

Dr. Devinder Gupta Vs. Union of India (Uoi) and ors.

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Court : Delhi

Decided On : Mar-07-2006

Reported in : 128(2006)DLT337

Judge : Markandeya Katju, C.J. and; Shiv Narayan Dhingra, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W.P. (C) No. 13221/2005

Appellant : Dr. Devinder Gupta

Respondent : Union of India (Uoi) and ors.

Advocate for Def. : P.P. Malhotra, ASG, ; Rajeev Mehra and ; Kailash Gambhir

Advocate for Pet/Ap. : Manmohan, Sr. Adv. and; R.K. Gupta, Adv

Disposition : Petition dismissed

Judgement :

Markandeya Katju, C.J.

1. This writ petition has been filed as a Public Interest Litigation praying for a writ of quo warranto for quashing the appointment of respondent No. 3 as the Secretary of the Medical Council of India.

2. In our opinion, the petitioner does not have any locus standi to file this writ petition.

3. In para 2 of the writ petition he has stated that :-

That the Petitioner is a practicing General Surgeon who is also holding a degree of PhD in Law. His name has been entered into Limca Book of records for this unique achievement. He is a social activist and has written his thesis on the subject of female feticide and inadequacies & fallacies in the laws controlling the medical field. Petitioner is called as a guest to deliver lectures on Medico-legal aspects in the field of Medicine practice. Petitioner is concerned with the major fallacies in the constitution, working of the respondent No. 2 and the rules & regulations which are responsible for the falling standards of the medical education and practice. He is actively involved in uplifting the falling standards of the Medical practice and remove the corrupt practices which have crept in the Medical field so that the nobleness which is associated with the medical profession is not tarnished and reestablished. The petitioner is filing the present petition under the public interest, therefore, it is prayed and submitted that the present matter may kindly be entertained as Public Interest Litigation.

4. The above averments are curious to say the least. The petitioner has not even mentioned the name of the Medical College from which he has allegedly got a MBBS degree, and whether it is a recognised medical college. He has not stated whether he is in government service or does private practice. If he claims to be doing private practice he has not mentioned the name of his clinic or its address. He has stated that he was invited as a guest to deliver lectures on medico-legal matters, but it is not mentioned which Institute or College invited him, and when. He claims to be a PhD in law but he has not mentioned from which university he has got a PhD in law. He then claims to be a social activist but in this country we all know what kind of people are claiming themselves to be social activists and what are their real objectives. Thus the allegations relating to the petitioner's locus are totally vague.

5. The Supreme Court in recent judgments has come down heavily on such public interest litigation, many of which are regarded by the Supreme Court as nothing

short of blackmail.

6. Thus in *Dattaraj Nathuji Thaware v. State of Maharashtra* : AIR 2005 SC540 , the Supreme Court observed:-

Public Interest litigation which has now come to occupy an important field in the administration of law should not be 'publicity interest litigation' or 'Private interest litigation' or 'politics interest litigation' or the latest trend 'paise income litigation'. The High Court has found that the case at hand belongs to the last category. If not properly regulated and abuse averted, it becomes also a tool in unscrupulous hands to release vendetta and wreck vengeance, as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of knight errant borne out of wishful thinking. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. These aspects were highlighted by this Court in *The Janata Dal v. H.S.Chowdhary* : 1993 CriLJ600 and *Kazi Lhendup Dorji v. Central Bureau of Investigation* : (1992)ILLJ922SC . A writ petitioner who comes to the Court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective (See *Ramjas Foundation v. Union of India* : AIR 1993 SC852 and *K.R. Srinivas v. R.M.Premchand* : (1994)6SCC620).

It is depressing to note that on account of such trumpety proceedings initiated before the Courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases for the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go

unnoticed, un-represented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters 'government or private, persons awaiting the disposal of cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detinue expecting their release from the detention orders, etc., etc., are all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffing their faces by wearing the mask of public interest litigation and get into the Courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the Courts and as a result of which the queue standing outside the doors of the Courts never moves, which piquant situation creates frustration in the minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system.

Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the Court is acting bona fide and not for personal gain or private motive or political motivation or other oblique considerations. The Court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in

the pastime of meddling with judicial process either by force of habit or from improper motives, and try to bargain for a good deal as well to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.

As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that Courts are flooded with large number of so called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in large number of cases, yet unmindful of the real intentions and objectives, Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases.

7. It is true that in a writ of quo warranto the question of locus standi is not examined as strictly as in the cases of writs of certiorari or mandamus, as observed in *Gadde Venkateswara Rao v. Government of Andhra Pradesh and Ors.* : [1966]2SCR172 , in which the Supreme Court observed:-

The right that can be enforced under Article 226 also shall ordinarily be the personal or individual right of the petitioner himself, though in the case of some of the writs like habeas corpus or quo warranto this rule may have to be relaxed or modified.

8. However, in our opinion, this does not mean that anybody can file a petition for a writ of quo warranto challenging any appointment on any post in the country even though he may not have any direct connection or grievance or interest in the matter.

9. If we accept the submission of the learned counsel for the petitioner that a petition for writ of quo warranto can be filed by anyone even though he may have no connection with the appointment of the respondent then this Court will be flooded with tens of thousands of petitions challenging all kinds of appointments or

elections to various posts. Hence, we cannot accept the submission that in a petition for a writ of quo warranto the question of locus standi cannot be raised at all. As already observed above, the Court no doubt takes a broader view of locus standi in a writ of quo warranto as compared to the writs of certiorari and mandamus, but it is not so broad as to permit anyone to file such a writ. The objection of locus standi can be taken even in a writ of quo warranto.

10. In the present case, the petitioner has not been able to show his credentials. He has not disclosed the name of the University from where he has got his alleged MBBS degree or PhD in law. He has alleged that he is called as a guest to deliver lectures in the field of medico legal aspects in medical practice, but he has not mentioned by whom he was invited as a guest lecturer and when and where. Absolutely vague allegations have been made in para 2 of the writ petition.

11. The petitioner appears to have been set up by someone, although he has no locus standi in the matter.

12. We have been informed that another petition, WP(C) No. 4347/2004 has been filed by a person aspiring for the post of Secretary of Medical Council of India and that petition is pending in this Court. That person may have locus standi in the matter, but certainly not the present petitioner.

13. For the reasons given above, we are not inclined to entertain this writ petition. Hence, the writ petition is dismissed.