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

+ **Date of Decision: 19th February, 2025**

% **W.P.(C) 2012/2025 & CM APPL. 9474/2025**

MR MIRZA AURANGZEB

.....Petitioner

Through: Mr. Manu Mridul, Mr. Sumit Mangain and Mr. Pratap Singh Rawat, Advocates.

versus

ARCHAEOLOGICAL SURVEY OF INDIA & ORS.....Respondents

Through: Mr. Ripudaman Bhardwaj, CGSC with Mr. Kushagra Kumar and Mr. Abhinav Bhardwaj, Advocates for R-1 and 3/UOI.

Mr. Tushar Sannu, SC with Ms. Rajbala and Mr. Shivam Singh, Advocates for R-2.

Mr. Ajay Arorra, Sr. Advocate with Mr. Nitish Dubey and Mr. Aarush Kapoor, Advocates for R-5.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

DEVENDRA KUMAR UPADHYAYA, CJ. (ORAL)

1. Heard learned counsel for the parties and perused the records available before us on this petition.

2. The proceedings of this petition filed under Article 226 of the Constitution of India have been instituted ostensibly in public interest with



the prayer to remove and demolish ongoing and completed alleged illegal and unauthorized constructions within the regulated area of Ajmeri Gate, which is said to have been raised in violation of the provisions of The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (*hereinafter referred to as 'Act, 1958'*).

3. Prayer clause of the writ petition is extracted herein under:-

“(i) Direct the Respondent No.1 and Respondent No.2 to identify and disclose the ongoing or completed illegal and unauthorized constructions, within the regulated area of the Ajmeri Gate in violation of the AMASR Act, 1958.

(ii) Direct the Respondent No. 1 and Respondent No. 2 to take immediate action for removal and demolish of ongoing or completed illegal and unauthorized constructions made and raised in the regulated area in violation of the AMASR Act, 1958;

(iii) Direct the Respondent No. 2 to take action on the complaints being made by the Petitioner and other persons objectively and effectively without demur;

(iv) Direct the Respondent No. 1 and Respondent No. 2 to take immediate steps to remove and demolish the illegal and unauthorized construction undertaken by the Respondent No. 5 and other owners of properties in the regulated area of Ajmeri Gate Bazar;

(v) Pass such order or further orders, as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

4. Though, apparently the petitioner has sought a prayer for issuance of appropriate directions to the authorities concerned to remove alleged unauthorized constructions in the regulated area of Ajmeri Gate, however, a careful examination of the prayer clause coupled with the averments made in the writ petition would reveal that the petition is directed against the alleged illegal constructions raised by respondent no.5.



5. The background facts and attending circumstances which can be gathered from a perusal of the averments made in this petition reveal that the instant petition has been filed not in public interest but to serve certain individual purposes and that the petition appears to have been filed at the behest of certain individuals, having some or the other dispute with respondent no.5 and the petitioner appears to have only lent his name for instituting the proceedings of the petition.

6. Our conclusion in this regard is based on the following facts:-

(a) It has been averred by the petitioner in the petition that since the concerned authorities did not take any action against the alleged illegal construction said to have been raised by respondent no.5, others in the vicinity are emboldened in raising illegal constructions with impunity without any regard to the authority of law.

(b) It has also been averred by the petitioner that respondent no.5 is the owner of certain properties on which illegal constructions have been allegedly raised by him adding 2nd and 3rd floor which falls within the regulated area under the Act, 1958. The petitioner thereafter, enlists such properties owned by respondent no.5 as Shop Nos. 140 to 142 and 151 to 158, Main Bazar, Ajmeri Gate, Delhi, 110006.

(c) It has been stated that since the illegal construction raised by respondent no.5 exist in the regulated area and therefore, as per the statutory requirement of Act, 1958, no permission for construction from the municipal body concerned could be taken without requisite permission under the Act, 1958 which is required to be accorded by the Archaeological Survey of



India (*hereinafter referred to as 'ASI'*). It has thus been stated that respondent no.5 did not obtain any permission from ASI and therefore, any construction raised in absence thereof is unauthorized and illegal.

