

**REPORTABLE**

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NOS. \_\_\_\_\_ OF 2022**

**(ARISING OUT OF SLP (C) NOS. 10622-10623 OF 2022)**

**STATE OF JHARKHAND**

**... APPELLANT**

**Versus**

**SHIV SHANKAR SHARMA & ORS.**

**... RESPONDENTS**

**WITH**

**CIVIL APPEAL NOS. \_\_\_\_\_ OF 2022**

**(ARISING OUT OF SLP (C) NOS. 11364-11365 OF 2022)**

**J U D G M E N T**

**Sudhanshu Dhulia, J.**

Leave granted.

1. The above two petitions have been filed before this Court by the State of Jharkhand through the Resident Commissioner, challenging the orders dated 03.06.2022 passed by the Division Bench of the High Court of Jharkhand, where the High Court has ordered that the PILs filed by respondent no. 1

before the Jharkhand High Court are maintainable, and thus the High Court decided to proceed with the matter on its merits. The petitioner here poses a challenge to the very maintainability of these two PILs. After hearing the parties at length, this Court vide its order dated 17.08.2022 had reserved its orders and directed that meanwhile the High Court shall not proceed further with the matter.

2. The question before this Court is whether the petitions which have been filed before the Jharkhand High Court in the form of Public Interest Litigations are maintainable in view of the settled position of law laid down by this Court in several of its earlier decisions. The question is also whether these PILs comply with the provisions of the Rules relating to the Public Interest Litigations, which is the Jharkhand High Court (Public Interest Litigation) Rules, 2010 (for short "Rules, 2010") and if they do not, were the petitions filed as PILs liable to be dismissed at the very threshold if they were not in compliance of the provisions of the above Rules relating to PIL.
3. Two public interest litigations petitions were filed before the Jharkhand High Court by the same person, i.e., Sri Shiv

Shankar Sharma. In the first Writ Petition (PIL) No. 4290 of

2021 the following relief was sought: -

“A. For the direction upon the respondents specially respondent’s especially respondent no. 3<sup>1</sup> to enquire into the money transferred of Soren Family in the name of respondent no.’s, 8 to 13 and may also submit the report to Income Tax Department as to how the companies which are 28 in numbers have been used as a parking place for ill gotten money.

B. For the direction upon the respondent no. 3 to investigate the sources of income of respondent no. 8 to 13 as because they being the close friends of Hemant Soren and Basant Soren have invested the money in number of companies as chain of hotels as it is shown that the owner is Ranjan Sahu and the Hotlips chain of hotels and restaurants which was situated in a small area near the Chief Minister's residents and later on removed have transformed into six hotel chains situated at Kanke Road, Ratan Lal Complex, Ratu Road, Lalpur, Hinoo and Kamre.

C. For the direction upon the respondent no. 4<sup>2</sup> also to investigate the financial crime committed by Hemant Soren which income has given to Ravi Kejriwal as he is connected to him since childhood and also having close connection with Ranjan Sahu, the so called owner of Hotlips Chain of hotels and restaurants and may also investigate as at which point of time and place Mr. Hemant Soren has committed illegality and earned crores of rupees and invested in the name of these persons.

D. For the direction upon the respondent no. 5 to investigate the money trail of crime proceed

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<sup>1</sup> Respondent No.3 is the Central Bureau of Investigation.

<sup>2</sup> Respondent No.4 is the Enforcement Directorate.

lying with respondent no. 8 to 13 and they have amassed the huge wealth and returning the money at the time of election to Jharkhand Mukti Morcha headed by Hemant Soren.

E. For any other of the relief or reliefs as this Hon'ble Court may deem fit and proper in the light of the facts of this case.”

In the Second Writ Petition (PIL) No. 727 of 2022 the following relief was sought: -

“A. For the direction upon the respondent No.9 to grant sanction for prosecution, to prosecute the “The Chief Minister Cum, Minister Department of Mines, for act of misuse of office and getting the Mining Lease done in his own name, although, he being a Departmental Minister/Chief Minister cannot do business (Article 191(9) of Constitution) of mining, and also committed criminal act, so he is liable to be prosecuted under Section 7(A) and 13(I)(d) of Prevention of Corruption Act, 1988 & Section 169 of IPC, and also to cancel his membership of assembly of Jharkhand, and also he has violated section 9 of the Peoples’ Representation Act, 1950 & lastly, he has contravened the code of conduct framed by Union Government for the Hon’ble Chief Minister & Ministers of States.

