

Court No. - 1

Case :- CRIMINAL WRIT-PUBLIC INTEREST LITIGATION No. -
1 of 2023

Petitioner :- Reevan Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Jail Administration And
Reform Services Govt. U.P. Lko. And Ors

Counsel for Petitioner :- Sanjay Kumar Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Devendra Kumar Upadhyaya,J.

Hon'ble Om Prakash Shukla,J.

1. Heard Shri Sanjay Kumar Srivastava, learned counsel for the petitioner and Shri Anurag Verma, learned Additional Government Advocate representing the State-respondents.
2. These proceedings under Article 226 of the Constitution of India have been instituted purportedly in public interest. The petitioner is a dismissed employee of the State Government, who on the ground of certain misconduct, was dismissed from service while working as Jailor at District Jail, Moradabad.
3. The prayers made in the writ petition are as follow:-

"(i) issue a writ, order or direction, in the nature of certiorari quashing the order/letter dated 10.08.2022 issued by the Superintendent of Jail (Headquarter), Jail Administration and Reform Services, U.P., Lucknow on behalf of Opposite party No.3 contained as Annexure No.1 to the writ petition.

(ii) Issue a writ, order or direction in the nature of mandamus commanding the opposite parties 1 to 4 to improve the condition of all the Jails situated in the State of U.P. including District Jail Moradabad as well as to improve the inhuman condition of prisoners with respect to proper place of their living and sleeping, jail barracks, clothing, toilets, food, medical and interview (Mulaqat) in their respective Jail

premises in a dignified manner in view of the provisions of Article 21, 22, 38 and 39 of the Constitution of India and also provide other daily use articles like Soap, Oil, Blanket, and Bed Sheet etc. as per U.P. Jail Manual 2022.

(iii) Issue a writ, order or direction that this Hon'ble Court may kindly be pleased to conduct a High level enquiry from any independent Agency other than the Agency of the State Government and that Agency may submit his report before this Hon'ble Court after visiting all the Jails of the State of U.P. including the District Jail, Moradabad with respect to inhuman conditions of the Prisoners confined in all the Jails of the State of U.P. in which they are living and corruption which is deeply rooted in Jails of the State of U.P. and accordingly take appropriate action about improvement of the Jail conditions and living conditions of the prisoners and also take appropriate strict action against the corrupt employees of the Jail Administration and Reform Department.

(iv) Issue a writ, order or direction in the nature of mandamus commanding the opposite parties to take appropriate action with respect to providing amount of 15% deducted out of remuneration earned by the convicted criminal prisoner to the deserving victims of the offence committed by the prisoner and if there is no deserving victim of the offence committed by prisoner or victim is not willing to receive the amount referred to above, it shall be returned to the victim criminal prisoner in view of the provisions of "Uttar Pradesh Payment of Remuneration of Prisoner and Compensation to Victims Rules, 2005"

(v) Issue a writ, order or direction in the nature of mandamus commanding the Opposite parties 1 to 4 to purchase wheat for providing food to the prisoners those who are confined with the Jails situate in the State of U.P. at the rate of MSP (Minimum

Support Price) prescribed by the Government of India and not on any higher rate.

(vi) Issue a writ, order or direction in the nature of mandamus commanding the Opposite parties 1 to 4 to prosecute the Opposite party No.6 with respect to corruption made by him during the period he was remain posted on the post of Superintendent of Jail of District Jail, Moradabad on the basis of material available on record including fact finding enquiry report dated 09.03.2021 conducted by one Shri Akhilesh Kumar, IPS, Deputy Inspector General, Prison, Agra Range, Agra contained as Anneuxre No.12 to the writ petition as well as take serious departmental action as well, at an early date in view of the law laid down by the Hon'ble Apex Court in the case of Neeraj Dutta Vs. State (Government of NCT, New Delhi) (supra).

