

# Yash Foundation vs Union Of India And Ors on 8 May, 2024

2024:BHC-AS:21428-DB

902-CRPILST.23

Jvs.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION (ST) NO. 23688 OF 2023

Yash Foundation	}	Petitioner
versus		
Union of India & Ors.	}	Respondents

Mr. Rajesh Khobragade with Mr. Akshay Gutka and Mr. Ravi Chidurala for petitioner.

Mr. Hiten Venegavkar, Public Prosecutor with Mr. Prasanna Malshe, APP for respondents 2, 4, 6, 7, 8 & 9.

Dr. Seema Jain (through VC) with Mr. Ajay K. Jain, Mr. Dushyant K. Mahant, Mr. Abhay Jadeja, Ms. Dhanyashree Jadeja, Mr. Arun Unnikrishnan and Mr. Anuj Shetty i/b. Jadeja & Satiya for respondents 11 and 24.

Mr. Vivek M. Sharma for intervener.

CORAM: DEVENDRA KUMAR UPADHYAYA, C.J. &  
ARIF S. DOCTOR, J.

DATE: 8th MAY 2024

P.C.:

1. Heard learned counsel for the parties.

2. On being pointed out that this petition, ostensibly filed in public interest, does not contain proper and appropriate pleadings; neither does it make proper prayers and further that the petition is absolutely deficient in pleadings so as to adjudicate the issue raised, learned counsel for the petitioner 902-CRPILST.23688.2023 states that the petitioner may be permitted to withdraw the petition with a liberty to file a fresh petition.

3. Though we do not intend to come in the way of the aforesaid prayer made by learned counsel for the petitioner, however, before granting such liberty, we are compelled to make certain observations which are as follows:

4. The PIL petitioner appears to be aggrieved by surrogate advertisements of Tobacco, Gutka, Betel Nut etc. He is also aggrieved by alleged inaction on the part of the police authorities in not lodging the FIR.

5. When we inquired from the learned counsel for the petitioner as to whether any application was made by the petitioner for lodging the FIR, our attention has been drawn to a letter dated 30th September 2022 written by one Shri. Rajesh P. Khobragade, an advocate, to the Senior Inspector of Police, Dadar Police Station, Food Safety and Standards Authority of India and Senior Inspectors of Police of Juhu, Khar and Bandra West Police Stations, which is said to be a reminder to an earlier notice dated 30th June 2022 in respect of FIR sought to be lodged against the private respondents under sections 179, 188, 273, 328 and 120(B) of Indian Penal Code and 26(ii) and 27(iii)(e) of Food Safety and Standards Act, 2006 along with Disaster Management Act, 2005 as also Epidemic Diseases Act, 1897 and the Maharashtra Police Act, 1951.

6. When we peruse the averments made in the PIL petition, what we find is that not even a single act amounting to offences as narrated in the letter dated 30th June 2022 is mentioned to have been committed by the private respondents. By impleading 902-CRPILST.23688.2023 certain celebrities in different walks of life in the society, the petitioner appears to be seeking publicity instead of taking the issue with expected seriousness.

7. Hon'ble Supreme Court in the case of State of Uttaranchal vs. Balwant Singh Chaufal & Ors., reported in (2010) 3 SCC 402 has clearly observed that the Court should, on one hand, encourage the PIL petitions being filed raising genuine public causes, especially for the benefit of the disadvantaged sections of the society, however, at the same time, the Court should also be dealing with frivolous PIL petitions being filed for extraneous reasons with firm hands and such attempts should be nipped in the bud. The observations made in the said judgment are as follows: -

181. We have carefully considered the facts of the present case. We have also examined the law declared by this Court and other courts in a number of judgments. 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.

902-CRPILST.23688.2023 (3) The Courts should prima facie verify the credentials of the petitioner before entertaining a PIL.

(4) The Courts should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

(5) The Courts should be fully satisfied that substantial public interest is involved before entertaining the petition.

(6) The Courts 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 Courts 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.

8. However, at the request of the learned counsel for the petitioner, we are not going into the aforesaid issues in the matter, but we find it appropriate to caution the petitioner that in future if it files any PIL petition, it should first do the necessary study and homework and then only take up the petitions with appropriate and proper pleadings.

9. The PIL petition is, thus, dismissed as withdrawn with the liberty as prayed for.

JAYANT VISHWANATH  
VISHWANATH SALUNKE  
SALUNKE Date: 2024.05.08  
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(ARIF S. DOCTOR, J.)

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