



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO. 47 OF 2020

1. Forum For Fast Justice
through its Secretary Ashish Mehta
having his office at Kuber Bhuvan,
Bajaj Road, Vile Parle (West),
Mumbai – 400 056
Mobile No. 9967723000
PAN No. AAATF 2471J
2. Bhagvanji Raiyani S/o Ghunsabhai
Vashram Raiyani
R/o Kuber Bhavan, Bajaj Road,
Vile Parle (West), Mumbai – 400 056
Mobile No. 9820403912
PAN No. AAAPR8520N
Email address: judiciaryraiyanigmail.com ... Petitioners

V/s.

Government of Maharashtra
Through its Minister in Charge
Department of Finance,
Madame Cama Road, Mantralaya,
Mumbai- 400032 ... Respondent

Mr. Bhagvanji Raiyani, Petitioner-in-person present.
Mrs. P. H. Kantharia, Government Pleader for Respondent-State.

CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.

RESERVED ON : 3rd JANUARY, 2024
PRONOUNCED ON : 15th JANUARY, 2024

JUDGMENT: (PER ARIF S. DOCTOR, J.)

1. By way of the present Petition filed in the public interest, the Petitioners have sought the following reliefs, viz.

- "(a) To direct the Respondent State to lower down the salaries of MLAs to the average level of those of other States' MLAs salaries i.e. Rs.1,15,000 per month as per the list at Ex. F in para 12.*
- (b) To direct to reduce the perks provided to MLAs and Ex. MLAs as suggested by the panel of judges to be appointed to consider the suggestions made in the petitioners' averments in para no.11 and arrived through interviews of some of the MLAs after inviting suggestions and objections from public.*
- (c) To direct not to provide any salaries and perks to those MLAs whose assets are over Rs.5 crore and paying income tax upto the highest tax rate of 30% or prevailing at the time of the judgment.*
- (d) The court may suggest to the commission to invite the petitioner for an interview separately to hear his views in the matter.*
- (e) The Hon'ble Court to appoint yet more Judicial Commission having few high ranking retired IPS Officers to review the threat perception of all the State VIPs including that of the petitioner's, for whose services the State Police and comandos are oppointed to protect them to verify that the threats are real and if so upto what extent or just for appeasement, nepotism and status. The commission's report to be filed before the court for appropriate order on amendments of The Maharashtra Legislature Members Salaries and Allowance Act, 1956 of last several years amendments till they reach the level of around Rs.1,15,000 per month salary and other allowances.*
- (f) The Court may direct the Respondent State to quash / repeal all amendments on MLAs' salary from 2020 downwards upto the level of Rs.1.15 lakh or thereabout and relevant other financial perks and allowances prevailing on the then amendment.*

(g) *The Hon'ble Court may be asked the Respondent State to appoint through Principal Judge of Local District Court, panel headed by a retired Judge, few eminent citizens and the concerned MLA under his jurisdiction spend Local Area Fund of Rs.3 crore allotted to every MLA."*

2. Mrs. Kantharia, Learned Government Pleader appearing on behalf of Respondent at the outset raised a preliminary objection and submitted that the issue raised in the present Petition, had already been decided by this Court in an earlier Public Interest Litigation (PIL) in the case of ***Shree Sandeep Pandurang Patil Vs. The State of Maharashtra & Ors.***¹ She submitted that thereafter another PIL² raising a similar challenge was filed which was also dismissed by this Court. She submitted that copies of both these judgements/orders were annexed to the Affidavit in Reply filed on behalf of the State of Maharashtra. She then invited our attention to the order dated 20th January, 2023 passed in the present Petition by which the Petitioners had sought time to go through the said judgments. She pointed out that the Petitioner had thereafter not filed any Rejoinder to the said Affidavit-in-Reply nor dealt with either of the said judgments.

1 PIL No.148 of 2016

2 PIL No. 164 of 2016 *Kakasaheb Damodhar Kakde vs The State of Maharashtra*

3. When we inquired of Mr. Raiyani i.e., Petitioner No. 2 appearing in person, as to how the present Petition would be maintainable in light of the judgement of this Court in the case of ***Shree Sandeep Pandurang Patil*** (supra), instead of answering the query of the Court Mr. Raiyani proceeded to read out the entire Petition. The Court asked Mr. Raiyani to advance legal submissions and not merely read out the Petition. Mr. Raiyani however proceeded to continue to read out the Petition in its entirety. After he completed reading out the Petition, he tendered written submissions which he also read out. We must record here that Mr. Raiyani therefore did not make any legal submissions in support of the aforesaid prayers, nor did he answer the query of the Court as to how the Petition was maintainable in view of the judgement of this Court in the case of ***Shree Sandeep Pandurang Patil*** (Supra).

4. After having heard Mr. Raiyani at length and also perusing the contents of the Petition for ourselves, we find that the Petition is entirely devoid of merit. It is not in dispute that *inter alia* the salaries and allowances of the MLA's are governed by the Maharashtra Act No. XXXII of 2016. It is also not in

dispute that the constitutional validity of the said act was challenged in the case of ***Shree Sandeep Pandurang Patil*** (supra) where this Court while dismissing the Petition held as follows, viz.

