

**Court No. - 29**

**Case :-** PUBLIC INTEREST LITIGATION (PIL) No. - 2510 of 2022

**Petitioner :-** Santosh Kumar Pandey

**Respondent :-** State Of U.P. And 2 Others

**Counsel for Petitioner :-** Aditya Singh,Rabindra Nath Ojha

**Counsel for Respondent :-** C.S.C.

**Hon'ble Mahesh Chandra Tripathi,J.**

**Hon'ble Prashant Kumar,J.**

1. Heard Sri Aditya Singh, learned counsel for the petitioner, Sri Manish Goyal, learned Additional Advocate General assisted by Sri A.K. Goyal, learned Additional Chief Standing Counsel for respondent nos.1 and 2.

2. The instant petition has been preferred by the petitioner, who is a practising Advocate, as Public Interest Litigation (PIL) seeking the following reliefs:-

*"(i) issue a writ, order or direction in the nature of mandamus directing the appropriate authority to submit City Surveillance System Footage installed on roadside.*

*(ii) issue a writ, order or direction in the nature of mandamus directing the respondent authorities to initiate enquiry and seized property of L&T construction company.*

*(iii) issue a writ, order or direction in the nature of mandamus directing the respondent authorities to blacklist the L&T company is the contractor in the present case.*

*(iv) issue a writ, order or direction in the nature of mandamus directing the respondent authorities to revoke the contract and agreement of L&T construction company."*

3. With this instant petition, the petitioner wants to stop the construction of new building for lawyer chambers and parking, which is coming up in the High Court premises.

4. Sri Aditya Singh, learned counsel for the petitioner submits that excavation of soil is being carried out by L&T, which is the construction company for the said project, without taking permission from the Mining Department, and they never had the Environment Clearance Certificate. He further submits that without complying with the mandatory provisions, the project cannot be initiated. He has further placed reliance on a judgment passed by Hon'ble Supreme Court in the matter of **Tapas Guha and others vs. Union of India and others in Civil Appeal Nos.4603-4604 of 2024**. He further submits that the project is being developed without looking into sustainable developments.

5. Per contra, Sri Manish Goyal, learned Additional Advocate General assisted by Sri A.K. Goyal, learned Additional Chief Standing Counsel appearing on behalf of the State submits that the instant PIL is not maintainable as the same has been preferred by a lawyer, and is contrary to the directions given by Hon'ble Supreme Court in the matter of **State of Uttaranchal Vs. Balwant Singh Chaufal and others, (2010) 3 SCC 402**. He submits that the Hon'ble Court in that matter had issued the following guidelines/directions:-

*"In order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions:-*

*(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."*

6. Learned Additional Advocate General further submits that the instant PIL has been filed without following the guidelines laid down by Hon'ble Supreme Court in **Balwant Singh Chaufal's case (supra)**.

7. He further submits that this Court under Sub-Rule (3-A) of Rule 1 of Chapter XXII of the Allahabad High Court Rules (Rules of Court, 1952) has framed rules for preferring a PIL, which has been amended in the light of judgment passed by

the Hon'ble Supreme Court in **Balwant Singh Chaufal's case (supra), 2010 AIR SCW 1029**, which is as follows:-

*"(3-A) 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 spouse; 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 himself or anyone associated with him, or any undue loss to any person, body of persons or the State.*

8. Placing reliance on aforesaid rules, learned Additional Advocate General submits that the petitioner has not followed the procedure laid down by this Court while filing the instant PIL. Further, in reply to the submission of learned counsel for the petitioner that there was no prior Environment Clearance before starting the project, he submits that application for environment clearance was submitted on 27.08.2021 and thereafter, on the basis of Detail Project Report (DPR) submitted by the consultant, vide Government Order dated 28.07.2021, the project was approved/sanctioned. He further submits that for digging soil, an online application was made on 25.10.2021 on which deemed approval has been granted. As such, he submits that there is prior approval of the project from the Mining Department as well as the project had also the Environment Clearance Certificate. He submits that all the relevant clearances have been taken prior to initiation of the project and the same has been explained in detail in the counter affidavit filed on behalf of the State, hence, all the averments made in the PIL are baseless and lacks merit.

9. Learned Additional Advocate General pointed out the startling fact that earlier also Sri Aditya Singh, Advocate has preferred an identical petition, being PIL No.830 of 2022 with the identical prayer as has been sought in this petition. The petition was dismissed vide order dated 14.10.2022 by the Bench headed by the then Hon'ble Chief Justice on the ground of credentials. After dismissal of the earlier petition, Sri Aditya Singh has found someone to lend his name for filing the instant petition and Sri Aditya Singh is appearing as a lawyer in this petition. In this petition, he has not disclosed about the earlier PIL, and as such he has not come to this Court with clean hands and has knowingly concealed the facts.

10. Heard the submissions advanced on behalf of learned counsel for the parties and perused the record.

11. The instant PIL has been filed in December 2022 i.e. just two months after dismissal of the earlier PIL No.830 of 2022 on 14.10.2022 wherein the averments in the petition are the same, the relief is the same. The earlier petition was filed by Sri Aditya Singh, who is the counsel in this petition. It is apparent that concealing the aforesaid fact, Sri Aditya Singh, Advocate has chose to file another petition with the same relief in the name of one, Santosh Kumar Pandey, Advocate and Sri Singh is now appearing as a counsel on behalf of the petitioner. It is pure

concealment of fact and pure abuse of process of law. It was expected from Sri Aditya Singh, learned counsel for the petitioner to have pointed out that he had earlier filed a PIL which was already dismissed vide order dated 14.10.2022 but he chose not to disclose the same before this Court.

12. The conduct of the petitioner is not above board and he has not come to this Court with clean hands. Apparently, the entire petition has been filed on the behest of somebody, just to stall the construction of Chamber-cum-parking for the lawyers.

13. Considering the factual situation and also in view of the fact that this petition has been filed with material concealment of facts, moreover the averments raised in the petition is baseless as the counter affidavit filed by the State shows that all clearances were there before the project started, we are not inclined to entertain the present petition and the same is, accordingly, **dismissed**.

14. Before parting with the judgment, it is pertinent to mention here that now it has become a trend to file frivolous PILs just to put undue pressure on the contractors/builders. Time and again in catena of judgments, Hon'ble Supreme Court and this Court has deprecated this practice and directed for imposing exemplary cost on such kind of busybodies, who file PIL for extraneous considerations and ulterior motives. To curb such kind of frivolous petitions, it is mandatory to impose cost to discourage such kind of litigation. Such kind of vexatious proceedings should not be allowed to continue and if anybody engages in doing so, such activities have to be curbed down. This is a perfect case where exemplary cost should be imposed on the petitioner.

15. In view of the aforesaid, cost of Rs.40,000/- is imposed on the petitioner, which shall be deposited in the Bar Association and shall be used for the welfare of the Advocates. Besides this, the petitioner Santosh Kumar Pandey and Sri Aditya Singh, learned counsel for the petitioner shall not be allowed to get Chamber or enter the new premises as they themselves are opposing the construction of the building.

16. After passing this order, Sri Aditya Singh, learned counsel for the petitioner submits that he is a young lawyer, having only two years of practice, and asked for mercy of this Court as the cost imposed upon him would cause irreparable loss and injury to his bright future. He assured the Court that in future he will not indulge in such kind of activity.

17. Accordingly, we recall the cost imposed on the petitioner.

**Order Date :- 2.8.2024**

Manish Himwan