(vii) Issue a writ, order or direction in the nature of mandamus commanding the Opposite party No.1 and 2 to hold an independent enquiry with respect to huge corruption and bungling made by the Opposite party No.6 during the period he was remain posted at District Jail, Moradabad on the post of Superintendent of Jail, Moradabad and other concerning officials those who were also posted at District Jail, Moradabad along with the Opposite party No.6 for which the petitioner has submitted a detailed complaint/representation dated 18.06.2021 through registered post on 21.06.2021 and also on 09.09.2022 and 12.09.2022 to the Opposite party No.1, 2 and 3 (at the relevant time charge of Opposite party No.1 was also with the Opposite party No.2).

(viii) Issue a writ, order or direction in the nature of mandamus commanding the Opposite party No.1 and 2 to consider to appoint Officers of Indian Police Services as head of the District and Central Jails and Deputy Inspector General of

Jails in all the Ranges in the State of U.P. like State of Gujrat just with a view to manage Jail Administration, Reform and Security in a proper manner.

(ix) Issue such other appropriate writ, direction or order which this Hon'ble Court may deem just and proper in the circumstances of the case.

(x) Allow the writ petition with costs."

4. So far as the first prayer made in the writ petition, it is in relation to an order passed on 10.08.2022 by the Superintendent of Jail (Headquarters), Prison Administration and Reforms Services, Uttar Pradesh, Lucknow, whereby the representation made by the petitioner dated 18.06.2021 has been considered and it has been intimated to the petitioner that on the basis of a joint inquiry report certain actions had been recommended against the officers/employees of the Jail Department who have been found erring, however, thereafter no justification of any further action has been found.
5. If we peruse the representation dated 18.06.2021 made by the petitioner, what we find is that the petitioner by making the said representation had questioned the inquiry report submitted by Deputy Inspector General of Prisons, Agra Region, Agra and has prayed for a re-inquiry into the matter. A perusal of the said representation also reveals that certain averments have been made by the petitioner in the said representation about himself and also against the respondent no.6 who is presently posted as Jail Superintendent, District Jail Sultanpur and at the time of dismissal of the petitioner, was posted as Jail Superintendent, District Jail, Moradabad. The representation dated 18.06.2021 made by the petitioner has been considered and the same has been replied by means of the letter/order dated 10.08.2022.

6. We may also notice that prior to instituting the proceeding of this writ petition, the petitioner had instituted Writ A No.8708 of 2021 on 12.07.2021 wherein a prayer was made to direct the State Government to decide his representation dated 18.06.2021. The said writ petition was ordered to be listed in due course by this Court at Allahabad on 06.08.2021. Accordingly, from the aforesaid facts what emerges is that so far as prayer no.1 is concerned, the same relates to certain personal feud of the petitioner with the respondent no.6 and also touches upon his own interest as is apparent from the perusal of the representation dated 18.06.2021. Such a prayer, in our considered opinion, cannot be considered and gone into by this Court in a public interest litigation.
7. Prayer no.2 made in the writ petition relates to a direction sought to be issued to the State authorities to improve the condition of all the jails situated in the State of Uttar Pradesh including District jail Moradabad and further to improve the alleged inhuman conditions of prisoners and to provide them appropriate and proper place for their living, sleeping, providing them appropriate clothing and the facilities of toilets, food, medical services and also improving the conditions of jail barracks as per the provisions contained in U.P. Jail Manual 2022. We have been informed by the learned Additional Government Advocate representing the State authorities that petitioner has also instituted Writ C No.2998 of 2021 before this Court at Allahabad, primarily with the prayer to direct the State Government to decide the representation dated 27.04.2020 made by him. In the said writ petition, a Co-ordinate Bench of this Court passed an order on 17.02.2021 directing the learned State counsel to seek instructions in respect of any action that might have been taken on the complaint made by the petitioner relating to conditions in District Jail, Moradabad. Writ C No.2998 of 2021 has been filed by the petitioner seeking a

direction to the State Government to decide the representation or complaint dated 27.04.2020. The complaint dated 27.04.2020 reveals that more or less in the said representation as well the petitioner has made mention of certain alleged irregularities said to have been committed by respondent no.6 and simultaneously he has also attempted to highlight the conditions in Moradabad Jail. Thus, in view of the pendency of the Writ C No.2998 of 2021 as also considering the fact that the petitioner essentially seeks a direction to be issued to the State Government to take some action against the respondent no.6, we are of the considered opinion that prayer no.2 as well cannot be entertained by this Court in a public interest litigation.