(d) It is to be noticed that a writ petition bearing number *W.P.(C) 2696/2021*, was filed by one Mohd. Abrar before this Court with the grievance that respondent no.10 in the said writ petition (respondent no.5 herein) had raised certain illegal and unauthorized construction at property bearing nos.150 to 158, Main Bazar, Ajmeri Gate, Delhi, 110006. The reference of the said writ petition and the order passed therein, have been made by the petitioner in this writ petition as well. The said writ petition was, however, disposed of noticing the statement made by the Municipal Corporation of Delhi (*hereinafter referred to as 'Corporation'*) by means of an order dated 20.03.2023.

(e) Mohd. Abrar had filed the said writ petition with the assertion *inter alia* that the construction had begun somewhere around January, 2019 and that the construction of the 2nd and 3rd floor was carried out by the respondent no.5 without obtaining any sanctioned building plan and that the subject property was within the prohibited and regulated area as per the Act, 1958.

(f) However, learned Single Judge of this Court disposed of the said writ petition after noticing the averments made in the affidavit filed by the Corporation to the effect that upon inspection it was found that property consisted of ground floor, first floor, second floor and third floor which was commercially occupied and that at the time of inspection, no new



construction activity was found in progress. The Court also took note of another averment made in the affidavit filed by the Corporation in the said writ petition that a Civil Suit bearing no. *CS No.241/2020, Mohd. Hussain v. Ram Charan Chopra & Ors.*, with the allegations of unauthorized construction in the property raised by respondent no.5 was also pending adjudication before the Court of ASCJ, Delhi. Further, learned Single Judge while disposing of the said writ petition by means of the order dated 20.03.2023, also noted the contents of the Status Report tendered to the Court by the learned Standing Counsel representing the Corporation wherein it was stated that the property in question was inspected by the officials of the Corporation on 14.03.2023 and upon inspection it was noticed that no new construction activity was found in progress. The mention of the aforesaid Civil Suit was also made in the said Status Report submitted by the Corporation, which was also taken note of by the learned Single Judge while disposing of the writ petition.

(g) Learned Single Judge, in his order dated 20.03.2023, observed that considering that it had repeatedly been stated by the Corporation that during various inspections no further construction was found to be ongoing and also that earlier construction had been opined to be old, therefore, no further orders were required to be passed. The operative portion of the order dated 20.03.2023, passed by the learned Single Judge disposing of *W.P.(C) 2696/2021*, is extracted herein below:-

“9. Considering that it has been stated repeatedly by MCD that during various inspections, no further construction was found to be going and in view of the fact that the earlier construction has been opined to be old and occupied, no further orders are required to be passed. Accordingly, the present petition is disposed of alongwith the



pending applications.”

(h) The order dated 20.03.2023, passed by the learned Single Judge, was subjected to challenge in *LPA 457/2023*, which was dismissed by means of an order dated 23.05.2023, passed by a Coordinate Bench of this Court by observing that “*As no new construction activity was noticed by the MCD on the subject property, learned Single Judge was justified in dismissing the writ petition*”. The operative portion of the order passed by the Division Bench in the aforesaid LPA is extracted herein below:-

“7. As no new construction activity was noticed by the MCD on the subject property, the learned Single Judge was justified in dismissing the writ petition.

8. In view of the above, this Court does not find any reason to interfere with the Order passed by the learned Single Judge.

9. Resultantly, the LPA is dismissed, along with pending application(s), if any.”

(i) Learned Single Judge while passing the order dated 20.03.2023, in *W.P.(C) 2696/2021*, has also noticed the stand taken therein by respondent no.10 in the said writ petition (respondent no.5 herein) that he had taken certain eviction proceedings against the erstwhile tenant and that the writ petition was filed as an offshoot of the eviction proceedings where eviction order was already passed against the tenant and that the said writ petition was motivated.

(j) These facts and the attending circumstances which apparently led to filing of the instant petition, takes the Court to infer that once the earlier attempt made by instituting the proceedings of *W.P.(C) 2696/2021* and *LPA*



457/2023, against respondent failed, the instant petition has been filed as a camouflage to subserve the public interest.

(k) We may also note that for establishing the identity of the petitioner, reliance has been placed on a Registration Certificate of a two-wheeler, which expired on 18.12.2020.

