

HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on: 03.03.2017

Order passed on: 06.04.2017

WPPIL No. 35 of 2017

1. Chhattisgarhi Samaj Party (Registered Political Party Under The Provisions Of The R. P. Act, 1951 By The Election Commission Of India) Through The President Anil Dubey, S/o Shri N. K. Dubey, Aged About 57 Years, R/o Sunder Nagar, Raipur, District Raipur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through : The Chief Secretary, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
2. The Prime Minister Office, North Block, Near President Secretariat, New Delhi.
3. The Secretary, Public Works Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
4. The Secretary, General Administration Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
5. The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
6. The Collector, Raipur, District Raipur, Chhattisgarh
7. The Superintendent Of Police, Raipur, Police Station Rakhi, New Raipur, District Raipur (Chhattisgarh)
8. Deepali Designs & Exhibits Co. Pvt. Through The Managing Director Vinay Mittal, R/o 8 North Punjab Keshri, New Delhi 110035

---- Respondent

For Petitioner	: Shri S.C. Verma, Advocate.
For Respondents/State	: Shri Y.S.Thakur, Addl. A.G.
For Respondent/UOI	: Shri R.K. Kesharwani, Advocate.

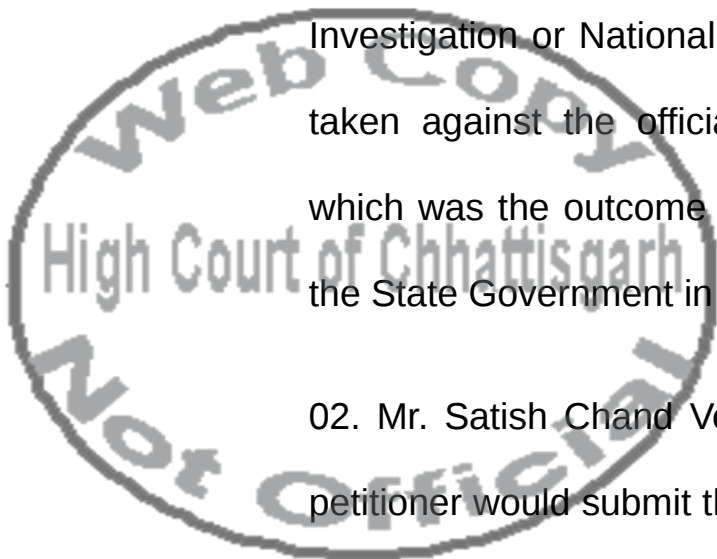
Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Sanjay K. Agrawal

C A V Order

Sanjay K. Agrawal, J

01. Chhattisgarhi Samaj Party, petitioner herein, a registered political party under Section 29(1) of the Representation of People's Act, 1951, has filed this public interest litigation seeking various reliefs stating that the unfortunate incident of falling of the dome which was being prepared for the Hon'ble Prime Minister to address the public, be investigated by the Central Bureau of Investigation or National Investigation Agency and action be also taken against the officials involved in erection of such dome, which was the outcome of corrupt means used by the officials of the State Government in connivance with respondent No.8.

02. Mr. Satish Chand Verma, learned counsel appearing for the petitioner would submit that on 9.5.2015 Hon'ble Prime Minister of India was scheduled to come and to address a gathering at New Raipur and for which a dome/stage was being erected by the State Government through respondent No.8, which fell down before arrival of the Hon'ble Prime Minister and it is thus apparent that the dome in question which was being erected after incurring huge expenditure was of low quality and in this process, corrupt and illegal means were adopted by the officials of the State Government in collusion with respondent No.8. Since it relates to the safety and security of the Hon'ble Prime Minister, this matter



may be directed to be investigated by some independent agency like C.B.I. or N.I.A.

03. Mr. Y.S. Thakur, learned counsel appearing for the State would submit that the petitioner is a registered political party and as such, writ petition at the end of a political party cannot be entertained. Furthermore, this petition has been filed after two years from the date of falling of the dome/stage and as such, the same cannot be entertained at this stage. He would also submit that Magisterial enquiry has already been conducted and report has been submitted to the State Government which is pending consideration.

