

**MADHYA PRADESH HIGH COURT****Before : Sushrut Arvind Dharmadhikari and Hirdesh, JJ.****Writ Petition No. 10124 of 2023****Decided on : 06-11-2023****JHAMAK BHARGAT — Appellant****Vs.****THE STATE OF MADHYA PRADESH AND OTHERS — Respondent****Sections, Acts, and Articles Mentioned**

- Madhya Pradesh Municipal Corporation Act, 1956 – Section 307(5)
- Constitution of India – Section 226

**Subject of the Judgment**

- Writ Petition No. 10124 of 2023: Jhamak Bhargat Vs. The State of Madhya Pradesh and Others

- Subject: Inadmissibility of Public Interest Litigation (PIL) on the grounds of insufficient proof of petitioner's credentials as a social worker and lack of substantial public interest. Dismissal of PIL concerning alleged land encroachment and illegal construction.

**Headnotes****Public Interest Litigation (PIL) – Credentials and Public Interest Requirement – Dismissal**

The petitioner's PIL, seeking demolition of an allegedly illegal structure due to land encroachment, was dismissed. The court found the PIL inadmissible as the petitioner did not satisfactorily establish his credentials as a social worker and failed to demonstrate substantial public interest, as required by the guidelines in State of Uttaranchal Vs. Balwant Singh Chaufal and others. [Para 5-7, 10]

**Land Encroachment and Building Permissions – Evidence and Dispute Resolution**

The court stressed that disputes over land encroachment and revocation of building permissions necessitate a detailed evaluation of evidence. As the property title was disputed and evidence was necessary to establish encroachment, the court deemed it inappropriate to decide these matters in a PIL. [Para 11, 12]

### **Referred Cases with Citations**

1. Surendra Pratap Singh Vs. State of M.P. and Others [Docid # IndLawLib/1367107]
2. State of Uttaranchal Vs. Balwant Singh Chaufal and Others [Docid # IndLawLib/282926]

### **ORDER**

**Sushrut Arvind Dharmadhikari, J.** - Heard finally with the consent of both the parties.

This petition has been filed by the petitioner under Section 226 of the Constitution of India.

2. By way of this Public Interest Litigation(PIL), the petitioner is seeking the following reliefs :-

(a) to direct the respondent authorities to demolish the illegally constructed structure on the LIQ;

(b) to direct the removal of encroachment made by the respondent no.6 on the LIQ;

(c) to direct the respondent no.4 to revoke the building permission granted on 15/10/2020;

(d) to direct the respondent no.5 to revoke the layout sanction granted on 26/02/2020;

(e) to pass any other order as this Hon'ble Court may deem fit.

3. Learned counsel for the petitioner contended that the petitioner is a social worker. He is also a member and office bearer of various social welfare organizations and he has no personal interest in the present petition. The grievance of the petitioner is that the respondent no.6 has illegally encroached on Nazul land, area about 30,000 Square Feet in connivance with some officers and is illegally constructing a building, due to which not only the general public, but also the interest of the State Government is adversely affected. The land encroached upon is situated at Survey No.634 at Mohalla Sutaro Ka Vas besides Lakkad Pitha, Idgah Road, Ratlam(M.P.). Earlier vide order dated 13.03.2007(Annexure-P/2) the Sub-Divisional Officer(S.D.O.) had directed to record the land in the name of respondent No.6. The Collector revised the order dated 13.03.2007 in suo motu revision by setting aside the order.(Annexure-P/3). The State of Madhya Pradesh approached the Waqf Board and the Waqf Board vide order dated 02.06.2017 cancelled the order in favour of the respondent no.6. The aforesaid

application was filed before the Waqf Board after a lapse of 8 years i.e. in 2015. The State filed the revision bearing C.R. No.591/2019 which was allowed and the matter was remanded back to the Waqf Board, which is still pending. The respondent no.6 challenged the order(Annexure-P/8) passed by the respondent No.3-Tehsildar restoring possession to respondent no.6 in W.P. No.7820/2022 which was subsequently withdrawn. The respondent no.6 has no document of title in respect of the property. Therefore, the present writ petition.