B. For the direction upon the respondents especially respondent No. 1, the Chief Secretary, Jharkhand to protect the relevant file of Department of Mines wherein, the mining lease of Angadha Mauza, Thana No. 26, Khata No. 187, Plot No. 482, Area 0.88 Acre for that Letter of intent (LOI) was issued on 16.06.21, approval of mining plan was given on 10.07.21, mining plan approved on 09.09.21 & finally on 09.09.21 the respondent No. 7 has given application, which was approved

in its 90<sup>th</sup> meeting dated 14-18 September, 2021, within such a short time although, the SEIAA has given environmental clearance to new High Court building after so many months, ANDA, directions may be issued to Central Bureau of Investigation (CBI) & Enforcement Directorate to investigate the crime committed by respondent no. 7 & 8.

C. For the direction upon the respondent CBI especially also to investigate the history illegal mining committed by the person like the respondent No. 7 and due to his influence, illegal mining is done to public properties sold by Mr. Soren against the provisions of law to himself only.

D. For any other of the relief or reliefs as this Hon'ble Court may deem fit and proper in the light of the facts of this case.”

In both these writ petitions the respondents which, inter alia, included the State of Jharkhand as well as the incumbent Chief Minister, Mr. Hemant Soren. A preliminary objection as to the maintainability of the writ petition was raised by these two respondents. Objections were also raised that the writ petitions do not disclose the particulars and credentials of the petitioner nor does it follow the procedure as mandated by the Rules, i.e., Rule 4, 4A, 4B,5 of the Rules, 2010.

4. Since, the Court nevertheless proceeded with the matter, the petitioner had earlier filed a petition before this Court challenging the proceedings before the Jharkhand High

Court in the form of these two Public Interest Litigations. The matter came up before a Division Bench of this Court and the following orders were passed on 24.05.2022 in SLP (C) Nos. 9728-9730 of 2022:

“A batch of three writ petitions is pending before the Division Bench of the High Court of Jharkhand:

- (i) (In Writ Petition (PIL) No 4632 of 2019; the petitioner, Arun Kumar Dubey, seeks, inter alia, a direction to the Directorate of Enforcement to investigate 15 FIRs pertaining to alleged offences arising out of the disbursement of MANREGA funds to Khunti Zila Parishad implicating offences under Sections 406, 409, 420, 423, 429, 465 and 1208 of the Indian Penal Code and Sections 11, 12(2) and 13(1)(e) of the Prevention of Corruption Act, 1988;
- (ii) In Writ Petition (PIL) No 4290 of 2021; the petitioner, Shiv Shankar Sharma seeks a direction for an investigation into the alleged transfer of SLP Cr. 9729-9730/2022 monies by the Soren family in the names of respondent Nos 8 to 13 through the instrumentality of certain shell companies; and

(iii) In Writ Petition (PIL) No 727 of 2022; the petitioner Shiv Shankar Sharma seeks a direction for sanctioning the prosecution of the Chief Minister for obtaining a mining lease in his own name implicating offences under the provisions of the Prevention of Corruption Act, 1988 and the Indian Penal Code.

5. On 22 April 2022, when Writ Petition (PIL) No 4290 of 2021 came up before a Division Bench presided over by the Chief justice, the Court recorded the submission of the counsel for the State that "an identical writ petition was dismissed with costs by this Court filed by the same counsel and the matter went up to the Supreme Court" where the Special Leave Petition was dismissed. After issuing certain procedural directions for the impleadment of the Registrar of Companies, the Division Bench directed that the proceedings in Writ Petition (PIL) No 4290 of 2021 be placed along with the records of Writ Petition (PIL) No 4218 of 2013 on 1.3 May 2022.

6. On 13 May, 2022, the High Court, inter alia, noted the submissions of the State of Jharkhand objecting to the maintainability of the petition. This was dealt with in the following extract:

"At this juncture, Mr Kapil Sibal, learned Senior Advocate, appearing for the State of Jharkhand, has made a submission that he has to raise a preliminary objection regarding the maintainability of the case itself.