(l) The petitioner also relies upon the application enclosed as *Annexure P-4* to the instant petition which is dated 05.02.2020, and is said to have been submitted to the authorities of ASI as also to those of North Delhi Municipal Corporation, however, no documents have been enclosed with the writ petition depicting if the said application/representation against alleged illegal and unauthorized construction raised by respondent no.5, was ever received in the respective offices of the Corporation or the ASI. Further, the petitioner has relied upon certain other complaints made by certain other individuals, namely, one Mr. Mohd. Aqueel and Mr. Jalauddin, both of which are said to have been received in the office of Deputy Commissioner of the Corporation on 07.02.2024, and are almost identical in nature, alleging illegal constructions raised by respondent no.5.

(m) Once this Court in its order dated 20.03.2023 found that the constructions raised by respondent no.5 are old and that the same had not begun in the month of January, 2019 and on the said count no interference was made by the learned Single Judge and thereafter, the attempt to get the construction raised by respondent no.5 also failed on dismissal of the aforesaid LPA, the instant petition styled as public interest litigation (*hereinafter referred to as 'PIL'*) has been filed.

(n) In light of the facts as stated above, we are of the opinion that the instant writ petition has been filed as a camouflage not to safeguard or



subserve the public interest, though it appears that the petition essentially, seeks action against respondent no.5 in respect of certain alleged illegal constructions, regarding which learned Single Judge by means of his order dated 20.03.2023 and thereafter, a Coordinate Bench of this Court by means of an order dated 23.05.2023, has refused the prayer for issuance of a direction for demolition.

7. In the facts of the present case as narrated above, we are of the opinion that the petition has not been filed for *bona fide* reasons; rather, is motivated and is directed against the alleged illegal constructions raised by respondent no.5.

8. The entire law revolving around the jurisprudence developed by the Hon'ble Supreme Court and the High Courts was exhaustibly reviewed by Hon'ble Supreme Court in the case of *State of Uttaranchal v. Balwant Singh Chauhal*, (2010) 3 SCC 402.

9. Hon'ble Supreme Court while discussing various stages of development of PIL jurisprudence in the country, on one hand has observed that PIL petitions intending to espouse public causes and cause of general interest, should be encouraged, however, on the other hand, the Hon'ble Supreme Court has also put a word of caution by observing that tendency of filing frivolous and vexatious petitions in the name of PIL petitions should be curbed at the threshold.

10. Paragraph nos.147 to 158 of the report in *Balwant Singh Chauhal* (*supra*) are relevant to be noticed which are extracted herein below:-

“147. Thus, the Supreme Court has attempted to create a body of jurisprudence that accords broad enough standing to admit genuine PIL petitions, but nonetheless limits standing to thwart frivolous and vexatious petitions. The Supreme Court broadly tried to curtail the



frivolous public interest litigation petitions by two methods—one monetary and second, non-monetary.

148. The first category of cases is that where the Court on the filing of frivolous public interest litigation petitions, dismissed the petitions with exemplary costs. In Neetu v. State of Punjab [(2007) 10 SCC 614 : AIR 2007 SC 758] the Court concluded that it is necessary to impose exemplary costs to ensure that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts.

149. In S.P. Anand v. H.D. Deve Gowda [(1996) 6 SCC 734 : AIR 1997 SC 272] the Court warned that (SCC p. 745, para 18) it is of utmost importance that those who invoke the jurisdiction of this Court “seeking a waiver of the locus standi rule must exercise restraint in moving the Court by not plunging in areas wherein they are not well-versed”.

150. In Sanjeev Bhatnagar v. Union of India [(2005) 5 SCC 330 : AIR 2005 SC 2841] this Court went a step further by imposing a monetary penalty against an advocate for filing a frivolous and vexatious PIL petition. The Court found that the petition was devoid of public interest, and instead labelled it as “publicity interest litigation”. Thus, the Court dismissed the petition with costs of Rs 10,000.

