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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUSHRUT ARVIND DHARMADHIKARI
&
HON'BLE SHRI JUSTICE PRAKASH CHANDRA GUPTA
ON THE 30th OF JANUARY, 2023
WRIT PETITION No. 827 of 2023**

BETWEEN:-

**MANISH SHARMA S/O JUGAL SHARMA, AGED 52
YEARS, OCCUPATION: JOURNALIST R/O 6, PITRA
CHHAYA, SADAR BAZAR, INDORE (MADHYA PRADESH)**

.....PETITIONER

(SHASHWAT SETH, LEARNED COUNSEL FOR THE PETITIONER)

AND

- 1. THE STATE OF MADHYA PRADESH THROUGH.
CHIEF SECRETARY VALLABH BHAWAN, BHOPAL
(MADHYA PRADESH)**
- 2. STATE OF M.P. HOME DEPARTMENT THROUGH
PRINCIPAL SECRETARY VALLABH BHAVAN,
BHOPAL (MADHYA PRADESH)**
- 3. DIRECTORATE OF URBAN ADMINISTRATION
AND DEVELOPMENT DEPARTMENT BHOPAL
(MADHYA PRADESH)**
- 4. DIRECTOR GENERAL OF POLICE POLICE
HEADQUARTERS JAHANGIRABAD, BHOPAL
(MADHYA PRADESH)**
- 5. ADDITIONAL DIRECTOR GENERAL OF POLICE,
C.I.D. HQ BHOPAL, BHOPAL (MADHYA PRADESH)**
- 6. ADDITIONAL DIRECTOR GENERAL OF POLICE,
FIRE SERVICES VALLABH BHAVAN, BHOPAL
(MADHYA PRADESH)**

.....RESPONDENTS

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(**SHRI ANAND SONI, ADDNL ADVOCATE GENERAL FOR THE
RESPONDENT/STATE**)
(**SHRI ARPIT KUMAR OSWAL, LEARNED COUNSEL FOR THE
INTERVENOR**)
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*This petition coming on for admission this day, **JUSTICE SUSHRUT
ARVIND DHARMADHIKARI** passed the following:*

ORDER

Heard on the question of admission.

The present petition under Article 226 of the Constitution of India has been filed a Public Interest Litigation being aggrieved of the fact that the administrative authorities are not performing the statutory duty by-passing the statutory rules enshrined under the provision of M.P. CCS (CCA) Rules, 1966.

2. The petitioner is a law abiding citizen of the country and is a permanent resident of city of Indore. He is a Journalist by profession and is pursuing law course in the city of Indore. It has come to the knowledge of the petitioner that Incharge Officer posted as the Chief Superintendent, Fire Services has been issued with the chargsheet laying out charges of misconduct and in furtherance reviewing of the order of the similarly placed authorities and threatening the lower rank officer in the department with dire consequences in case they do not abide by the irregular and arbitrary orders issued by the delinquent officer namely Shri Ram Singh Nignwal.

3. The petitioner has prayed for the following reliefs:

1 .That independent inquiry into the allegations levelled in the chargsheet issued to Shri Ram Singh Ningwal should be conducted without any undue influence and in accordance with law.

2. That till the pendency of the inquiry the delinquent officer should be removed/transferred/suspended from the post till the investigation is completed and inquiry is completed.

3. *To direct the department to act in accordance with the statutory provisions of Rules made by the State Legislature and to conduct the inquiry with all fairness and legality.*

4. *To allow the petition with costs.*

5. *That this Hon'ble court may further be pleased to grant any other reliefs, if deems fit in the present facts and circumstances.*

4. At the outset, Shri Anand Soni, learned Addnl Advocate General and Shri Arpit Oswal, learned counsel for the intervenor submitted that this public interest litigation is not maintainable, since the issue relates to service matter and as held by the Apex Court in the case of **Dr. Duryodhan Sahu and Others Vs. Jitendra Kumar Mishra and Others** reported in **(1998) 7 SCC 273**, wherein it has been held that "in service matters, PILs should not be entertained, the inflow of the so called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. This tendency is being slowly permitted to percolate for setting in motion criminal law jurisdiction, often unjustifiably just for gaining publicity and giving adverse publicity to their opponents. The other interesting aspect is that in the PIL, official documents are being annexed without indicating as to how petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession, It was stated that a packet was lying on the road and when out of curiosity, the petitioner opened it, he found copies of the official documents. Apart from the sinister manner, if any, of getting such copies, the real brain or force behind such case would get exposed to find out whether it was the bonafide venture. Whenever, such frivolous pleas are taken to explain possession, the Court should do well not only to dismiss the petition,

but also to impose exemplary cost as it prima-facie gives impression of oblique motives involved, and in most cases shows proxy litigation. Where the petitioner has not even a remote link with the issues involved, it becomes imperative for the Court to lift the veil and uncover the real purpose of the petition and the real person behind it. It would be desirable for the Courts to filter out frivolous petitions and dismiss them with costs so that the message goes in the right direction that petitions filed with oblique motives do not have approval of the Courts".