8. So far as prayer no.3 is concerned, the said prayer also seeks a direction to get a high level inquiry conducted by some independent agency, other than the agency of State Government, into the affairs of the jails in the State of Uttar Pradesh including the District Jail, Moradabad concerning the alleged inhuman conditions of the prisoners in the jails. The said prayer could have been entertained in this public interest litigation, however, considering the credentials of the petitioner and the primary motive, which is manifest from the material available before us, we decline to entertain the said prayer as well in this public interest litigation.
9. The fourth prayer made in the writ petition is in relation to issuing a direction to the State Authorities to take appropriate action in respect of providing amount of 15 %, which is said to be deducted out of the remuneration earned by the convicts, to the deserving victims of the offences committed by the convicts in accordance with the provisions contained in Uttar Pradesh Payment of Remuneration of Prisoner and Compensation to Victim Rules, 2005. This prayer though appears to have been made in public interest, however, for the reasons disclosed above by us declining to entertain the writ petition in respect of

prayer no.3, we are of the opinion that this prayer also cannot be entertained in this petition filed at the instance of the petitioner, who as observed above, is a dismissed State Government employee.

10. The fifth prayer made herein is in respect of issuance of a direction to the State authorities to purchase wheat for providing food to the prisoners at the rate of minimum support price prescribed by the Government of India. In respect of this prayer, we may indicate that this Court at Allahabad has already entertained Criminal Public Interest Litigation No.2357 of 1997 along with other connected matters where the subject matter engaging the attention of the Court at Allahabad is in relation to functioning of the jails in the State of Uttar Pradesh and in fact the working of the jails and improving the conditions of the prisoners/convicts is being continuously monitored in the said matter by this Court. This fact is reflected from an order passed on 27.09.2022 in Criminal Writ Public Interest Litigation No.2357 of 1997 which is extracted hereinbelow:-

" HIGH COURT OF JUDICATURE AT ALLAHABAD

CRL. WRIT-PUBLIC INTEREST LITIGATION No. - 2357 of 1997

*(With WPIL No.20639 of 2016
Crl.PIL Nos.21033 and 24192 of 2017
Crl.PIL Nos.4 and 5 of 2018)*

Bachchey Lal

.....Petitioner

v/s

State of U.P. and others

.....Respondents

*Through :- Mr. Ajay Misra, Advocate General with Mr. Shiv
Kumar Pal, Government Advocate and Mr. Syed Ali
Murtaza, Additional Government Advocate*

CORAM : HON'BLE RAJESH BINDAL, CHIEF JUSTICE

HON'BLE PRITINKER DIWAKER, JUDGE

ORDER

1. *Mr. S.M.A. Rizvi, Secretary, Finance, Government of U.P., Mr. Anand Kumar, Director General of Police/Inspector General (Jail Administration &*

Reforms Services), U.P. and Mr. Shailendra Maitreya, Deputy Inspector General (Prisons) are present in Court.

2. In pursuance to the order dated July 26, 2022, affidavit of Anand Kumar, Director General of Police/Inspector General (Jail Administration & Reforms Services) dated August 17, 2022 has been filed.

3. Though we are not fully satisfied with the information furnished in the affidavit, still we make a brief note of the facts stated therein.

4. Admittedly, Jails in the State are over crowded, as against the capacity of 62,281 inmates, as on June 30, 2022, there were 1,18,670 inmates. Out of these 77.54% are under trials. The chart annexed with the affidavit shows the number of inmates as against the capacity in the various Jails in the State. At Moradabad, inmates are 494% of the available capacity. At Mathura, Aligarh, Lalitpur, Budaun, Rai Bareilly, Etawah, Saharanur, Muzaffar Nagar, Varanasi, Jaunpur, Deoria and Sultanpur, inmates are more than 300% of the available capacity. There are hardly any Jail, where the inmates are below the available capacity.