"10. In the present case, they have challenged the constitutional validity of the Act. Definitely we cannot question the competency of the State to enact such law. This is purely a policy matter where the State Legislature in its wisdom has come out with such enactment. Nature of benefit is not alien to any other State. Almost all the States in India have made such provisions. Now the only question is why there has to be enhancement of salaries and pensions to the sitting and former Members of Legislature. With the price index going up due to inflation, the cost of living naturally is rising and the per capita income of the individual also is calculated vis-a-vis the inflation. The pay commission takes into consideration the inflation and likelihood of increase in the cost of living for about 10 years and recommends how the hike in the payment of salaries to various categories of employees should be made, both who serve Union of India and also respective States. When such policy decision in hiking the salaries of other group of working class is possible, we fail to understand why the salaries of Members of Legislatures and also the pensions of former MLAs / MLCs should not be increased. What amount should be paid as a salary to the Members of State Legislature definitely is a policy decision and the question is whether we should intervene in such policy decision by invoking extraordinary writ jurisdiction of this Court under Article 226 of the Constitution.

11. All the averments and arguments referring to the problems in the society, including the drought, deaths of farmers being on increase indicated in the petition vis a vis the wisdom in making the impugned enactment in question, would be best suited for debate on a different Floor rather than in a Court of law invoking discretionary writ jurisdiction of this Court. Since it is a challenge with regard to feasibility

in given circumstances, we decline to interfere since no constitutional principle being violated. There is nothing arbitrary or unreasonable in the exercise undertaken under questioned statute. We see no illegality in the exercise undertaken.

12. In the light of above discussion and reasoning, we are of the opinion that none of the grounds raised in the petition could be entertained and accordingly the PIL is dismissed."

5. A copy of the aforesaid judgement is annexed by the Respondent to the Affidavit in Reply. The Petitioner has neither filed a Rejoinder nor has advanced any submissions of how the same would not apply. It is only in the written submissions that the Petitioner has stated, viz.

"1. With due appology to this Hon'ble Court, I have to bring some proabilities which the court in dismissal of petitions of similar nature as that of this petition cited in the affidavit dated 9-8-2021 by the Respondent State, overlooked. Without scandalising or lowering down of the majesty of this court, I have to bring some unsavoury observations."

We find that a submission like the above deserves only to be stated to be rejected. The Petitioner is required to make submissions in law and not give his opinion to the Court. We have for ourselves perused the judgement in the case of **Sandeep Pandurang Patil** (Supra) and find that basis the same, the question of entertaining this Petition does not arise.

6. Additionally, we must express our strong disapproval for the manner in which this Petition has been filed and presented. A perusal of the Petition shows that the same does not contain a single legal ground in support of the reliefs which have been prayed for. In prayer clause (f) of the Petition, the Petitioner has specifically sought for repealing of amendments which are carried out in Legislative Members' salaries and allowances from the year 2020. The same is nothing but a challenge to the constitutional validity of the Maharashtra Act No.XXXII of 2016. The Petitioner thus having raised a constitutional challenge, it was incumbent upon the Petitioner to have demonstrated (i) that the legislature lacked the competence to enact such amendments and (ii) that the amendments were in violation of any of the provisions of the Constitution of India. There is not a whisper in the Petition as to either of these aspects.

7. Additionally, we must note that the Petition is only replete with (what is stated to be) the results of random Google searches and has annexed to it various newspaper articles regarding poaching of elected representatives by political parties,

alleged horse trading of MLAs and security personnel provided to VIPs. The Petitioner has in the grounds gone on to make various absolutely generalized statements in respect of the MLAs, basis which certain most unsavory comments have been made by the Petitioner against all MLAs in general. We must express our strong disapproval to such loose, unsavory and generalized statements. At this stage it is useful to note that the Hon'ble Supreme Court had in the case of *Ashok Kumar Pandey Vs. State of West Bengal & Others*³ *inter alia* held that nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others as also held that No litigant has a right to unlimited draught on the Courts and easy access to justice should not be misused as a license to file misconceived and frivolous petitions and that today people rush to Courts to file cases in profusion under this attractive name of public interest. They must inspire confidence in Courts and among the public.

8. Before parting with this judgment we must note that this Court infact had occasion to deal with another PIL⁴ filed by the same Petitioner in which the Petitioner had sought relief *inter alia* to lay down code of conduct etc. for the functioning of

3 (2004) 3 SCC 349

4 PIL (L) No. 41119 of 2022 Bhagvanji Raiyani Vs. The State of Maharashtra & Anr.

elected representatives. This Court while dismissing said PIL had observed as follows, viz.

" This is yet another vague and generalized Public Interest Petition filed by this Petitioner. Filing such Petitions has become a regular occurrence, with the Petitioner presenting one or two such Petitions nearly every week."

"11. Now, we turn to the manner in which this Petition is presented. Apart from the shoddy manner of presentation, it has undertones of degrading the institution of elected representatives itself. The tendency to denigrate public offices through the misuse of Public Interest litigation is a concerning phenomenon that must be addressed and discouraged. While PIL serves as a powerful tool for seeking justice and upholding the rights of the public, it should not be employed as a means to demean or undermine the dignity of public offices. Individual derelictions of duties apart, as an institution, the elected representatives play a pivotal role in the functioning of the government.

12. We place on record our disapproval of the numerous poorly drafted and haphazardly presented petitions persistently filed by this Petitioner, subjecting the Court to a monologue, thereby consuming valuable judicial time and resources. It is essential to exercise prudence and diligence in preparing and presenting petitions before the Court, ensuring that they are well-founded and supported by adequate research and compelling arguments, avoiding using intemperate language. It is crucial to maintain respect and professionalism in all legal pleadings, regardless of the nature of the case or the parties involved. The PIL Petitioner must try to understand the relevant legal principles, administrative and constitutional law, and the scope of writ jurisdiction, and if they cannot do so, seek legal assistance. That is so because the judicial system operates with limited time and resources, and frivolous or

poorly presented PILs burden the Court and hinder the resolution of other genuine and urgent cases.”

9. We find that the above observations apply on all fours to the facts of the present case as well. Thus, for the aforesaid reasons, the Petition is dismissed.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)