5. Learned counsel for the respondents submitted that the writ petition has been filed only with the purpose of some personal animosity and may be with the intention to extract illegal money from the delinquent employee, therefore, the present writ petition by no stretch of imagination could be considered as a Public Interest Litigation.

6. In **Neetu Vs. State of Punjab and Others** reported in **(2007) 10 SCC 614**, the Apex Court has held that "when a particular person is the object and target of a petition styled as PIL, the Court has to be careful to see whether the attack in the guise of public interest is really intended to unleash a private vendetta, personal grouse or some other malafide object. Therefore, as rightly submitted by the appellant, the writ petition cannot itself is maintainable and to that extent the High Court's order cannot be maintained".

7. The Supreme Court of India in its compilation of Guidelines to be followed for entertaining letters/petitions received as PIL has categorically laid down that the cases falling under the categories mentioned shall not be entertained as PILs and these may be returned to the petitioners or filed in the PIL Cell, as the case may be in which Service matter and those pertaining to Pension and Gratuity cannot be entertained.

8. In the Case of **Dr. B.Singh Vs. Union of India and Others** reported in **2004(3) SCC 363**, the Apex Court has held that "in admitting PIL's, the Courts have to strike a balance between two conflicting interests:(i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others - if not properly and strictly regulated at least in certain vital areas or spheres and abuse averted, PIL becomes a tool in unscrupulous hands to release vendetta and wreck vengeance, and in cases involving challenges to appointments made to public office to malign not only an incumbent to be in office but demoralize and deter reasonable or sensible and prudent people even agreeing to accept highly sensitive and responsible offices for fear of being brought into disrepute with baseless allegations ; and (ii) avoidance of public mischief seeking to assail, for oblique motives, justifiable executive actions. In such case, the Court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the executive and the legislature".

9. The Court before admitting a Public Interest Litigation has to be satisfied about

(a) the credentials of the applicant;

(b) *prima-facie*, correctness of nature of information given by him.

(c) the information being not vague and indefinite. The information should show gravity and seriousness involved. There must be real and genuine cause of action in the litigation and concrete and credible basis for maintaining a cause before the Court and not merely an adventure of a knight errant borne out of wishful thinking. The credibility of such claims or litigation should be

adjudged on the creditworthiness of the material averred and not even on the credentials claimed of the person moving the Courts in such cases.

In view of the aforesaid, this petition deserves to be dismissed with exemplary cost.

10. Heard, learned counsel for the parties and perused the record.

11. On perusal of the writ petition, it is seen that the petitioner is a Journalist by profession. It is stated that he keeps track of the whole irregularities from the news reports published in various newspapers. It is settled legal position that any information or fact derived out of paper publication do not constitute legally acceptable evidence. Even, the petitioner has failed to indicate as to how he came to possess the documents annexed with the petition. Admittedly, the petitioner did not obtain the documents through Right to Information Act. Documents relating to departmental enquiry cannot be treated as public documents. The petitioner has no direct or indirect connection with the departmental enquiry conducted against Ram Singh Ningwal. Even, the employee has not been arrayed as a respondent in the writ petition. It appears that the petitioner has not come with clean hands before this Court, but also with a clean heart, clean mind and clean objective. It further appears that the petitioner has approached this Court only with the desire to win notoriety or cheap popularity, therefore, the petition of such busy bodies deserve to be thrown out at the threshold as already held by the Apex Court in the case of **Dr. B. Singh** (supra) that Public Interest Litigation in service matter is not maintainable.

12. In view of the aforesaid, this Court is not inclined to entertain this Public Interest Litigation and accordingly, the same is hereby dismissed *in limine*.

(S. A. DHARMADHIKARI)
JUDGE

(PRAKASH CHANDRA GUPTA)
JUDGE

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