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Court No. - 1

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 969 of 2022

Petitioner :- Satyendra Kumar Pathak

Respondent :- State Of U.P. Thru. Director Panchayati Raj U.P. Civil
Secret. Lko. And Others

Counsel for Petitioner :- Arvind Kumar Mishra

Counsel for Respondent :- C.S.C.,Mohan Singh

Hon'ble Ramesh Sinha,J.

Hon'ble Manish Kumar,J.

Heard Shri Arvind Kumar Mishra, learned Counsel for the petitioner, Shri Amitabh Kumar Rai, learned Additional Chief Standing Counsel for the State-respondents no.1 to 5 and 7, Shri Mohan Singh, learned Counsel for respondents no.6 and perused the material brought on record.

By means of the present writ petition in the form of Public Interest Litigation, the petitioner seeks direction upon the authorities concerned, i.e. respondent no.1 and 2 to take appropriate action against respondent nos.3 to 9 in pursuance of the enquiry report dated 31.05.2017, 12.10.2017 and 13.03.2020 for misappropriation and embezzlement of huge amount allocated for the construction of the toilets and for burial site contained as Annexure Nos.4, 7 and 10 of the writ petition, committed by respondent nos.4 to 9 within the time as stipulated by this Court; with a further prayer to direct the respondent no.1 and 2 to conduct the fair enquiry in respect of the misappropriation and embezzlement of the funds allocated for construction of toilets and burial site in village Panchayat Garholiya Block- Shahgrah, Tehsli Gauriganj, District Amethi and take appropriate action against respondent no.4 to 9 and make recovery of the embezzled amount from their salary along with interest in accordance with law.

Learned Standing Counsel for the State -respondents as well as learned Counsel appearing on behalf of the respondent no.6

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have raised preliminary objection with regard to maintainability of present public interest litigation and argued that though the petition is ostensibly filed in the public interest, the petitioner has not made due disclosure as required by sub-rule (3A) of Rule 1 of Chapter XXII of the Allahabad High Court Rules, 1952 which was amended in view of the judgment of the Supreme Court passed in the case of **State of Uttaranchal Vs. Balwant Singh Chaufal & Ors., 2010 AIR SCW 1029** and pray for dismissal of present petition.

In response, learned Counsel for the petitioner argued that the petitioner is a district co-minister of Bhartiya Kishan Sang, Uttar Pradesh and is associated with matter related to civil rights, hence he is having right to raise the grievances concerned by filing public interest litigation.

Having considered the rival submissions of the learned Counsel for the parties and gone through the record, it is relevant to mention that it is the duty of this Court to ensure that there is no personal gain, private motive and oblique notice behind filing of PIL. In order to preserve the purity and sanctity of the PIL, the Courts must encourage genuine and bonafide PIL and effectively discourage and curb the PIL filed for extraneous considerations.

It would also be appropriate for this Court for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. The Courts should, prima facie, verify the credentials of the petitioner before entertaining a P.I.L. It is also well settled that 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.

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Following the judgment of the Supreme Court passed in the case of **State of Uttaranchal (supra)**, Chapter XXII of the High Court Rules, 1952 was amended by including sub-rule (3A) in Rule 1, which is as follows:-

"(3A) In addition to satisfying the requirements of the other rules in this Chapter, the petitioner seeking to file a Public Interest Litigation, should precisely and specifically state, in the affidavit to be sworn by him giving his credentials, the public cause he is seeking to espouse; that he has no personal or private interest in the matter; that there is no authoritative pronouncement by the Supreme Court or High Court on the question raised; and that the result of the Litigation will not lead to any undue gain to him or anyone associated with him, or any undue loss to any person, body of persons or the State."

This amendment was brought out in compliance of the judgment of the Supreme Court in order to ensure that the jurisdiction in public interest is invoked for genuine purposes by persons who have bonafide credentials and who do not seek to espouse or pursue any extraneous object. Otherwise, the jurisdiction in public interest can become a source of misuse by private persons seeking to pursue their own vested interests.

A Division Bench of this Court in the case of **Gurmet Singh Soni Vs. State of U.P. and others : 2021 (5) ADJ 409**, noticing the aforesaid decision of the Apex Court in **State of Uttaranchal (supra)** and other judgments of the Apex Court on the issue, has dismissed the public interest litigation.

So far as credential of the petitioner is concerned, we are of the considered opinion that the petitioner has failed to submit before this Court regarding his own credentials and as such, we are of the considered opinion that the present writ petition is misuse and abuse of the process of the Court.

Furthermore, with regard to the prayer made in the petition to take appropriate action against respondents no.3 to 9 in pursuance of inquiry report dated 31.05.2017, 12.10.2017 and

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13.03.2020 wherein it has been mentioned in the report of Enquiry Committee that only 381 toilets were constructed though 464 toilets were sanctioned during the financial year of 2012-2013, we are not inclined to interfere in the present matter.

In the present case, we are not satisfied that this is a genuine petition filed in public interest so as to invoke the jurisdiction in the public interest under Article 226 of the Constitution.

The instant PIL is, accordingly, **dismissed** with liberty to the petitioner to approach the appropriate forum for redressal of his grievance, if any.

(Manish Kumar, J.) (Ramesh Sinha, J.)

Order Date :- 3.1.2023

Anand Sri./-