5. The affidavit also furnished the information of various convicts, who were released under the Premature Release of Prisoners Policy of the State. However, the details with reference to any appeal filed by them in Court are not available.

6. Admittedly, the convicts are entitled to parole annually under the provisions of the Uttar Pradesh (Suspension of Sentence of Prisoners) Rules, 2007. However, the figures available in the affidavit show that the provisions are hardly being used, as from the year 2018 till 2022, only 653 prisoners were released on parole. Apparently, the convicts are not aware of their right to get the aforesaid benefit to remain in touch with their families.

7. One of the important issues is with reference to the wages being paid the inmates, who were made to work in Jails. As per the Government Order dated April 7, 2011, the wages fixed are ₹40/-, ₹30/- and ₹25/- for skilled, semi skilled and unskilled prisoners, respectively. It was stated by the Finance Secretary, present in Court, that for unskilled persons in the State of U.P., minimum wage is ₹366/-. It is higher for the semiskilled and skilled workers. No exercise was done for revision of the wages for the last more than a decade, though it is stated to be under consideration now.

8. Number of posts in the hospital in various Jails are lying vacant, which include 34 of the Medical Officer, 89 of the Pharmacist, 10 of the Staff Nurse, 5 of the Lab Technician, 29 of the X-ray Technician, 19 of the Dark Room Attendant and 15 of the Lab Attendant (Group-D) out of sanctioned posts of 153, 149, 12, 8, 31 and 27, respectively. Similar is the position with reference to other staffs in the Jails. Total sanctioned posts as per available capacity are 7,535, out of which 1,860 posts at different levels are vacant even though the inmates in the Jails are about double the actual capacity. There is hardly any Jail in which physical or vocational activities are being conducted.

9. Further, there are no details available with regard to the under trials or convicts, who have either jumped bail or not returned back after availing concession of parole and the cases are pending against them at various levels. The details are also missing with reference to video conferencing facility available in Jails for the purpose of recording of evidence of the under trials. These have to be commensurate with the number of under trials in the Jails. Nothing has been mentioned with regard to the telemedicine facility in the Jails so as to enable the medical staffs available in Jails to consult any expert in a district or referral hospital in case of any medical emergency.

10. There are many inmates in the Jails, who may be above 80 years of age or nearing that. Any policy of the State for their release has also not been pointed out.

11. In the affidavit to be filed before the next date of hearing, information about the aforesaid issues and any other issue relevant be furnished.

12. As the Finance Secretary is also present in Court, the information be furnished as to the time line in which all the vacant posts in the Jails will be filled up, as these are sanctioned and must have been budgeted. Hence, there should not be any issue in starting the process of recruitment thereof, as even after completion of the recruitment process of the vacancy available, still the staff will be to the extent of sanctioned capacity and not to the actual prisoners, as they are double in number. In case, the funds are required for installation of video conferencing or telemedicine equipments in Jails, the Finance Department will not detain those files and deal with the same without any delay. The information therefor will be furnished in the Court on the next date of hearing.

13. Certain other issues have also been raised by Mr. Vishnu Pandey, Advocate, who is appearing in CrI.PIL No.21033 of 2017. We will consider all the issues after complete information is placed before this Court. However, the Authorities are well aware of the issues raised in the aforesaid PIL.

14. Adjourned to November 10, 2022.

15. To be taken up at 2.00 PM.

16. The Officers, who are present in Court today, will remain present in Court in person on the next date of hearing.

17. Copy of the order be placed on record of connected petitions.

(Pritinker Diwaker)
Judge

(Rajesh Bindal)
Chief Justice

Allahabad
27.09.2022"

11. Accordingly, to avoid multiplicity of the proceedings and also considering the fact that the issue which is reflected in prayer no.5 made in this writ petition is already engaging attention of

this Court at Allahabad, we find no reason to entertain this prayer as well.

