

Bhuvnesh Kumar vs State Of U.P. And 5 Others on 3 March, 2025

Author: Ajay Bhanot

Bench: Ajay Bhanot

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No.-2025:AHC:29447

Court No. - 5

Case :- WRIT - A No. - 19549 of 2024

Petitioner :- Bhuvnesh Kumar

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Rang Nath Pandey,Vidyapati Tripathi

Counsel for Respondent :- C.S.C.,Harsh Vardhan Gupta,Rang Nath Pandey

Hon'ble Ajay Bhanot,J.

1. Shri Anoop Kumar Chaubey, learned counsel holding brief of Shri Rang Nath Pandey, learned counsel appears for the petitioner. Learned Standing Counsel appears for the respondents No.1, 4 and 5. Shri Rajesh Kumar Yadav, learned counsel appears for the respondent No.6.

2. The petitioner has assailed the appointment of one Abhimanyu who is serving as toll clerk in the respondent-corporation.

3. The employees of the Nagar Palika are governed by the service rules holding the field. The action against the employees has to be taken by the disciplinary authority as per law. The petitioner is neither an employee of the Nagar Palika Parishad, Bahjoi, District-Sambhal, nor the disciplinary authority of the said Abhimanyu.

4. The appointments of employees of the respondent-Nagar Palika Parishad, Bahjoi, District-Sambhal are made in light of specific statutory provisions by competent statutory authorities. The procedure laid out under the statutory scheme ensures transparency in the process and fairness in appointments. The competent authorities under the law can also take appropriate action for deviation made in the process of appointments. The petitioner does not figure anywhere in the aforesaid statutory lineup of authorities charged with the duties of making the appointments or examining of their validity thereof.

5. Admittedly, the petitioner is not connected with the process of appointments. The petitioner has not established his locus standi to challenge the appointments made in the Nagar Palika Parishad, Bahjoi, District-Sambhal.

6. The service conditions of government servants are governed and regulated by service rules holding the field. The service rules are framed under Article 309 of the Constitution of India and other provisions of law. The service rules of employees ensure that there is transparency in the functioning of the government departments and accountability in the conduct of government officials. The service rules also insulate the government employees from extraneous influences and pressure which may impede faithful discharge of government duties. The service rules are bulwark of independence of government servants and enable them to function without fear of any outside interference.

7. Entertaining complaints from the outsiders who are busybodies and interlopers will have far reaching consequences on the functioning of government. Such action will adversely impact the morale of the government servants and will be detrimental to the efficiency of the Government. Persons who set up complaints with malafide motives of harassing and blackmailing government servant have to be deterred and the Government employees should be safeguarded. Manner of discharge of duties by public servants are wholly beyond the scope of the rights of such complainants and entirely in the prerogative of the State Government.

8. Further it is settled law that public interest litigation is not maintainable in service matters. It would be apposite to fortify the narrative with cases in point.

9. This Court in *Sriram Prasad and another Vs. State of U.P. and others*¹ relied on good authority to uphold the distinction between an aggrieved party and an annoyed party held as under:

"13. In the case of *R. v. London Country Keepers of the peace of Justice*, (1890) 25 Qbd 357, the Court held:

"A person who cannot succeed in getting a conviction against another may be annoyed by the said findings. He may also feel that what he thought to be a breach of law was wrongly held to be not a breach of law by the Magistrate. He thus may be said to be a person annoyed but not a person aggrieved, entitle to prefer an appeal against such order."

10. The existence of a right in favour of an aggrieved party furnishes the locus standi to maintain a writ petition as held in Vinoy Kumar Vs. State of U.P. and others² thus:

"2. Generally speaking, a person shall have no locus standi to file a writ petition if he is not personally affected by the impugned order or his fundamental rights have neither been directly or substantially invaded nor is there any imminent danger of such rights being invaded or his acquired interests have been violated ignoring the applicable rules. The relief under Article 226 of the constitution is based on the existence of a right in favour of the person invoking the jurisdiction. The exception to the general rule is only in cases where the writ applied for is a writ of habeas -corpus or quo warranto or filed in public interest. It is a matter of prudence, that the court confines the exercise of writ jurisdiction to cases where legal wrong or legal injuries caused to a particular person or his fundamental rights are violated, and not to entertain cases of individual wrong or injury at the instance of third party where there is an effective legal aid organisation which can take care of such cases. Even in cases filed in public interest, the court can exercise the writ jurisdiction at the instance of a third party only when it is shown that the legal wrong or legal injury or illegal burden is threatened and such person or determined class of persons is, by reason or poverty, helplessness or disability or socially or economically disadvantages position, unable to approach the court for relief."

