Right to privacy is a sacrosanct facet of Article 21 of the Constitution as has been held by their Lordships in *Gobind v. State of MP*, (1975) 2 SCC 148, *R.Rajagopal v. State of T.N.*, (1994) 6 SCC 632 and *District Registrar and Collector v. Canara Bank*, (2005) 1 SCC 496. When any personal information sought that has no nexus with any public activity or interest, the same is not to be provided. In the case at hand, we really fail to fathom how the information sought by the petitioner comes within sufficient public interest. In our considered opinion, the information sought remotely has no relationship with any public activity or interest. In fact, the informations sought are a direct invasion in the private life of the individual.

14. At this juncture, we are disposed to advert to the concept of public interest litigation. In *Charan Lal Sahu v. Union of India*, (1990) 1 SCC 613, it has been held as follows:

“36. Therefore, conceptually and from the jurisprudential point of view, especially in the background of the preamble to the Constitution of India and the mandate of the directive principles, it was possible to authorise the Central Government to take over the claims of the victims to fight against the multinational corporation in respect of the claims. Because of the situation the victims were under disability in pursuing their claims in the circumstances of the situation fully and properly. On its plain terms the State has taken over the exclusive right to represent and act in place of every person who has made or is entitled to make a claim for all purposes connected with such claim in the same manner and to the same effect as such person. Whether such provision is valid or not in the background of the requirement of the Constitution and the Code of Civil Procedure, is another debate. But there is no prohibition or inhibition, in our opinion, conceptually or jurisprudentially for the Indian State taking over the claims of the victims or for the State acting for the victims as the Act has sought to provide. The actual meaning of what the Act has provided and the validity thereof, however, will have to be examined in the light of the specific submissions advanced in this case.”

15. In *Subhash Kumar v. State of Bihar and others*, AIR 1991 SC

420, it has been held as follows:-

“7. Public interest litigation cannot be invoked by a person or body of persons to satisfy his or its personal grudge and enmity. If such petitions under Article 32, are entertained it would amount to abuse of process of the Court, preventing speedy remedy to other genuine petitioners from this Court. Personal interest cannot be enforced through the process of this Court under Art. 32 of the Constitution in the garb of a public interest litigation. Public interest litigation contemplates legal proceeding for vindication or enforcement of fundamental rights of a group of persons or community which are not able to enforce their fundamental rights on account of their incapacity, poverty or ignorance of law. A

person invoking the jurisdiction of this Court under Art. 32 must approach this Court for the vindication of the fundamental rights of affected persons and not for the purpose of vindication of his personal grudge or enmity. It is duty of this Court to discourage such petitions and to ensure that the course of justice is not obstructed or polluted by unscrupulous litigants by invoking the extraordinary jurisdiction of this Court for personal matters under the garb of the public interest litigation, see *Bandhua Mukti Morcha v. Union of India*, (1984) 2 SCR 67 : (AIR 1984 SC 802); *Sachidanand Pandey v. State of West Bengal*, (1987) 2 SCC 295 at p 331 : (AIR 1987 SC 1109); *Ramsharan Autyanuprasi v. Union of India*, (1989) Supp 117 SCC 251 and *Chhetriya Pardushan Mukti Sangharsh Samiti v. State of U.P.*, (1990) 4 SCC 449.”

16. In *The Janata Dal v. H.S. Choudhary & Ors.*, AIR 1993 SC 892, the Apex Court while dealing with the concept of public interest litigation expressed thus:-

“47. We shall now briefly deal with the scope and object of ‘public interest litigation’ (PIL), the horizon of which is widely extended and which at present constitutes a new chapter in justice delivery system acquiring a significant degree of importance in the modern legal jurisprudence practiced by Courts in many parts of the world, based on the principle, “Liberty and Justice for All”.

17. In *Ashok Kumar Pandey v. State of West Bengal & Ors.*, AIR 2004 SC 280, it has been held as follows:-

“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 the 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 member of 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 busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.

13. The council for Public Interest Law set up by the Ford Foundation in USA defined the “public interest litigation” in its report of Public Interest Law, USA, 1976 as follows :

“Public Interest Law is the name that has recently been given to efforts provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in the recognition that ordinary market place for legal services fails to provide such services to significant segments of the population and to significant interests. Such groups and interests include the proper environmentalists, consumers, racial and ethnic minorities and others.”