We would consider the preliminary objection and then the merit also, if required, on the next date of hearing"

7. The High Court posted the proceedings on 17 May 2022. On 17 May 2022, the High Court, after perusing a sealed cover which was tendered on behalf of the Directorate of Enforcement, noted the submission of the petitioner that WP (PIL) No 4362 of 2019 may be placed along side the petition which the High Court was considering on the next date of hearing and accordingly the proceedings were adjourned to 19 May 2022. On 19 May 2022, the High Court has passed separate orders in Writ Petition (PIL) Nos 727 of 2022, 4632 of 2019 and 4290 of 2021. The High Court posted the proceedings on 24 May 2022.

8. The Special Leave Petitions have been instituted by the State of Jharkhand in order to challenge the orders dated 13 May 2022 and 17 May 2022 in Writ Petition (PIL) No 4290 of 2021.

9. We have heard Mr Kapil Sibal, senior counsel appearing on behalf of the State of Jharkhand, Mr Mukul Rohatgi, senior counsel appearing on behalf of the sixth respondent (Shri Hemant Soren) and Mr Tushar Mehta, Solicitor General appearing on behalf of the Central Bureau of Investigation and the Directorate of Enforcement.

10. The sequence of events narrated in the earlier part of the present order indicates that the High Court had, by its



order dated 13 May 2022, specifically noted that it would consider the primary objection to the maintainability of Writ Petition (PIL) No 4290 of 2021 and deal with the merits thereafter, if required, on the next date of hearing.

11. Mr Kapil Sibal, senior counsel appearing on behalf of the petitioner has adverted to the provisions of the Jharkhand High Court (Public Interest Litigation) Rules, 2010, more particularly the provisions of Rules 4, 4-A, 4-B and 5.

12. Since the High Court has observed in its order dated 13 May 2022 that it would deal with the maintainability of the petition upfront, we are of the considered view that it would be appropriate in the interests of justice that the Division Bench presided over by the learned Chief justice does so before without proceeding to the merits of the public interest litigation.

13. The issue of maintainability should be dealt with by the High Court on the next date of listing when the proceedings are taken up. Based on the outcome of the objections to the maintainability of the proceedings, the High Court may thereafter proceed in accordance with law.

14. The Special Leave Petitions are disposed of in the above terms.

15. This Court has had no occasion to deal with the merits of the rival contentions which arise in the Special Leave Petitions or nor has it become necessary for this Court to express any

view on the allegations which are levelled in the writ petition since that is a matter which is pending consideration before the High Court.

16. Pending applications, if any, stand disposed of.”

5. Thus, consequent to the orders of this Court dated 24.05.2022, the Jharkhand High Court before proceeding with the matter had to first give its finding on the maintainability of the two PILs. The High Court after hearing the petitioner as well as the respondents has come to a conclusion that an extremely serious matter has been raised in the PILs, where there are allegations of large-scale corruption at the hands of the present Chief Minister of Jharkhand, and even though there may be some procedural irregularities in filing of the public interest litigations that should not come in the way of the Court in entertaining the petition, which is in public interest. Moreover, as to the Rules, (i.e., Rules 4, 4-A, 4-B, 5 of the Rules, 2010) which we shall refer shortly, it has been held that they are directory and not mandatory in nature. Consequently, by order dated 03.06.2022 the Court has held that the PILs are maintainable and shall be dealt on its

merit. This order has presently been challenged before this Court.

6. As referred above we are concerned with two writ petitions filed by the private respondent No.1 (i.e., Shiv Shankar Sharma) as Public Interest Litigations before Jharkhand High Court. The first writ petition is Writ Petition (PIL) No. 4290 of 2021, where a prayer has been made to direct the Directorate General Income Tax, Investigation to enquire into the money transferred by the Soren family in the name of private respondents through the shell companies and also to investigate the source of income of private respondents and to investigate the financial crime committed by respondent No.6 i.e. Hemant Soren, the present Chief Minister of Jharkhand, among other reliefs sought in the petitions.
7. The second Writ Petition (PIL) No. 727 of 2022 is the one where a direction has been sought to prosecute the Chief Minister, who is also the Minister in the Department of Mines. The reason being that he has misused his office in getting a mining lease in his own name. As far as the second writ petition is concerned, a reply has been filed by the State of Jharkhand before the Jharkhand High Court as well as by the

