

Neutral Citation No. - 2025:AHC:132348

Court No. - 50

Case :- WRIT - A No. - 6124 of 2025

Petitioner :- Sultan Choudhary

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Avinash Tiwari, Subedar Mishra

Counsel for Respondent :- C.S.C., Suresh Singh, Vimlesh Kumar Rai

Hon'ble Ajay Bhanot, J.

1. Heard Shri Sultan Choudhary, the petitioner in person and Shri Vimlesh Kumar Rai, learned counsel for the respondent.

2. The petitioner is a lawyer and has prayed for conduct of a departmental enquiry against the respondent no. 3 - Sanjay Vidhuri @ Sanjay Kumar who is a regular employee of the Jal Nigam.

3. The employees of the Jal Nigam are governed and regulated by the service rules of the Uttar Pradesh Jal Nigam. The action against the employees has to be taken by the disciplinary authority as per law. The petitioner is neither an employee of the Jal Nigam, nor the disciplinary authority of the said Sanjay Vidhuri @ Sanjay Kumar. The disciplinary authorities are duly nominated in the service rules and they alone are competent to take appropriate action in case of any misconduct or act of fraud on part of the respondents.

4. The appointments of employees of the respondent-Jal Nigam, Uttar Pradesh are made in light of specific statutory provisions and government orders issued from

time to time by competent statutory authorities. The procedure laid out under the statutory scheme and the government orders ensures transparency in the process and fairness in appointments. The competent authorities under the law can also take appropriate action for deviation made in the process of appointments. The petitioner does not figure anywhere in the aforesaid statutory lineup or official hierarchy of authorities charged with the duties of making the appointments or examining of their validity thereof.

5. The petitioner is a lawyer who has worked for the welfare of the society. However, apart from this bald averment no material is in the record to establish the credentials of the petitioner. The petitioner has prayed for a departmental enquiry against the respondent no. 3 clearly with a view to harass him. It is evident that the aforesaid averments regarding his credentials are not liable to be taken on their face value and are accordingly rejected.

6. The petitioner has not established his locus standi to recommend a departmental enquiry against the respondent no. 3 who is working as an Assistant Engineer at PM-YPCU-1, Ghaziabad.

7. The service conditions of government servants are governed and regulated by service rules holding the field. The service rules are framed under Article 309 of the Constitution of India and other provisions of law.

The service rules of employees ensure that there is transparency in the functioning of the government departments and accountability in the conduct of government officials. The service rules also insulate the government employees from extraneous influences and pressure which may impede faithful discharge of government duties. The service rules are bulwark of independence of government servants and enable them to function without fear of any outside interference.

8. Entertaining complaints from the outsiders who are busybodies and interlopers will have far reaching consequences on the functioning of government. Such action will adversely impact the morale of the government servants and will be detrimental to the efficiency of the Government. Persons who set up complaints with malafide motives of harassing and blackmailing government servant have to be deterred and the Government employees should be safeguarded. Manner of discharge of duties by public servants are wholly beyond the scope of the rights of such complainants and entirely in the prerogative of the State Government.

9. Further it is settled law that public interest litigation is not maintainable in service matters. It would be apposite to fortify the narrative with cases in point.

10. This Court in **Sriram Prasad and another Vs. State of U.P. and others**¹ relied on good authority to uphold

¹ 2016 (6) ADJ 122

the distinction between an aggrieved party and an annoyed party held as under:

"13. In the case of R. v. London Country Keepers of the peace of Justice, (1890) 25 Qbd 357, the Court held:

"A person who cannot succeed in getting a conviction against another may be annoyed by the said findings. He may also feel that what he thought to be a breach of law was wrongly held to be not a breach of law by the Magistrate. He thus may be said to be a person annoyed but not a person aggrieved, entitle to prefer an appeal against such order."

11. The existence of a right in favour of an aggrieved party furnishes the locus standi to maintain a writ petition as held in **Vinoy Kumar Vs. State of U.P. and others²** thus:

"2. Generally speaking, a person shall have no locus standi to file a writ petition if he is not personally affected by the impugned order or his fundamental rights have neither been directly or substantially invaded nor is there any imminent danger of such rights being invaded or his acquired interests have been violated ignoring the applicable rules. The relief under Article 226 of the constitution is based on the existence of a right in favour of the person invoking the jurisdiction. The exception to the general rule is only in cases where the writ applied for is a writ of habeas - corpus or quo warranto or filed in public interest. It is a matter of prudence, that the court confines the exercise of writ jurisdiction to cases where legal wrong or legal injuries caused to a particular person or his fundamental rights are violated, and not to entertain cases of individual wrong or injury at the instance of third party where there is an effective legal aid organisation which can take care of such cases. Even in cases filed in public interest, the court can exercise the writ jurisdiction at the instance of a third party only when it is shown that the legal wrong or legal injury or illegal burden is threatened and such person or determined class of persons is, by reason or poverty, helplessness or disability or socially or economically disadvantages position, unable to

2 2001 (4) SCC 734

approach the court for relief."