[Emphasis supplied]

18. In *Dr. B. Singh v. Union of India & Ors.*, AIR 2004 SC 1923, it has been held as follows:-

“5. When there is material to show that a petition styled as a public interest litigation is nothing but a camouflage to foster personal disputes or vendetta to bring to terms a person, not of ones liking, or gain publicity or a façade for blackmail, said petition has to be thrown out. Before we grapple with the issues involved in the present case, we feel it necessary to consider the issue regarding the “public interest” aspect. Public interest litigation which had now come to occupy an important field

in the administration of law should not be “publicity interest litigation” or “private interest litigation” or “politics interest litigation” or the latest trend “paise income litigation.” If not properly and strictly regulated at least in certain vital areas or spheres and abuse averted it becomes also a tool in unscrupulous hands to release vendetta and wreck vengeance, as well to malign not only an incumbent to be in office but demoralise and deter reasonable or sensible and prudent people even agreeing to accept highly sensitive and responsible offices for fear of being brought into disrepute with baseless allegations. There must be real and genuine public interest involved in the litigation and concrete or credible basis for maintaining a cause before Court and not merely an adventure of knight errant borne out of wishful thinking. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. The credibility of such claims or litigations should be adjudged on the creditworthiness of the materials, averred and not even on the credentials claimed of the persons moving the Courts in such cases. A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. These aspects were highlighted by this Court in *Janata Dal v. H.S. Choudhary and others* (1992 (4) SCC 305) and *Kazi Thendup Dorji v. Central Bureau of Investigation* (1994 Supp (2) SCC 116). A writ petitioner who comes to the Court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective. See *Ramjas Foundation v. Union of India* (AIR 1993 SC 852) and *K.R. Srinivas v. B.M. Premchand* (1994 (6) SCC 620).”

[Emphasis supplied]

19. In *N.K. Prasada v. Government of India & Ors.*, (2004) 6 SCC 299, the Apex Court referred to the concept of public interest as has been stated in *Guruvayoor Devaswom Managing Committee v. C.K. Rajan*, (2003) 7 SCC 546; *Chairman & MD, BPL Ltd. v. S.P. Gururaja*, (2003) 8 SCC 567 and *Onkar Lal Bajaj v. Union of India*, (2003) 2 SCC 673 and, eventually, their Lordships expressed the views as follows:-

“30. We are pained to see how the forum of public interest litigation is being abused. This Court recently had also the occasion to notice the same. [See *Ashok Kumar Pandey v. State of W.B.*, (2004) 3 SCC 349 : 2003 AIR SCW 6105 and *B. Singh (Dr.) v. Union of India*, (2004) 3 SCC 363 : 2004 AIR SCW 1494.]”

20. From the aforesaid pronouncement in law, it can safely be deduced that the public interest litigation in its denotative sense basically pertains to interest of the collective at large and such collective who are socially so backward and sans means to have access to Court and at that stage a public spirited person rises to the occasion to canvass the cause of the marginalized section for their benefit. In addition to the same, in its connotative expanse, it encapsules and engulfs such subject matters which are of social importance and inherently relate to socio-economic, socio-cultural and embedded humanitarian facets like environmental pollution, ecological balance, preservation of national interest, maintenance of roads, hospitals, availability of facilities of education and such other categories which clearly point to the public interest without any kind of design. It is apt

to state here the aforesaid spheres have been mentioned in an illustrative and not exhaustive manner. But, it can be said with certitude that the public interest litigation was never conceived of to settle scores in a Court of law or to give vent to personal causes to pyramid an eventuality in the guise of fight against the 'City Halls', to ascribe utterances in the name of loss to the exchequer.

21. Regard being had to the aforesaid facts, which really throw a laser beam on petitioner's exposed antecedents, it is indubitably clear that it is an abuse of the process of the law. Ergo, we are not inclined to interfere in the present writ petition. We are disposed to think that the petitioner has conceived the idea or notion that revenge is sweetest but failed to realise the eventual fruit of revenge is always bitter. Hence, we dismiss the writ petition with costs which is assessed at Rs.75,000/- (Rupees Seventy Five Thousand). The costs shall be deposited with the Blind Relief Association, Lal Bahadur Shastri Marg, Near Oberoi Hotel, New Delhi-110003 within a period of four weeks. If the costs are not deposited, liberty is granted to the respondent-MCD to move an application in this writ petition so that appropriate action can be taken against the petitioner-NGO.

CHIEF JUSTICE

MANMOHAN, J

OCTOBER 20, 2010