12. As regards, the prayers no.6 and 7, we may observe that the same are directed manifestly against the respondent no.6, who is working presently as Jail Superintendent, District Jail, Sultanpur and previously was posted as Jail Superintendent, District Jail, Moradabad where the petitioner, undisputedly, was posted as Jailor and while in service as Jailor in District Jail, Moradabad he was dismissed from service. The material available in the writ petition including several representations made by the petitioner clearly reveal that he bears certain grudges against respondent no.6 and as such we have no hesitation to hold that these prayers have been made in this disguised public interest litigation petition for wrecking vengeance against the respondent no.6. For this reason, we do not find it appropriate to entertain the prayer nos.6 and 7.
13. In respect of prayer no.8, we may observe that the prayer made is in relation to issuing directions regarding policy matters which, in our opinion, is primarily the preserve of the Executive. Accordingly, we are unable to agree to the submissions of learned counsel for the petitioner to entertain the said prayer as well.
14. Learned counsel for the petitioner does not dispute that the petitioner is a dismissed government employee, who was dismissed while working as Jailor at District Jail, Moradabad. The documents and materials available on this writ petition clearly and manifestly reveal that camouflaging this petition as public interest litigation essentially the petitioner has sought that some direction may be issued to take some action against the alleged irregularities and misconducts on the part of the respondent no.6. In this regard, learned Counsel for the petitioner refers to the provisions contained in Section 11(2) of

the Whistle Blowers Protection Act, 2011 (hereinafter referred to as 'Act 2011'), according to which if a person is being victimised or likely to be victimised on the ground that he had filed a complaint or made disclosure or rendered assistance in any inquiry under the said Act, he may file an application before the Competent Authority seeking redress in the matter. Based on the provisions contained in Section 11 (2), it has been submitted by the learned counsel for the petitioner that he is a 'whistle blower' and has been victimised which has resulted in his dismissal. He has also stated that it is as per the design of respondent no.6 that the petitioner was dismissed from service and in such a situation adequate protection to the petitioner being a 'whistle blower' is available under the provisions of Act 2011.

15. The aforesaid submission made by learned counsel for the petitioner is highly misconceived in the facts of the present case. In this regard, we may refer to a judgment dated 08.12.2021 rendered by a Single Judge of this Court in Writ A No.15542 of 2021 filed by the petitioner wherein he had challenged issuance of the charge sheet against him. Learned Single Judge while dismissing the said writ petition by means of the order dated 08.12.2021 has referred to the judgment of Hon'ble Supreme Court in the case of **Manoj H. Mishra Vs. Union Of India & others, (2013) 6 SCC 313**, wherein it has been observed that, "*One of the basic requirement of a person being accepted as a "whistle blower" is that his primary motive for the activity should be in furtherance of public good. In other words, the activity has to be undertaken in public interest, exposing illegal activities of a public organization or authority. The conduct of the appellant, in our opinion, does not fall within the high moral and ethical standard that would be required of a bona fide "whistle blower".*

16. Thus, for seeking protection of Section 11 (2) of Act 2011, one has to first establish his bona fides. As already noticed above, the credentials and bona fides of the petitioner for instituting these proceedings are doubtful as though, this petition has been styled as a public interest litigation, however, in essence the petitioner seeks issuance of a direction for taking some action against respondent no.6, who is a government employee. Thus, the said submission merits rejection, which is hereby rejected.
17. We may also note that Hon'ble Supreme Court in various pronouncements has held that scope of entertaining a petition as a public interest litigation in the matters involving service of an employee encompasses in itself examination of locus standi of a person approaching the Court and that the Court in such matters has to be satisfied about the credentials of the person approaching the Court, prima facie, the correctness of the nature of information furnished by him and the information being not vague and indefinite. In this regard, we may refer to a judgment of Hon'ble Supreme Court in the case of **Gurpal Singh Vs. State of Punjab & others, (2005) 5 SCC 136.**
18. Learned counsel for the petitioner at this juncture refers to some observations made by Hon'ble Supreme Court in the case of **A.B. Bhaskara Rao Vs. C.B.I., (2011) 10 SCC 259**, which has been referred to by Hon'ble Supreme Court in the case of **Neeraj Dutta Vs. State (Govt. of N.C.T. of Delhi), Criminal Appeal No.1669 of 2009, decided on 15.12.2022** by a Constitution Bench of Hon'ble Supreme Court. The said Constitution Bench has quoted from the judgment in the case of **A.B. Bhaskara Rao (supra)** and also from the case of **State of M.P. Vs. Shambhu Dayal, (2006) 8 SCC 693** and has observed that the corruption by public servants has become a gigantic problem that has spread everywhere and further that no facet of public activity has been left unaffected by corruption. Hon'ble Supreme Court has also observed that corruption has