Chief Minister, Mr. Hemant Soren that full facts of the case have not been stated by the petitioner in the petition and he has deliberately suppressed the material facts. The mining lease which is alleged to have been made in favour of the Chief Minister is on a land situated in Angadha Mauza, Thana No. 26, Khata No.187, Plot No.482 and the total Area of the land is only 0.88 Acres. It was allotted to Mr. Hemant Soren for a period of 10 years between 17.05.2008 to 17.05.2018 after the expiry of the lease period of 10 years an application for its renewal was made belatedly by Mr. Hemant Soren on 06.06.2018 and by that time the lease had lapsed. Subsequently by way of Gazette Notification No.1 of 2021 which was issued on 27.03.2021, fresh applications for the mining lease were invited. A letter of intent was given in favour of Mr. Hemant Soren on 16.06.2021. All the same on 04.02.2022 the respondent No. 7, i.e., Mr. Hemant Soren wrote to District Mining Officer, Ranchi for surrendering mining lease with immediate effect. As per Section 26 of Jharkhand Minor Mineral Concession Rules, 2004 a demand for advance of six months of royalty to be deposited by Mr. Hemant Soren and the mining lease was surrendered and was

accepted under the Rules on 11.02.2022. Therefore, according to the respondent at the time of filing of the second writ petition (PIL) No.727 of 2022, there was no mining lease in favour of respondent No. 7 as it had already stood surrendered. In its reply dated 05.05.2022, the State of Jharkhand has also stated that although the lease was renewed in favour of the Mr. Hemant Soren no mining activity or extraction of stone took place on the mining lease area. Further, in this regard if any anomaly has been committed and respondent No. 7 has to suffer a disqualification from his office, for having a mining lease in his favour, the matter in this regard is pending inquiry before the Election Commission of India in a Reference case No. 3(G) of 2022 which is registered on the reference received from the Hon'ble Governor of Jharkhand under Article 192<sup>3</sup> of the Constitution of India. The Election Commission of India has issued a notice to the Chief Secretary on 08.04.2022 seeking certain information which had been duly supplied by the

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<sup>3</sup> Article 192. Decision on questions as to disqualifications of members—

(1) If any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned in clause (1) of article 191, the question shall be referred for the decision of the Governor and his decision shall be final.

(2) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion

State vide its letter dated 26.04.2022. In other words, this matter as regarding the mining lease in favour of the Chief Minister, i.e., Mr. Hemant Soren and his disqualification from office, is pending consideration with the Election Commission of India. So much for the second writ petition which in our view is totally an abuse of the process of this Court.

8. Regarding the first Writ Petition No. (PIL) 4290 of 2021 the allegations which had been made of money laundering and money being invested in shell companies are again mere allegations. The petitioner has actually sought an investigation by the Court. It prays for a writ of mandamus in this regard to the Investigating Agencies such as CBI or Enforcement Directorate to investigate. This in our view is again an abuse of the process of the Court, as the petition is short of wild and sweeping allegations, there is nothing placed before the Court which in any way may be called to be prima facie evidence. Moreover, the locus of the petitioner is questionable and the clear fact that he has not approached the Court with clean hands makes it a case which was liable to be dismissed at the very threshold.

9. This Court in **Kunga Nima Lepcha v. State of Sikkim**<sup>4</sup> under similar circumstances has held that a writ court is not an appropriate forum for seeking an initiation of such an investigation. A reference to the facts of **Kunga Nima Lepcha** (supra) would be relevant for our purposes. In the above case, a writ petition under Article 32 of the Constitution was filed directly before this Court where the petitioner had alleged that the incumbent Chief Minister of the State of Sikkim (impleaded respondent No.2) had misused his public office and had amassed assets disproportionate to his known source of income. It was also alleged that the Chief Minister has misappropriated a large volume of public money at the cost of Government of India and the Government of Sikkim. Thus, the relief sought by the petitioner was for issuance of writ of mandamus directing the CBI to investigate the allegations that have been made against the Chief Minister. This Court declined to intervene in the matter holding that a constitutional court is not a forum to seek redressal of this nature. The remedies evolved by way of writ jurisdiction are of extraordinary nature and reliefs cannot be granted as a

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<sup>4</sup> (2010) 4 SCC 513

matter of due course, where the statutory remedies are available to the petitioner. In Paras 14 to 17 of the judgement it was said as follows:

“14. In the present petition, the petitioners have made a rather vague argument that the alleged acts of corruption on part of Shri Pawan Chamling amount to an infringement of Article 14 of the Constitution of India. We do not find any merit in this assertion because the guarantee of “equal protection before the law” or “equality before the law” is violated if there is an unreasonable discrimination between two or more individuals or between two or more classes of persons. Clearly, the alleged acts of misappropriation from the public exchequer cannot be automatically equated with a violation of the guarantee of “equal protection before the law”.