151. Similarly, in Dattaraj Nathuji Thaware v. State of Maharashtra [(2005) 1 SCC 590] the Supreme Court affirmed the High Court's monetary penalty against a member of the Bar for filing a frivolous and vexatious PIL petition. This Court found that the petition was nothing but a camouflage to foster personal dispute. Observing that no one should be permitted to bring disgrace to the noble profession, the Court concluded that the imposition of the penalty of Rs 25,000 by the High Court was appropriate. Evidently, the Supreme Court has set clear precedent validating the imposition of monetary penalties against frivolous and vexatious PIL petitions, especially when filed by advocates.

152. This Court, in the second category of cases, even passed harsher orders. In Charan Lal Sahu v. Zail Singh [(1984) 1 SCC 390 : AIR 1984 SC 309] the Supreme Court observed that (SCC p. 400, para 17), “we would have been justified in passing a heavy order of costs against the two petitioners” for filing a “light-hearted and indifferent” PIL petition. However, to prevent “nipping in the bud a well-founded claim on a future occasion”, the Court opted against imposing monetary costs on the petitioners. In that case, this Court concluded that the



petition was careless, meaningless, clumsy and against public interest. Therefore, the Court ordered the Registry to initiate prosecution proceedings against the petitioner under the Contempt of Courts Act. Additionally, the Court forbade the Registry from entertaining any future PIL petitions filed by the petitioner, who was an advocate in that case.

153. In J. Jayalalitha v. Govt. of T.N. [(1999) 1 SCC 53] this Court laid down that public interest litigation can be filed by any person challenging the misuse or improper use of any public property including the political party in power for the reason that interest of individuals cannot be placed above or preferred to a larger public interest.

154. This Court has been quite conscious that the forum of this Court should not be abused by anyone for personal gain or for any oblique motive. In BALCO [(2002) 2 SCC 333 : AIR 2002 SC 350] this Court held that the jurisdiction is being abused by unscrupulous persons for their personal gain. Therefore, the Court must take care that the forum be not abused by any person for personal gain.

155. In Dattaraj Nathuji Thaware [(2005) 1 SCC 590] this Court expressed its anguish on misuse of the forum of the Court under the garb of public interest litigation and observed (SCC p. 595, para 12) that the

“[p]ublic 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 armoury of law for delivering social justice to the citizens. ... The court must not allow its process to be abused for oblique considerations....”

156. In Thaware case [(2005) 1 SCC 590] the Court encouraged the imposition of a non-monetary penalty against a PIL petition filed by a member of the Bar. The Court directed the Bar Councils and Bar Associations to ensure that no member of the Bar becomes party as petitioner or in aiding and/or abetting files frivolous petitions carrying the attractive brand name of public interest litigation. This direction impels the Bar Councils and Bar Associations to disbar members found guilty of filing frivolous and vexatious PIL petitions.



157. In *Holicow Pictures (P) Ltd. v. Prem Chandra Mishra* [(2007) 14 SCC 281 : AIR 2008 SC 913] this Court observed as under [Ed. : As observed in *Kushum Lata v. Union of India*, (2006) 6 SCC 180, p. 184, para 12.] : (SCC pp. 287d-288a, para 10)

“10. ‘... 12. It is depressing to note that on account of such trumpety proceedings initiated before the courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters — government or private, persons awaiting the disposal of cases wherein huge amounts of public revenue or unauthorised collection of tax amounts are locked up, detenu expecting their release from the detention orders, etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity, break the queue muffing their faces by wearing the mask of public interest litigation and get into the courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the courts and as a result of which the queue standing outside the doors of the courts never moves, which piquant situation creates frustration in the minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system.’ ”

158. The Court cautioned by observing that [Ed. : As observed in *Kushum Lata v. Union of India*, (2006) 6 SCC 180, pp. 184-85, paras 13 & 15.] : (*Holicow case* [(2007) 14 SCC 281 : AIR 2008 SC 913] , SCC pp. 288-89, para 10)



“10. ‘... 13. 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 armoury 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. ...