deep and pervasive impact on the functioning of the entire country and also that a large scale corruption retards the nation building activities and everyone has to suffer on that count.

19. So far as the aforesaid observation made by Hon'ble Supreme Court is concerned, no-one is in a position to dispute the facts noted by Hon'ble Supreme Court and the ill impacts caused by corruption by public servants and its all pervasiveness. However, for entertaining a public interest litigation of a nature of the present one, the Court needs to be satisfied first with the credentials of the person approaching the Court. In this regard reference may be had to a latest pronouncement of Hon'ble Supreme Court in the case of **State of Jharkhand Vs. Shiv Shankar Sharma**, reported in **2022 SCC Online SC 1541**.

Paragraph nos.19 and 28 of the above quoted judgment are relevant which are extracted hereinbelow :-.

"19. What is of crucial significance in a Public Interest Litigation is the bona fide of the petitioner who files the PIL. It is an extremely relevant consideration and must be examined by the Court at the very threshold itself and this has to be done irrespective of the seemingly high public cause being espoused by the petitioner in a PIL.

28. The Courts cannot allow its process to be abused for oblique purposes, as was observed by this Court in [Ashok Kumar Pandey v. State of West Bengal \(2004\) 3 SCC 349](#). In [Balwant Singh Chauhal \(supra\)](#) this Court had discussed the three stages of a PIL which has been discussed above. Then this Court in [Balwant Singh Chauhal \(supra\)](#) states as to how this important jurisdiction, i.e., PIL has been abused at Para 143 by observing 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.”

20. Thus, when we examine the credentials of the petitioner in the facts of the case as narrated above and also on analyzing the material available before us on this writ petition, what we find is that petitioner has not approached this Court with any bona fide intentions. The malice on his part, as a matter of fact, is writ large in this case. Accordingly, we decline to entertain this petition, which is hereby **dismissed**.
21. However, before parting with the case, we may observe that the prayers made in this petition for issuing appropriate directions to the State authorities for improving the conditions of the prisoners in the jails of State of Uttar Pradesh and also in relation to payment of wages to them etc., are in larger public interest. The prayer in this petition relating to creation of a corpus by deducting 15% amount being earned by the prisoners to be utilized for compensating the victims of the crimes is also relevant. We have already noticed that such issues are already engaging attention of this Court at Allahabad in Criminal Writ Public Interest Litigation No.2357 of 1997. Thus, we are of the opinion that some of the material available on this writ petition may be useful for this Court for appropriately dealing with the issues which are engaging attention of the Court in Criminal Writ Public Interest Litigation No.2357 of 1997. We, thus, direct the Registry to send an attested photostat copy of this

writ petition to be tagged with Criminal Writ Public Interest Litigation No.2357 of 1997 which is pending at Allahabad.

22. We may make it clear that we are conscious of the fact that we have dismissed this writ petition, however, to facilitate an appropriate resolution of issues engaging attention of this Court in Criminal Writ Public Interest Litigation No.2357 of 1997, the paper book of this petition is being ordered to be tagged with the said writ petition.

Order Date :- 06.04.2023

Anand Sri./-