04. We have heard learned counsel for the parties and also gone through the record with utmost circumspection.

05. We shall first examine the nature and scope of public interest litigation.

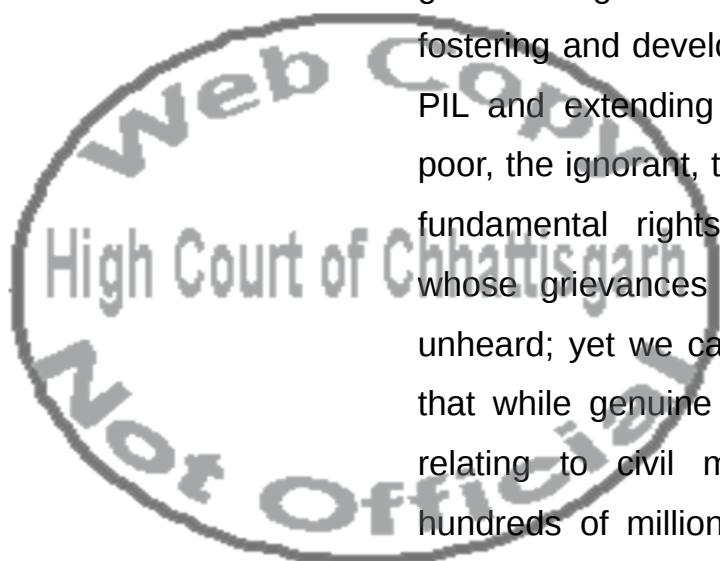
06. The Supreme Court in the case of ***Janta Dal Vs. H.S. Chowdhary and others***¹ has clearly held that PIL cannot be entertained for personal gain or private profit or for political motives or for any oblique consideration, and also warned that the Court must be careful in entertaining public interest litigations. In paragraphs 109, 110 and 111 it has been observed as under:

109. It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL

¹ (1992) 4 SCC 305

will alone have a *locus standi* and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the court for vindicating any personal grievance, deserves rejection at the threshold.

110. It is depressing to note that on account of such trumpery proceedings initiated before the Courts, innumerable days are wasted which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we are second to none in fostering and developing the newly invented 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, unrepresented 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 the undue delay in service matters, Government or private persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorised collection of tax amounts are locked up, detenus 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 for themselves or as proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffling 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 Courts and as result of which the queue standing outside the doors of the Court never moves which piquant situation creates a frustration in the minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system.

111. In the words of Bhagwati, J. (as he then was) "the Courts must be careful in entertaining public interest litigations" or in the words of Sarkaria, J. "the application of busy bodies should be rejected at the threshold itself" and as Krishna Iyer, J. has pointed out, "the doors of the Courts should not be ajar for such vexatious litigants".

07. In the case of ***Kunga Nima Lepcha and others Vs. State of Sikkim and others***² the Supreme Court has held that initiation of investigation is purely an executive function and observed in para-16 as under:

“16. While it is true that in the past, the Supreme Court of India as well as the various High Courts have indeed granted remedies relating to investigations in criminal cases, we must make a careful note of the petitioners' prayer in the present case. In the past, writ jurisdiction has been used to monitor the progress of ongoing investigations or to transfer ongoing investigations from one investigating agency to another. Such directions have been given when a specific violation of fundamental rights is shown,

2 (2010) 4 SCC 513

which could be the consequence of apathy or partiality on part of investigating agencies among other reasons. In some cases, judicial intervention by way of writ jurisdiction is warranted on account of obstructions to the investigation process such as material threats to witnesses, the destruction of evidence or undue pressure from powerful interests. In all of these circumstances, the writ court can only play a corrective role to ensure that the integrity of the investigation is not compromised. However, it is not viable for a writ court to order the initiation of an investigation. That function clearly lies in the domain of the executive and it is upto the investigating agencies themselves to decide whether the material produced before them provides a sufficient basis to launch an investigation.”

