

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (PIL) No. 4632 of 2019

Arun Kumar Dubey, aged about 51 years, S/o Late Damodar Dubey,  
R/o Harihar Singh Road, Morabadi, P.O. Ranchi, P.S. Bariatu, District  
Ranchi, Jharkhand. ... .. **Petitioner**

**Versus**

1. The Director, Directorate of Enforcement, 6<sup>th</sup> floor, Lok Nayak Bhawan, PO PS Khan Market, New Delhi, 110003.
2. The Assistant Director (PMLA) Directorate of Enforcement, P.P. Compound, Kaushalya Chamber-II, Ranchi, Sub-Zonal Office, Ranchi.
3. The State of Jharkhand.
4. The Chief Secretary, State of Jharkhand, Project Building, P.O. & P.S.-Dhurwa, District- Ranchi, Jharkhand.
5. The Union of India.
6. The Secretary, Department of Personnel & Administrative Reforms, Jharkhand, Project Building, P.O./P.S. Dhurwa, Ranchi, Jharkhand.
7. The Central Vigilance Commissioner, Central Vigilance Commission, Satarkata Bhawan, A-Block, GPO Complex INA, P.O. & P.S.-G.P.O. Complex, New Delhi, Delhi 110023.
8. Amrendra Pratap Singh, I.A.S. the Then Principal Secretary, Drinking & Sanitation Department, P.O. & P.S., District – Jharkhand.
9. Anti Corruption Bureau, Jharkhand.
10. Director General, In-Charge, Anti Corruption Bureau, Jharkhand.
11. Central Bureau of Investigation

... .. **Respondents**

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**CORAM: SRI SANJAYA KUMAR MISHRA, C.J.**  
**SRI ANANDA SEN, J.**

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For the Petitioners: M/s. Rajeev Kumar & Kaushalya Kumari,  
Advocates  
For the State: Mr. Kapil Sibal, Sr. Advocate  
Mr. Rajiv Ranjan, A.G.  
Mr. Piyush Chitresh, A.C. to A.G.  
For the UOI: Mr. Anil Kumar, Addl. S.G.I.  
For the ED: Mr. Amit Kumar Das, Advocate  
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Reserved on: 14.09.2023

Pronounced on: 27.12.2023

Upon hearing the learned counsel for the parties, this Court passed the following, (Per, Sanjaya Kumar Mishra, C.J.)

ORDER

1) This order arises out of an interim application being I.A. No. 3174 of 2023, wherein the respondents-State has prayed for dismissal of the writ application on the ground that the petitioner does not have any credentials.

2) This matter was heard in the Hybrid Mode and Mr. Kapil Sibal, learned Senior Advocate appearing for the State, has appeared before us virtually on several occasions and finally on 14.09.2023.

The respondents-State in this case relies upon the judgment rendered by the Hon'ble Supreme Court in the **State of Jharkhand Vs. Shiv Shankar Sharma and others**, 2022 SCC Online SC 1541, wherein the Hon'ble Supreme Court has held that the petitioner in order to maintain an application for public interest litigation must show his credentials as a public spirited person having interest in social upliftment and social welfare of the people. The Hon'ble Supreme Court further held that the provisions of Rules 4, 4-A and 5 of the Jharkhand High Court (Public Interest Litigation) Rules, 2010, are mandatory provisions and they are not directory. The learned Senior Counsel would, therefore, submit that the petitioner lacks credentials and, therefore, this writ application should be rejected.

3) We queried from the learned Senior Counsel appearing for the State of Jharkhand about the powers of the Court in taking up certain cases even when the Court is not satisfied about the credentials of the petitioner therein. The learned Senior Counsel for the State would submit that under Rules 4 and 5 of the Jharkhand High Court (Public Interest Litigation) Rules, 2010, the Jharkhand High Court has jurisdiction to initiate any proceeding *suo motu* and such power can be assumed by receiving any complaint, report or any information from any source to which the Court considers sufficient to rely upon and in such cases the Court can pass the order to register the same as *suo motu* case. The learned Senior Counsel, however, would submit that the Court should only see the averments made in the petition and not in the supplementary affidavits filed by the petitioner.

