

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

**HON'BLE SHRI JUSTICE SUSHRUT ARVIND
DHARMADHIKARI**

&

HON'BLE SHRI JUSTICE HIRDESH

ON THE 19th OF JULY, 2023

WRIT PETITION No. 16574 of 2023

BETWEEN:-

**RAGHUNANDAN SINGH PARMAR S/O MAHESHWAR SINGH PARMAR,
AGED ABOUT 52 YEARS, OCCUPATION: SOCIAL WORK R/O 11 SOUTH
TUKOGANJ, INDORE (MADHYA PRADESH)**

.....PETITIONER

(SHRI ROHIT SHARMA, ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH, PRINCIPAL SECRETARY,
VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)**
- 2. CHAIRMAN, M.P. EMPLOYEES SELECTION BOARD, CHAYAN
BHAVAN, BHOPAL (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI ANAND SONI, ADDITIONAL ADVOCATE GENERAL)

***This petition coming on for admission this day, JUSTICE
SUSHRUT ARVIND DHARMADHIKARI passed the following:***

ORDER

Heard on the question of admission as well as on interim relief.

- 2. By filing the present writ petition in the shape of Public Interest
Litigation under Article 226 of Constitution of India, the petitioner has
not challenged any particular order but is seeking a direction to the
respondents to constitute a fact finding enquiry by a Committee headed**

by a Hon'ble Retired/Sitting Judge of High Court of Madhya Pradesh or any other High Level Committee to enquire into the scam in the recruitment of Patwari Examination conducted by the respondent No.2 in the month of March-April, 2023 and the result of which was declared on 11/07/2023.

3. The brief facts of the case are that the petitioner is a honest and vigilant social worker. Earlier also the petitioner had filed P.I.Ls. before the Hon'ble Court *pro bono*. The petitioner being a social worker has no personal interest in the present writ petition. The only purpose is to protect the larger public interest and sanctity of recruitment examination of Patwari conducted by the respondent No.2.

4. In this Patwari recruitment process, there is a big-big recruitment scam of high level, due to which the meritorious students are deprived of being given appointment as Patwaris. Such kind of scam would not only hamper the development of the State but also spoil the future of younger generation. In the circumstances petitioner has prayed for constitution of a High Level Committee of a Retired/Sitting Judge of High Court of Madhya Pradesh to enquire into the matter.

5. Per contra, Shri Anand Soni, learned Additional Advocate General for the respondents/State, on advance notice, has vehemently opposed the prayer and submitted that the present writ petition has been filed only on the basis of news paper cutting accompanied with certain unsubstantiated and irrelevant documents. The present writ petition has been filed by a person who is actively involved in the politics and he was a past Member of the Congress Party and he has some personal interest with oblique motives and in order to settle the political vendetta and to achieve political mileage on account of forthcoming Legislative Assembly Elections in the State of Madhya Pradesh.

6. The petition has been filed purely on the basis of news paper cutting/reporting. Incorrect declarations have been made in para 9 as regard non-availability of alternative and efficacious remedy. There is a non-compliance of Rules 13, 14, 15, 16 and 17 of Chapter XIII-A of the M.P. High Court Rules, 2008, on this ground alone the petition deserves to be thrown-out.

7. According to the aforesaid provisions, the petitioner is required to give a declaration that thorough research has been conducted in the matter and it is required to be accompanied by all such material where necessary. Rule 14 of Chapter XIII-A of the Rules of M.P. High Court Rules, 2008 (hereinafter referred to as 'The Rules of 2008') provides that a Public Interest Litigation (Writ Petition) shall disclose –

- (1) petitioner's social public standing/professional status and public spirited antecedents;
- (2) source of petitioner's finances for meeting the expenditure of the P.I.L.;
- (3) source of the information on which the averments are based;
- (4) facts constituting the cause;
- (5) nature of injury caused to the public; and
- (6) nature and extent of the personal interest of the petitioner involved in the cause, if any.

8. Rule 15 of the aforesaid Chapter provides that “*All substantive allegations/averments in a writ petition shall, as far as practicable, be supported by prima facie evidence/material. Such allegations/ averments and evidence/material shall be substantiated by an affidavit of the petitioner.*” So far as alternative remedy is concerned, the petitioner can approach to the Concerned Authority by filing a complaint, the said remedy has not been availed by the petitioner. Since there is a non-compliance of Rule 13, 14, 15, 16 and 17 of the Rules of M.P. High Court Rules 2008, the petition itself is not maintainable and liable to be

dismissed.

9. In reply, learned counsel for the petitioner contended that the Public Interest Litigation cannot be thrown-out only because the petitioner belongs to a rival political parties. The persons with political affiliations are, as much entitle to file a PIL as any other person. Learned counsel placed reliance on the Apex Court judgment in the case of **State of West Bengal and others vs. Deepak Mishra** reported in (2021) SCC OnLine 3147.

10. The Division Bench of this Court in the case of **Surendra Pratap Singh vs. State of M.P. and others** reported in [2019 (1) M.P.L.J 75] contended that the petitioner has failed to produce on record to satisfaction of the Court such social work in last couple of years in the area in respect of which Public Interest Litigation is involved. Merely spending money like lawyer's fees from their own pocket does not satisfy test of *locus standi*. Therefore, this writ petition is not maintainable.