08. In the matter of **Jafar Imam Naqvi Vs. Election Commission of India**³ the Supreme Court observed in para-10 as under:

“10. Before parting with the case, it may be stated that public interest litigation was initially used by this Court as a tool to take care of certain situations which related to the poor and under-privileged who were not in a position to have access to the Court. Thereafter, from time to time, the concept of public interest litigation expanded with the change of time and the horizon included the environment and ecology, the atrocities faced by individuals at the hands of the authorities, financial scams and various other categories including eligibility of the people holding high offices without qualification. But a public interest litigation pertaining to speeches delivered during election campaign, we are afraid, cannot be put on the pedestal of a real public interest litigation. There are

laws to take care of it. In the name of a constitutional safeguard entering into this kind of arena, in our convinced opinion, would not be within the constitutional parameters.”

09. Recently in the case of ***Santosh Singh Vs. Union of India and another***⁴ the Supreme Court in para-19 held as under:

“19. There is a tendency on the part of public interest petitioners to assume that every good thing which society should aspire to achieve can be achieved through the instrumentality of the court. The judicial process provides remedies for constitutional or legal infractions. Public interest litigation allows a relaxation of the strict rules of locus standi. However, the court must necessarily abide by the parameters which govern a nuanced exercise of judicial power. Hence, where an effort is made to bring issues of governance before the court, the basic touch stone on which the invocation of jurisdiction must rest is whether the issue can be addressed within the framework of law or the Constitution. Matters of policy are entrusted to the executive arm of the State. The court is concerned with the preservation of the rule of law.”

10. Having examined the scope of interference in PIL, turning back to the facts of the case, it would appear that the State Government has already initiated magisterial enquiry on the said incident and the report has been submitted to the State Government, which is pending consideration with the State Government, as is apparent from the documents filed by the petitioner with this petition.

11. The Constitution Bench in the matter of ***State of West Bengal and others Vs. Committee for Protection of Democratic Rights, West***

4 (2016) 8 SCC 253

Bengal and others⁵ has clearly held that extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility to and instill confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. In para-70 it has been observed as under:

“70. Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these Constitutional powers. The very plenitude of the power under the said Articles requires great caution in its exercise. In so far as the question of issuing a direction to the CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extra-ordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instill confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise the CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose

5 (2010) 3 SCC 571

its credibility and purpose with unsatisfactory investigations.”

12. In the present case, the matter has already been investigated and the report has been submitted to the State Government, which is pending consideration. The petitioner, which is a political party, seems to have filed this petition only for gaining political milage, that too after the delay of two years of the alleged incident impleading Prime Minister's Office as party respondent. The office of the Prime Minister is neither a proper nor a necessary party in this P.I.L. and only to gain political milage, the office of Prime Minister has been impleaded. There is no element of public interest in this P.I.L.

13. In the result, the petition being bereft of any substance is liable to be dismissed with cost and it is dismissed as such with cost of Rs.25,000/- (Rupees Twenty Five Thousand), payable to the High Court Legal Aid Committee.

Sd/

(Pritinker Diwaker)
Judge

Sd/

(Sanjay K. Agrawal)
Judge

HIGH COURT OF CHHATTISGARH, BILASPUR

WPIL No. 35 of 2017

Chhattisgarhi Samaj Party

---- **Petitioner**

Versus

State Of Chhattisgarh

--- **Respondents**

Head Note

Order directing inquiry by C.B./N.I.A. can be passed only in exceptional situation. Such power and jurisdiction has to be exercised sparingly and in most appropriate cases. P.I.L. dismissed with cost.

सी.बी.आई./एन.आई.ए. के द्वारा जांच के आदेश केवल अपवादिक स्थिति में पारित किये जा सकते हैं। इस प्रकार की शक्ति तथा क्षेत्राधिकार का प्रयोग कम से कम एवम् उपयुक्त मामले में ही किया जाना चाहिए। जन हित याचिका सव्यय खारिज की गयी।