4) Mr. Anil Kumar, learned A.S.G.I. as also Mr. Amit Kumar Das, learned counsel appearing for the Enforcement Directorate, also express the same view.

5) The case of **T.N. Godavarman Thirumulpad Vs. Union Of India & Ors.**, (2006) 5 SCC 28, the Hon'ble Supreme Court has observed that the Court has power that in case the Court is having any kind to doubt regarding the credentials of the petitioner, then it can convert the petition into a *suo motu* proceeding and strike out the name of the petitioner as well as the counsel appearing for him from the record, but the Hon'ble Supreme Court warned that this should be exercised only in the rarest of rare cases and not as a matter of routine. We find it appropriate to quote the exact words used by the Hon'ble Supreme Court in **T.N. Godavarman Thirumulpad's case (supra)** as under:-

*"23. Some unions have also tried to jump into the fray by filing applications seeking impleadment in these proceedings so as to contend that the allotment is of a forest land. We see no reason to allow the impleadment of parties in these proceedings. Be that as it may, we have to decide in the light of facts aforesaid, whether the land leased to Maruti is forest land or not. But before we examine the question of the nature of the land being forest or not, it is necessary to consider the bonafides of Deepak Agarwal who has approached this Court in public interest. Howsoever genuine a cause brought before a court by a public interest litigant may be, the court has to decline its examination at the behest of a person who, in fact, is not a public interest litigant and whose bonafides and credentials are in doubt. In a given exceptional case where bonafides of a public interest litigant are in doubt, the court may still examine the issue having regard to the serious nature of the public cause and likely public injury by appointing an Amicus Curiae to assist the court but under no circumstances with the assistance of a doubtful public interest litigant. No trust can be placed by court on a mala fide applicant in public interest litigation.*

*These are basic issues which are required to be satisfied by every public interest litigation.*

*26. For the last few years, inflow of public interest litigation has increased manifold. A considerable judicial time is spent in dealing with such cases. A person acting bona fide alone can approach the court in public interest. Such a remedy is not open to an unscrupulous person who acts, in fact, for someone else. The liberal rule of locus standi exercised in favour of bona fide public interest litigants has immensely helped the cause of justice. Such litigants have been instrumental in drawing attention of this Court and High Courts in matters of utmost importance and in securing orders and directions for many under-privileged such as, pavement dwellers, bonded labour, prisoners' conditions, children, sexual harassment of girls and women, cases of communal riots, innocent killings, torture, long custody in prison without trial or in the matters of environment, illegal stone quarries, illegal mining, pollution of air and water, clean fuel, hazardous and polluting industries or preservation of forest as in the Godavarman's case. While this Court has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly developed doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that courts should not allow its process to be abused by a mere busybody or a meddlesome interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration.”*

**6)** Similar question was also examined by the Hon'ble Supreme Court in the case of **Holicow Pictures Pvt. Ltd Vs. Prem Chandra Mishra & Ors, (2007) 14 SCC 281**, wherein the Hon'ble Supreme Court has held as follows:-

*“11. It is true that in certain cases even though the court comes to the conclusion that the writ petition was not in a*

*public interest, yet if it finds that there is scope for dealing with the matter further in greater public interest, it can be done. This can be done by keeping the writ petitioner out of picture and appointing an amicus curiae. This can only be done in exceptional and not in a routine manner.”*

- 7) In this case, it is seen that this Court finds certain information regarding a possible misappropriation of funds to the tune of thousands of crores. Hence, this Court is of further opinion that it is a fit case where the Public Interest Litigation should be entertained, but the petitioner should be struck out from the record. Hence, this Court orders that the petitioner's name along with his counsel shall be struck out from the record and it will be registered as “Court on its Own Motion”. Accordingly, the I.A. is disposed of.
- 8) List this matter in the 2<sup>nd</sup> week of January, 2024 before the appropriate Bench as per Roster. Amicus should be appointed by the appropriate Bench on that date.
- 9) Urgent Certified copies as per rules.

**(Sanjaya Kumar Mishra, C.J.)**

**Ananda Sen, J. I agree.**

**(Ananda Sen, J.)**

**A.F.R.**

MM/-