

Court No. - 6

Case :- WRIT - A No. - 1578 of 2025

Petitioner :- Anjuman Himayat Chaprasian Sangh U.P. Thru. Its Provincial Chairman Brij Kishor Sharma

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Law And Legal Remembrance And Another

Counsel for Petitioner :- Anil Kumar Pandey

Counsel for Respondent :- C.S.C.,Gaurav Mehrotra

Hon'ble Alok Mathur,J.

1. Heard Sri Anil Kumar Pandey, learned counsel for the petitioner, learned Standing counsel for the State of U.P. and Sri Gaurav Mehrotra, who has accepted notice on behalf of respondent No.2-High Court.

2. Present writ petition has been filed by an association styled as Anjuman Himayat Chaparsian Sangh, U.P. (Nyay Bhibhag), Lucknow stating that membership of the petitioner association is of class IV employees working in civil courts of State of U.P. and the object of the association includes espousal of grievance of its members pertaining to service matter. It has further been submitted that conditions of service and salary to class IV employees is governed by Uttar Pradesh District court Service Rules, 2013 and the members of the petitioner- association who are working in District Courts are being forced to work at the residences of judicial officers and consequently have preferred present writ petition with prayer for a direction to the judicial officers of the civil courts to not take work from Class IV employees of civil court as a domestic servant for their personal work except to official time.

3. Sri Gaurav Mehrotra appearing for High Court, has raised a preliminary objection with regard to maintainability of the writ petition. He submits that the present writ petition has been filed by an association. Whether the said association can file and maintain the writ petition for the benefit its workers was subjected to consideration before Full Bench of this Court in the case of ***Umesh Chand Vinod Kumar and others Vs. Krishi Utpadan Mandi Samiti, Bharthana and another reported in 1983 SCC OnLine All 638*** where the question was answered in paragraph 50 of the said judgment which is quoted as under:-

"Our answer to the referred questions is as follows:--

Q. 1 Whether an association of persons, registered or unregistered, can maintain a petition under Article 226 of the Constitution for the enforcement of the rights of its members as distinguished from the enforcement of its own rights?

A. 1 The position appears to be that an association of persons, registered or unregistered, can file a petition under Article 226 for enforcement of the rights of its members as distinguished from the enforcement of its own rights (1) In case members of such an association are themselves unable to approach the court by reason of poverty, disability or socially or economically disadvantaged position (Title Indians").

(2) In case of a public injury leading to public interest litigation; provided the association has some concern deeper than that of a wayfarer or a busybody, i.e., it has a special interest in the subject-matter.

(3) Where the rules or regulations of the association specifically authorise it to take legal proceedings on behalf of its members, so that any order passed by the court in such proceedings will be binding on the members.

In other cases an association, whether registered or unregistered, cannot maintain a petition under Article 226 for the enforcement or protection of the rights of its members, as distinguished from the enforcement of its own rights.

Q. 2 Whether a single writ petition under Article 226 of the Constitution is maintainable on behalf of more than one petitioner, not connected with each other as partners of those who have no other legally subsisting jural relationship where the questions of law and fact, involved in the petition, are common?

A. 2 A single writ petition under Art 226 of the Constitution by more than one petitioner, not connected with each other as partners or any other legally subsisting jural relationship, is maintainable where the right to relief arises from the same act or transaction and there is a common question of law or fact or where though the right of claim does not arise from the same act or transaction the petitioners are jointly interested in the cause or causes of action.

Q. 3 In case the answer to question No. 1 is in the affirmative, whether only one set of court-fees would be payable on such petition or each such individual petitioner has to pay court-fees separately?

A. 3 Where a single writ petition by an association or by more than one person is maintainable, then a single set of court-fees would be payable; Else, each petitioner is liable to pay separate court-fees.

Q. 4 In case answer to question No. 1 is in the negative, whether the defect of misjoinder of several petitioners in the writ petition can be cured by requiring each such petitioner to pay separate court-fees?

A. 4 The technical defect of misJoinder of petitioners can, in the discretion of the Court, be cured by each petitioner paying separate court-fees.

Q. 5 Whether the petition is maintainable for questioning similar actions taken by different Mandi Samitis Independently 0 each other in cases where the aggrieved party seeks relief against each such Committee on identical grounds?*

A. 5 Our answer to this question is in the affirmative."

4. In support of his submissions he has submitted that according to the petitioner the members of the petitioner association are class IV employees working in district courts and in case there are any allegations of being forced to work at the residence, it can be raised individually by such persons and it is not the case that all the members are being forced to work at the residences. He further submits that a perusal of the bye laws which has been annexed by the petitioner, would indicate that the associations is not authorized to take recourse to legal proceedings to redress the grievance of its members and even if any resolution is passed authorizing certain persons to file a writ petition the same would be unauthorized act as per the bye laws of the petitioner association and consequently submits that for the aforesaid reasons the writ petition would not be maintainable.

5. Sri Anil Kumar Pandey appearing for the petitioner does not dispute the fact that the persons who are aggrieved by the act that they are forced to work at the residences of judicial officers are not incapacitated in any manner whatsoever to approach any forum or court of competent jurisdiction for redressal of their grievances and there is no reason given in the nor submitted by the petitioner as to why individual members cannot approach this Court for redressal of his grievance.

6. Apart from the above, a perusal of the bye laws clearly indicates that the object of the association includes taking action for getting better service conditions etc. but clearly did

not provide to take recourse of legal proceedings on behalf of its members and in absence of such authorization the present writ petition is not maintainable under the bye-laws. In view of the above, it is clear that though the petitioner denies that he has filed the petition in the style of public interest which cannot be maintained by the petitioner for the benefits of its members. Apart from the above, when a pointed query was made to the petitioner as to why the judicial officers cannot be assisted by the staff where apart from the court work, writing of judgments and perusal of files takes place at the residence of a judge, to which he did not have any answer.

7. Sri Gaurav Mehrotra has further submitted that facilities are provided to the judicial officers and it is class IV employees who carry file and other material from the courts to the residences and vice versa and, in fact, they assist the judicial officers in dispensation of justice and this cannot be said to be a forced labour or taking any work beyond the prescribed duties.

8. For the aforesaid reasons, we find that the present writ petition is not maintainable and accordingly **dismissed**.

(Alok Mathur, J.)

Order Date :- 11.2.2025

RKM.