15. The court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The information should show gravity and seriousness involved. The court has to strike a balance between two conflicting interests; (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the executive and the legislature. The court has to act ruthlessly while dealing with imposters and busybodies or meddling interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of pro bono publico, though they have no interest of the public or even of their own to protect.’ ”

11. In **Balwant Singh Chauhal (supra)**, the Apex Court issued certain directions which can be found in paragraph no.181 of the said report which is also extracted herein below:-

“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 PIL.*

(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.*

12. One of the observations made by the Apex Court in ***Balwant Singh Chauhal (supra)*** was that it would be appropriate for each High Court to formulate rules for encouraging the genuine PILs and discouraging the PILs



filed with oblique motives, and accordingly, the High Courts were requested to frame rules.

13. In tune with the observations made and the concerns expressed by the Hon'ble Supreme Court in *Balwant Singh Chauhal (supra)* for encouraging the genuine PILs and discouraging the PILs filed for extraneous considerations, this Court framed rules known as Delhi High Court (Public Interest Litigation) Rules, 2010 (*hereinafter referred to as 'PIL Rules'*), Rule 9 of the PIL Rules *inter alia* provides that any person filing a PIL has to make a specific averment that the writ petitioner has no personal interest in the litigation and that the petition is not guided by self gain or for gain of any other person/institution/body and that there is no motive other than of public interest in filing the writ petition.

14. Accordingly, a petition filed and captioned as a PIL needs to be examined before it is entertained by the Court to determine as to whether, the petitioner is guided by self gain or for gain of any other person or institution or body and also as to whether, there is any motive other than the motive of public interest in filing the petition.

15. When we examine the averments made in the writ petition and the attending circumstances as can be gathered, we have no doubt to conclude that the proceedings of the instant petition have been instituted not in public interest and that the motive of the petition in filing the instant petition does not appear to be *bona fide*. In the background of the fact that earlier writ petition and LPA were dismissed where the prayer was sought for issuance of directions for demolition or alleged illegal construction raised by respondent no.5, the instant petition clearly appears to be an attempt in the same direction. Accordingly, even if this petition has not been filed by the



petitioner for some self gain, it certainly appears to have been filed for the gain of some other person, may be the tenant in respect of whom eviction orders were passed on the proceedings instituted by respondent no.5.

16. The facts and circumstances of the case lead us to an indefeasible conclusion that the petitioner, while instituting the instant petition, has only extended his name to achieve an oblique motive, and hence, the petition has clearly been filed for extraneous considerations.

17. Thus, the declaration made by the petitioner in paragraph no.3 of the writ petition that petitioner does not have any personal interest in the litigation and is not guided by self gain or gain of any other person/institution/body, appears to be a mere formal statement made by him so as to give colour of public interest to the instant writ petition. Such an averment has been made only in an attempt to fulfill the requirement of Rule 9(1)(b) of the PIL Rules. The averments so made are not only false but are an attempt to mislead the Court as well.

18. A Division Bench of this Court in ***Ram Niwas Jain v. Ministry of Home Affairs, 2015 SCC OnLine Del 6616*** has referred to the law laid down by the Hon'ble Supreme Court in ***Balwant Singh Chauhal (supra)*** and on coming to the conclusion that the petitioner of the said writ petition had filed the writ petition not in public interest, this court not only dismissed the petition, but also imposed cost. The observations made in paragraph nos.16 to 25 by this Court in ***Ram Niwas Jain (supra)*** are relevant to be extracted herein, which run as under:-

“16. The tool of PIL, enabling the High Courts and the Supreme Court to be approached by a person, without any cause of action or personal injury to himself/herself being shown, as was the fundamental requirement till then was for approaching the Court, was devised by the Supreme Court to provide access to Courts and to



*justice to persons who were unable to do so themselves for the reason of social or economic backwardness. The tool of PIL was subsequently extended, also to matters where the injury, instead of being to any particular person, was to the entire citizenry or a section thereof. Since in PILs, the petitioner had no personal interest and was merely, in a public spirit, flagging an issue concerning somebody else who was himself/herself/themselves unable to access the Courts for justice or as members of the public in general, the Courts in PILs also started relaxing the rule, of the burden of proof/onus being on the person approaching the Court. However, soon it was realized that taking advantage of such leniency and which resulted in the Courts sometimes instead of adjudicatory, also entering into the domain of investigatory role, the said tool of PIL came to be misused. The Supreme Court, ultimately in *State of Uttaranchal v. Balwant Singh Chauhal* (2010) 3 SCC 402 issued broad guidelines with respect to PILs and directed the High Courts to frame rules with respect to PILs to curb the misuse thereof. Subsequently, in *State of U.P. v. Neeraj Chaubey* (2010) 10 SCC 320 was also directed that PILs should generally be heard only by the Bench designated by the Chief Justice of the High Court.*