4. Per Contra, learned counsel for the respondents opposed the prayer and submitted that the petitioner has not given his complete antecedents and have also not disclosed as to what public interest work he has performed for the Society. Learned counsel for the respondents has brought to the notice of this Court the judgment of the Coordinate Bench of this Court in the case of **Surendra Pratap Singh Vs. State of M.P. and Others**[Docid # **IndLawLib/1367107**] to contend 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 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.

5. The Division Bench of this Court in Surendra Pratap Singh(supra), has referred to the judgment of the Apex Court involving Public Interest Litigation in the case of **State of Uttaranchal Vs. Balwant Singh Chauhal and others**[Docid # **IndLawLib/282926**] wherein the Apex Court has laid down certain guidelines to be followed before exercising jurisdiction of Public Interest Litigation. The guidelines are as under :-

(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 RP 638/2017 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 PIL.

(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."

6. Learned counsel for the respondents submitted that in the present petition, none of the aforesaid guidelines are satisfied as laid down in the case of State of Uttaranchal Vs. Balwant Singh Chauhal and others(surpa), therefore, this writ petition is not maintainable. Learned counsel for the respondents also raised a question as to whether the respondent no.4 can be directed to revoke the building permission granted on 15.10.2020 and also to revoke the layout sanction granted on 26.02.2020 in a Public Interest Litigation. The petitioner has suppressed all these facts therefore, this writ petition deserves to be dismissed with heavy cost.

7. The answering respondent no.6 is not a party in the proceedings before the Waqf Board. The petitioner is a blackmailer and not a social worker. He wants to create hindrance in the activities of respondent no.6. In view of the aforesaid, this Public Interest Litigation is liable to be dismissed.

8. We have heard learned counsel for the parties and perused the record.

9. The two questions which arises for consideration in this Public Interest Litigation are as under :

"(i) whether a PIL is maintainable at the instance of the strangers on the pretext that they are social workers ?

(ii) whether the building permission can be revoked by issuance of direction in a PIL ?"

10. So far as the answer to the first question is concerned, except the averment in the petition that the petitioner is a social worker and the petitioner himself is paying the fees of the advocate from his own pocket, there is no assertion of his activities undertaken in the area of the subjectmatter of this writ petition. Simple self-serving statement that the petitioner is a social worker is not sufficient to invoke the public interest writ jurisdiction of this Court unless the petitioner is able to produce on record to the satisfaction of the Court such social work in last couple of years in the area in respect of which the public interest writ petition is involved. A practice in the cases before this Court is to make a statement that the petitioner is a social worker and he is spending the money including the lawyer's fee from his own pocket, that by itself does not satisfy the test of a locus standi to file public interest litigation. The public interest writ jurisdiction was intended to vindicate public interest where fundamental and other rights of the people who were poor, ignorant or in socially or economically disadvantageous position and were unable to seek legal redress were required to be espoused. However, the individuals who are effected and having grievance may approach this Court in individual capacity seeking ventilation of their grievance.

11. So far as answer to the second question is concerned, an application under Section 307(5) of the Municipal Corporation Act, 1956, has been filed by the petitioner, which is pending. No doubt, the aforesaid section provides that any person can file an application for removal of encroachment from a private or a public land by filing an application before the District Court. In such a situation, the building permission cannot be cancelled in a P.I.L. as the title of property in question is disputed. The question as to whether there is any encroachment, has to be decided only after recording evidence. This Court cannot decide the writ petition based on disputed question of facts. The PIL is absolutely misconceived and cannot be entertained.

12 . In view of the aforesaid and in the light of the guidelines laid down in the case of State of Uttaranchal Vs. Balwant Singh Chauhal and others(surpa), this Court is not inclined to entertain this writ petition. Accordingly, the same is, hereby, dismissed at the admission stage itself. No order as to cost.

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