15. Furthermore, we must emphasise the fact that the alleged acts can easily come within the ambit of statutory offences such as those of “possession of assets disproportionate to known sources of income” as well as “criminal misconduct” under the Prevention of Corruption Act, 1988. The onus of launching an investigation into such matters is clearly on the investigating agencies such as the State Police, Central Bureau of Investigation (CBI) or the Central Vigilance Commission (CVC) among others. It is not proper for this Court to give directions for initiating such an investigation under its writ jurisdiction.

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, which could be the consequence of apathy or partiality on the 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 up to the investigating agencies themselves to decide whether the material produced before them provides a sufficient basis to launch an investigation.

17. It must also be borne in mind that there are provisions in the Code of Criminal Procedure which empower the courts of first instance to exercise a certain degree of control over ongoing investigations. The scope for intervention by the trial court is hence controlled by statutory provisions and it is not advisable for the writ courts to interfere with criminal investigations in the absence of specific standards for the same.”

10. This Court, thus declined to interfere in the matter holding that the petitioner must approach the investigating agencies directly with the incriminating material and then it is for the investigating agencies to decide on the further course of action. Although an apprehension was raised by this Court that it is possible that the efforts of the petitioner to uncover alleged corruption may be obstructed by entrenched interests, yet statutory remedies available to the petitioner must be first exhausted and only thereafter can he approach the High Court. In the present case no such effort has been made by the respondent (i.e., the petitioner in the PIL) to approach the statutory authorities in any manner whatsoever. The fundamental requirement for the issuance of a writ of mandamus is that the petitioner must have sought such a relief before the appropriate authority and only when it is denied the Court can be approached for a writ a mandamus. This principle cannot be ignored merely because this Court is dealing with a Public Interest Litigation. With regard to the present Public Interest Litigations before us, it is an admitted fact that the respondent has not taken any steps in

approaching the statutory authorities or made any effort in the registration of an FIR.

11. Public Interest Litigation was a novel form adopted by this Court in the late 1970's and the early 1980's to hear the grievances of the vast section of the society which were poor, marginalized and had no means to reach the Supreme Court for articulating their grievance. It was thus the Public Interest Litigation which became the means by which a voice was given to this large voiceless section of our society (See: **State of Uttaranchal v. Balwant Singh Chaufal & Ors.**<sup>5</sup> **M.C. Mehta v. Union of India & Ors.**<sup>6</sup>). The strict procedures of the Court were dispensed in a PIL, and in its early stages a PIL could also be entertained on a mere letter, or a postcard! It is for these reasons it has also come to be known as epistolary jurisdiction. This Court in **Balwant Singh Chaufal** (supra) while dealing with origin and development of PIL in this country has divided its growth into three phases which has been given in its Para 43 as under: -

“Phase-I: It deals with cases of this Court where directions and orders were passed

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<sup>5</sup> (2010) 3 SCC 402

<sup>6</sup> (1987) 1 SCC 395

primarily to protect fundamental rights under Article 21 of the marginalized groups and sections of the society who because of extreme poverty, illiteracy and ignorance cannot approach this court or the High Courts.

Phase-II: It deals with the cases relating to protection, preservation of ecology, environment, forests, marine life, wildlife, mountains, rivers, historical monuments etc. etc.

Phase-III: It deals with the directions issued by the Courts in maintaining the probity, transparency and integrity in governance.”

This Court then traced the abuse of the Public Interest Litigation and observed that this important jurisdiction has come to be abused, at the hands of ill motivated individuals, busy bodies and publicity seekers. A reference was then made to the cases of **BALCO Employees' Union (Regd). v. Union of India & Ors.**<sup>7</sup> and **Neetu v. State of Punjab**<sup>8</sup> where frivolous cases filed as PILs were discouraged and even costs were imposed on the petitioner in such cases. The credentials of the applicant who files a PIL was held to be of extreme importance as also the correctness of the nature of

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<sup>7</sup> (2002) 2 SCC 333

<sup>8</sup> (2007) 10 SCC 614

information given by the petitioner which had to be clear, not vague or indefinite or even generalized. It was also held that nobody should be allowed to indulge in wild and reckless allegations, demeaning the character of others.