25. *We are of the view that after the warning sounded by the Supreme Court and the Rules relating to PILs framed by this Court, the petitioner cannot be heard to say that the filing of this PIL directed against one individual only and with whom a close relative of the petitioner had reasons to settle score with and with which close relative the petitioner as well as his Advocate were in constant touch, has nothing to do with the said close relative or his dispute with the person against whom the PIL is directed or that the petitioner was not required to disclose the said facts to this Court. We have pondered over the punishment to be meted out to the petitioner. The filing of the false affidavit by the petitioner, knowing the same to be false, in our view cannot be treated lightly. The law and the Courts should not be seen to sit by limply, while those who defy it go free. (*Jennison v. Baker* [1972] 1 All E.R. 997).*

19. Hon'ble Supreme Court yet in another case, namely, *State of Jharkhand v. Shiv Shankar Sharma*, 2022 SCC OnLine SC 1541 while referring to the judgment in the case of *Balwant Singh Chauhal* (supra) has observed that what is of crucial significance in a PIL is the *bona fide* of the petitioner and that it is a relevant consideration and must be examined by the Court at the very threshold. Observations of the Hon'ble Supreme Court in



Shiv Shankar Sharma (supra) made in paragraph no.19 are relevant be extracted here which is as under:-

“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.

20. Regard may also be had to certain observations made by the Apex Court in ***Kushum Lata v. Union of India, (2006) 6 SCC 180*** wherein, it has been observed by the Hon’ble Supreme Court that in a case where there is material to establish that a petition styled as a PIL is nothing but a camouflage to foster person disputes, such a petition is to be thrown out, drawing the distinction between ‘public interest litigation’ and ‘personal interest litigation’. Such observations have been made by the Hon’ble Supreme Court in paragraph no.5 of the judgment in ***Kushum Lata (supra)*** which is quoted here under:-

“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, the said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. Public interest litigation which has 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”. The High Court has found that the case at hand belongs to the second category. If not properly regulated and abuse averted, it becomes also a tool in unscrupulous hands to release vendetta and wreak vengeance, as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of a 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. The courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. 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. Chowdhary [(1992) 4 SCC 305 : 1993 SCC (Cri) 36] and Kazi Lhendup Dorji v. CBI [1994 Supp (2) SCC 116 : 1994 SCC (Cri) 873] . 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 [1993 Supp (2) SCC 20 : AIR 1993 SC 852] and K.R. Srinivas v. R.M. Premchand [(1994) 6 SCC 620] .)”

21. In view of the discussions made and reasons given above and also the law as has developed surrounding the jurisprudence relating to the PIL petitions, we are of the considered opinion that the instant petition is only a camouflage and has been filed as a PIL to achieve some extraneous purpose *sans* public interest.

22. The petition along with pending application is thus hereby dismissed with a cost of Rs.10,000/- to be deposited by the petitioner with the Delhi High Court Staff Welfare Fund, bearing account no. 15530110074442, maintained with UCO Bank, Delhi High Court Branch, New Delhi, within a month, failing which the Registrar General of this Court shall recover the same as arrears of land revenue.

23. Before we part with the matter, we are constrained to observe that the petitions as the present one, ultimately result in impeding the course of Court's endeavor to espouse genuine public causes. The jurisprudence which surrounds the development of PIL petitions in India concerns itself primarily to give voice to the voiceless and to provide access to justice to those who are disadvantaged for any reason, namely, reason of illiteracy, poverty or any other handicap.



24. The Court thus cannot sit in silence if any attempt to impure the stream of PIL is made otherwise the object of development of PIL shall get defeated. The Court, therefore, is to be always at guards to promote genuine PILs, however, motivated and camouflaged petitions should be nipped in the bud.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

FEBRUARY 19, 2025/MJ