11. The Apex Court in the case of **State of Uttaranchal vs. Balwant Singh Chauhal and others** reported in (2010) 3 SCC 402, have issued certain guidelines / directions to be followed while entertaining the writ petition.

(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 P.I.L.

(4) The court should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

(5) The court should be fully satisfied that substantial public interest is involved before entertaining the petition.

(6) The court 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 court 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. The question which arises for consideration in this Public Interest Litigation would be whether the same is maintainable in the light of non-compliance of Rules 13, 14, 15, 16 and 17 of Chapter XIII-A of the M.P. High Court Rules 2008. In view of the non-compliance of the Rules of 2008 as well as the pendency of the inquiry report before the Lokayukt M.P., and the guidelines laid down in the case of **Balwant Singh Chaufal** (supra), this Court is not inclined to entertain this writ petition.

13. The Apex Court in the case of **Balwant Singh Chaufal** (supra) has held as under:

"It is held that before entertaining a PIL, the Courts must prima-facie satisfy itself of the credentials of the petitioner, the correctness of the contents thereof and the special public interest involved in it".

14. The Apex Court in the case of **Laxmi Raj Shetty Vs. State of**

Tamilnadu reported in AIR 1988 SC 1274 has held that:

"The Courts cannot take judicial notice of the facts stated in the news item published in a newspaper. A newspaper is not one of the documents referred to in Section 78 (2) of the Evidence Act and thus by a news items an allegation of fact cannot be proved. The presumption of genuineness attached u/S 81 of Act attached to a newspaper report cannot be treated as proved of the facts reported therein. The statement of fact contained in newspaper is merely hearsay and therefore inadmissible in evidence unless proved by evidence aliunde by the maker of the statement appearing in Court and deposing to have perceived the fact reported. It is well known that reporters collect information and pass it on to the editor who edits the news items and then publishes it. In this process the truth might get perverted or garbled. Such news items cannot be said to proved themselves although they being taken into account with other evidence, if the other evidence is enforceable."

15. The co-ordinate Bench of this Court in the case of Vikas Yadav Vs. State of M.P. passed in W.P. No. 7166/2014 decided on 14.02.2016 as well as in the case of Dr. Tapan Bhattacharya Vs. Union of India passed in W.P. No. 1936/2017(PIL) decided on 15.02.2018 have held that no PIL can be filed on the basis of newspaper reports and also looking to the antecedents of the petitioner, the writ petitions were not entertained.

16. Admittedly, the petitioner in paragraph No.7 has stated that no representation has been preferred before the Authority before approaching this Court. In this regard, Division Bench of this Court in the matter of Ranchodlal vs. State of M.P. and others 2014 (2) M.P.L.J. 610 has held as follows :-

“2. Having heard learned Counsel for the petitioner at length, we find that before seeking the writ of mandamus for the relief's claimed as above, a detailed, specific and clear representation has not been submitted

by the petitioner to the authority competent to decide the same and he has directly approached the Court. Copies of few representations filed with the petition reflects that they are not made to the authorities, who are competent to take decision, but are addressed directly to the Chief Minister and other Ministers. When, according to the learned Counsel for the petitioner, the Competent Authority to take decision is the Director/Deputy Director, Panchayat, it was necessary for the petitioner to have submitted the demand to the said authority. As the petitioner has directly filed the petition without approaching the Competent Authority of the respondents for the relief's claimed by making a clear, plain and unambiguous demand, we are not inclined to interfere into the matter as this stage. Our view finds support from the law laid down by the Supreme Court in the case of Rajasthan State Industrial Development & Investment Corporation vs. Subhash Sindhi Co-operative Housing Society, Jaipur, (2013) 3 MPLJ 591.”

17. After hearing took place, the learned Additional Advocate General for the respondents/State has produced a letter No.1450/1456245/2023/GAD/EK(1), Bhopal dated 19/07/2023, which is taken on record, in which it is stated that the State Government has already taken action to enquire into the alleged irregularities and illegality in the recruitment of Patwari Examination conducted by the respondent No.2 by appointing a Retired Judge of the High Court Madhya Pradesh, therefore, in view of the action taken by the State Government, no such direction can be issued, in light of the aforesaid letter to the respondents to constitute a Committee etc.

18. In the facts and circumstances of the case, it is clear that the present writ petition by way of Public Interest Litigation is based on news paper reporting without conducting any research and without even disclosing the source of information, from which it can be inferred that the scam has taken place, this Court finds no reason to entertain this writ

petition and the same deserves to be and is hereby **dismissed**.

19. It appears that petitioner has filed the present writ petition even without filing a representation before the State Government and directly approached this Court, which is in violation of Madhya Pradesh High Court Rules, as stated in the preceding paragraphs. This Court is of the considered opinion that some cost deserves to be imposed on the petitioner for wasting the precious time of this Court.

20. Accordingly, petitioner is directed to deposit a sum of **Rs.10,000/- (Rupees Ten Thousand Only)** imposed on the petitioner for wasting the precious time of this Court. The petitioner is directed to deposit the aforesaid cost before the **High Court Legal Services Committee, Indore** within a period of **30 days** from today, failing which the Registry is directed to list this case under the head/caption "Direction Matter", so as to enable this Court to pass appropriate order for recovery of the cost by way of arrears of land revenue.

C.C. as per rules.

(S. A. DHARMADHIKARI)
JUDGE

(HIRDESH)
JUDGE

Aiyer*