11. Similarly in Ayaubkhan Noorkhan Pathan Vs. State of Maharashtra and others³, the Supreme Court emphasized that existence of enforceable rights of aggrieved parties form the pre-condition to invoke the extraordinary jurisdiction under Article 226 of the Constitution of India vested in this Court:

"9. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the authority/court, that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order, etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can, of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that the relief prayed for must be one to enforce a legal right. In fact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. [Vide State of Orissa v. Madan Gopal Rungta

[AIR 1952 SC 12] , Saghir Ahmad v. State of U.P. [AIR 1954 SC 728] , Calcutta Gas Co. (Proprietary) Ltd. v. State of W.B. [AIR 1962 SC 1044] , Rajendra Singh v. State of M.P. [(1996) 5 SCC 460 : AIR 1996 SC 2736] and Tamilnad Mercantile Bank Shareholders Welfare Assn. (2) v. S.C. Sekar [(2009) 2 SCC 784].]

10. A "legal right", means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must, therefore, necessarily be one whose right or interest has been adversely affected or jeopardised. (Vide Shanti Kumar R. Canji v. Home Insurance Co. of New York [(1974) 2 SCC 387 : AIR 1974 SC 1719] and State of Rajasthan v. Union of India [(1977) 3 SCC 592 : AIR 1977 SC 1361] .)

11. In Anand Sharadchandra Oka v. University of Mumbai [(2008) 5 SCC 217 : AIR 2008 SC 1289] , a similar view was taken by this Court, observing that, if a person claiming relief is not eligible as per requirement, then he cannot be said to be a person aggrieved regarding the election or the selection of other persons."

12. The scope of Public Interest Litigations in service matters was elucidated by the Hon'ble Supreme Court in Duryodhan Sahu (Dr.) v. Jitendra Kumar Mishra⁴ held thus:

"18. The constitution of Administrative Tribunals was necessitated because of the large pendency of cases relating to service matters in various courts in the country. It was expected that the setting up of Administrative Tribunals to deal exclusively in service matters would go a long way in not only reducing the burden of the courts but also provide to the persons covered by the Tribunals speedy relief in respect of their grievances. The basic idea as evident from the various provisions of the Act is that the Tribunal should quickly redress the grievances in relation to service matters. The definition of 'service matters' found in Section 3(q) shows that in relation to a person, the expression means all service matters relating to the conditions of his service. The significance of the word 'his' cannot be ignored. Section 3(b) defines the word "application" as an application made under Section 19. The latter section refers to "person aggrieved". In order to bring a matter before the Tribunal, an application has to be made and the same can be made only by a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal. We have already seen that the word "order" has been defined in the explanation to sub-section (1) of Section 19 so that all matters referred to in Section 3(q) as service matters could be brought before the Tribunal. If in that context Sections 14 and 15 are read, there is no doubt that a total stranger to the service concerned cannot make an application before the Tribunal. If public interest litigations at the instance of strangers are allowed to be entertained by the Tribunal, the very object of speedy disposal of service matters would get defeated."

13. The consequences of entertaining Public Interest Litigations in service matters were examined by the Hon'ble Supreme Court in *Ashok Kumar Pandey v. State of West Bengal*⁵. Public Interest Litigations in service matters were restricted in the following terms:

"16. 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 a large number of so-called public interest litigations where even a minuscule percentage can legitimately be called public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a 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. Though in *Duryodhan Sahu (Dr) v. Jitendra Kumar Mishra* [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802 : AIR 1999 SC 114] this Court held that in service matters PILs should not be entertained, the inflow of 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. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the 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. Whenever such frivolous pleas are taken to explain possession, the courts should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforesaid so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts."

14. The law laid down by the Constitutional Courts does not permit initiation of adversarial litigation in service matters at the instance of a stranger or a busybody. The petitioner was required to satisfy that he is an aggrieved party. The nature of legal rights sought to be enforced do not bring the petitioner in the definition of a person aggrieved. The petitioner does not have the locus standi to maintain the writ petition. Further the petitioner cannot canvass any public interest in this writ petition, in light of the restrictions imposed by judicial authorities discussed earlier.

15. Litigation cannot be a sport for the mischievous and courts are not the play field for interlopers.

16. The writ petition has been actuated by malafides and is an abuse of the process of the Court. The petitioner is a busybody who simply wants to harass and blackmail the said Abhimanyu.

17. In this wake, cost of Rs.50,000/- is imposed upon the petitioner to discourage his conduct. The District Magistrate, Sambhal shall recover the said amount from the petitioner as arrears of land revenue within a period of two months and submit a report before the Chief Judicial Magistrate. The Chief Judicial Magistrate, Sambhal shall ensure that the costs are recovered and paid to the District

Mediation Centre, Sambhal for the harassment which has been caused.

18. Learned Chief Judicial Magistrate, Sambhal to file a compliance report before the Registrar General of this Court immediately thereafter.

19. Office to send a copy of this order to Chief Judicial Magistrate, Sambhal and District Magistrate, Sambhal for compliance.

20. The writ petition is dismissed.

Order Date :- 3.3.2025 Ashish Tripathi