The following directions were given in Para 181 of **Balwant**

**Singh Chauhal** (supra): -

“(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 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.”

Consequent to above directions made by this Court in **Balwant Singh Chauhan** (supra) every High Court has framed its rules for dealing with Public Interest Litigation including the Jharkhand High Court. For our purpose the relevant Rules would be Rules 4, 4-A, 4-B, 5 and 6. These Rules are reproduced as under: -

“4. The petitioner in a *Public Interest Litigation* shall state in clear terms the relief prayed for in paragraph-1 of the petition and grounds in paragraph-2 thereof. In paragraph-3, the petitioner shall give his/her full and complete details so as to reveal his/her interest, credentials and qualifications relevant for the *Public Interest Litigation*, along with a declaration that he/she has no personal interest, direct or indirect, in the subject matter of *Public Interest Litigation*. In addition, the petitioner shall set out all relevant facts along with available supporting data, reports etc.

4-A. If a *Public Interest Litigation* is filed by a person on behalf of a Body of Individuals, by whatever name called, whether registered or unregistered and whether incorporated or not, the petition must give full details and history of such Body, and must also clearly specify the authority of that person to represent such Body in that Litigation so as to make the decision therein binding on all individuals of such Body.

4-B. Every *Public Interest Litigation* will chronologically mention in detail all such other and earlier efforts with their result, which are within the petitioner’s knowledge, and which have been made by the petitioner or others for obtaining the relief sought by the Public Interest Litigation.

5. To encourage only genuine and bona fide *Public Interest Litigation* and discourage *Public Interest Litigation* filed for extraneous considerations, the Bench hearing a *Public Interest Litigation* shall first verify the prima facie credentials of the Petitioner before entertaining any case as *Public Interest Litigation*. Thereafter, notice may be issued to

the Advocate General or to any other authority to enable the Bench hearing the matter to come to a *prima facie* satisfaction regarding the correctness of the contents of the petition or information before entertaining the same as *Public Interest Litigation*.

6. For the aforesaid purpose, a *Public Interest Litigation*, shall first be listed with appropriate office notes under the heading “For Orders” before the appropriate Division Bench.

6-A. The above procedure may be relaxed by the concerned Bench, for reasons to be recorded, in cases which call for such urgent intervention by the Court that it is not practicable to allow the delay which may be caused in following the above procedure.”

The above Rules, 2010 were made pursuant to the directions of the Supreme Court in the case of **Balwant Singh Chaufal** (supra). Rules were to be framed so that it is no more left to the individual judges to devise their own procedure, but to ensure uniformity in entertaining a PIL, and to encourage genuine PIL and discourage PIL which are filed with oblique motive. In one of the directions, it was said as under:

“(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.”

Therefore, the importance of these Rules can never be underestimated.

12. What is of crucial significance in a Public Interest Litigation is the *bona fide* of the petitioner who files the PIL. It is an extremely relevant consideration and must be examined by the Court at the very threshold itself and this has to be done irrespective of the seemingly high public cause being espoused by the petitioner in a PIL.

13. Let us now examine the nature of the PIL which is before us, i.e., W.P. (PIL) No. 4290 of 2021. The petitioner who had filed this PIL as well as the other PIL (W.P. (PIL) No. 727 of 2022), and the reliefs in them have already been referred above. It is an admitted case that in the year 2013 a similar petition was filed being W.P. (PIL) No. 4218 of 2013 (Diwan Indranil Sinha Vs State of Jharkhand and Ors.) which was dismissed by the Division Bench of the Jharkhand High Court on 22.11.2013, with costs of Rs. 50,000/- and thereafter an SLP was filed