12. Similarly in **Ayaaubkhan Noorkhan Pathan Vs. State of Maharashtra and others**³, the Supreme Court emphasized that existence of enforceable rights of aggrieved parties form the pre-condition to invoke the extraordinary jurisdiction under Article 226 of the Constitution of India vested in this Court:

"9. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the authority/court, that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order, etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can, of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that the relief prayed for must be one to enforce a legal right. In fact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. [Vide *State of Orissa v. Madan Gopal Rungta* [AIR 1952 SC 12] , *Saghir Ahmad v. State of U.P.* [AIR 1954 SC 728] , *Calcutta Gas Co. (Proprietary) Ltd. v. State of W.B.* [AIR 1962 SC 1044] , *Rajendra Singh v. State of M.P.* [(1996) 5 SCC 460 : AIR 1996 SC 2736] and *Tamilnad Mercantile Bank Shareholders Welfare Assn. (2) v. S.C. Sekar* [(2009) 2 SCC 784].]

10. A "legal right", means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must, therefore, necessarily be one whose right or interest has been

3 (2013) 4 SCC 465

adversely affected or jeopardised. (Vide Shanti Kumar R. Canji v. Home Insurance Co. of New York [(1974) 2 SCC 387 : AIR 1974 SC 1719] and State of Rajasthan v. Union of India [(1977) 3 SCC 592 : AIR 1977 SC 1361] .)

11. In Anand Sharadchandra Oka v. University of Mumbai [(2008) 5 SCC 217 : AIR 2008 SC 1289] , a similar view was taken by this Court, observing that, if a person claiming relief is not eligible as per requirement, then he cannot be said to be a person aggrieved regarding the election or the selection of other persons."

13. The scope of Public Interest Litigations in service matters was elucidated by the Hon'ble Supreme Court in **Duryodhan Sahu (Dr.) v. Jitendra Kumar Mishra**⁴ held thus:

"18. The constitution of Administrative Tribunals was necessitated because of the large pendency of cases relating to service matters in various courts in the country. It was expected that the setting up of Administrative Tribunals to deal exclusively in service matters would go a long way in not only reducing the burden of the courts but also provide to the persons covered by the Tribunals speedy relief in respect of their grievances. The basic idea as evident from the various provisions of the Act is that the Tribunal should quickly redress the grievances in relation to service matters. The definition of 'service matters' found in Section 3(q) shows that in relation to a person, the expression means all service matters relating to the conditions of his service. The significance of the word 'his' cannot be ignored. Section 3(b) defines the word "application" as an application made under Section 19. The latter section refers to "person aggrieved". In order to bring a matter before the Tribunal, an application has to be made and the same can be made only by a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal. We have already seen that the word "order" has been defined in the explanation to sub-section (1) of Section 19 so that all matters referred to in Section 3(q) as service matters could be brought before the Tribunal. If in that context Sections 14 and 15 are read, there is no doubt that a total stranger to the service concerned cannot make an application before the Tribunal. If public interest litigations at the instance of strangers are allowed to be entertained by the Tribunal, the very object of speedy disposal of service matters would get defeated."

4 (1998) 7 SCC 273

14. The consequences of entertaining Public Interest Litigations in service matters were examined by the Hon'ble Supreme Court in **Ashok Kumar Pandey v. State of West Bengal**⁵. Public Interest Litigations in service matters were restricted in the following terms:

"16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations where even a minuscule percentage can legitimately be called public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in *Duryodhan Sahu (Dr) v. Jitendra Kumar Mishra* [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802 : AIR 1999 SC 114] this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the courts should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforesaid so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts."

15. The law laid down by the Constitutional Courts does not permit initiation of adversarial litigation in service matters at the instance of a stranger or a busybody. The petitioner was required to satisfy that he is an aggrieved party. The nature of legal rights sought to be enforced do not bring the petitioner in the definition of a person

5 (2004) 3 SCC 349

aggrieved. The petitioner does not have the locus standi to maintain the writ petition. Further the petitioner cannot canvass any public interest in this writ petition, in light of the restrictions imposed by judicial authorities discussed earlier.

16. Litigation cannot be a sport for the mischievous and courts are not the play field for interlopers.

17. The writ petition has been actuated by malafides and is an abuse of the process of the Court. The petitioner is a busybody who simply wants to harass and blackmail the said Sanjay Vidhuri @ Sanjay Kumar.

18. Moreover it needs to be mentioned that the petitioner is a lawyer. There is a special responsibility cast on members of the Bar to be dutiful citizens and not exploit their privileges of being a lawyer by initiating such malafides litigation.

19. It has been pointed out that earlier the petitioner had approached this Court by means of P.I.L. registered as Public Interest Litigation (PIL) No 391 of 2023 (Sultan Chaudhary Vs. State of U.P. and others). The said PIL was disposed of with liberty to approach the Lok Ayukta.

20. However, this order will not affect the proceedings against the respondent no. 3 pending before other authorities including Lok Ayukta. The authorities shall proceed in accordance with law without being influenced by this order.

21. In view of the peculiar facts and circumstances of

this case penalty is being imposed upon the petitioner Shri Sultan Chaudhary, Advocate. The petitioner Shri Sultan Chaudhary, Advocate shall assist the trial court in Gautam Budh Nagar in five cases on a pro bono basis. Petitioner Shri Sultan Chaudhary, Advocate shall be allocated the aforesaid five cases by the District Legal Services Authority, Gautam Budh Nagar.

22. A copy of this order be communicated to District Legal Services Authority, Gautam Budh Nagar by the Registrar (Compliance).

23. In wake of the preceding discussion the writ petition is dismissed.

Order Date :-06.08.2025
Dhananjai