against this order before this Court which was also dismissed by order dated 28.02.2014. What is necessary for our consideration is that though the said petition was filed by a different person, i.e., Sri Diwan Indranil Sinha, but this was in the knowledge of the petitioner in this PIL, as the counsel for the petitioner in the earlier petition, i.e., in W.P. (PIL) No. 4218 of 2013, and the counsel in the present petition, are the same. Therefore, it can be reasonably presumed that the dismissal of the W.P. (PIL) No. 4218 of 2013 would be in the knowledge of the petitioner. Yet the petitioner in W.P. (PIL) No. 4290 of 2021 did not even mention the earlier writ petition or the fact that it was dismissed by the High Court with costs on 22.11.2013. The fact that it was in the knowledge of the petitioner is evident as in the petition (W.P. (PIL) No. 4290 of 2021), a supplementary affidavit was filed on 20.04.2022 where the petitioner (Sri Shiv Shankar Sharma) does mention that one Diwan Indranil Sinha (i.e., the petitioner in W.P. (PIL) No. 4218 of 2013) had approached constitutional authorities about the alleged misdeeds of the Chief Minister of Jharkhand. In Paras 3 and 4 the following was stated :

“3. That, the petitioner states that, prior to him one Late Diwan Indranil Sinha has sent representations with all the details of the companies & the documents in support of the illegal earnings before the

Hon’ble President of India,  
Hon’ble Home Minister  
Hon’ble Governor Jharkhand,  
The Director C.B.I.  
The Director, Enforcement Directorate  
The Central Vigilance Commissioner  
The Director, General, (Investigation,  
Income Tax.)

Photocopies of the receipts showing detailed representation sent by Late Diwan Indranil Sinha before various authorities dt. 16.11.14 & 21.01.14 are annexed and marked as Annexure-4 Series to this application.

4. That, the petitioner states that, the efforts taken earlier by Late Diwan Indranil Sinha, wherein, the representation sent by him has been received by the Central Bureau of Investigation, and has enquired on their own Level and communicated to him Vide Letter No. 376 dated 05.11.14, stating there in that

“3. You may, if so desire, approach the competent court or, suitable direction in the matter.”

Thus, it is clear that, there was prima facie material available before them, for proceeding in the matter.

Photocopy of the Letter No.376 dt. 5.11.14 of C.B.I. is annexed and marked as Annexure-5 to this application.”

In the reply filed by the State of Jharkhand before the High Court in W.P. No. (PIL) 4290 of 2021, an objection was taken regarding the suppression of the earlier writ petition being W.P. (PIL) No. 4218 of 2013 as well. Hence, it is clear that the petitioner did not approach this Court with clean hands as he did not disclose the dismissal of the W.P. (PIL) No. 4218 of 2013 by the Jharkhand High Court with costs (order dated 22.11.2013), an order which was upheld by this Court in SLP No. 4886 of 2014 by order dated 28.02.2014. This is also a clear violation of Rule, 4B of the Rules, 2010 which required the petitioner to disclose of all similar efforts made in the past.

14. No doubt the above procedure as given in Rules 4, 4A, 4B and 5 can be relaxed under Rule 6, for the reasons to be recorded by the Court where the case calls for an urgent intervention by the Court and it is not practicable to allow any delay to be caused in the matter. Presently, there is no finding or order of the Jharkhand High Court that any further delay in this matter would have made the petition infructuous

or redundant, which may have justified the relaxation of the Rules. To the contrary, the Jharkhand High Court has held that Rules 4, 4A, 4B and 5 are not mandatory but directory in nature in view of Rule 6-A and therefore even though the Rules have not been followed that really will not come in the way of the Court to entertain a PIL, since the nature of allegations in the PIL was of a serious nature. This reasoning, in our view, is in teeth of the decision of this Court in directions given by this Court in **Balwant Singh Chaufal** (supra), as well as a clear violation of the Jharkhand High Court Rules, primarily Rule 4-B.

15. At this stage, let us now see as to what the Jharkhand High Court had to say in the year 2013, while dismissing W.P. (PIL) No. 4218 of 2013. While dismissing that PIL, with costs of Rs. 50,000/- it was said as under: -

“17. Time and again, it has been held that Public Interest Litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of ‘public interest’ an ugly private malice, vested interest and/or publicity seeking is not lurking. Though the parameters of ‘Public Interest Litigation’ have been indicated by Hon’ble Supreme Court in large number of cases, yet unmindful of the

real intention and objections, number of Public Interest Litigation are filed.

18. The petitioner has not approached the concerned authorities at the relevant point of time. The petitioner has chosen to file this Public Interest Litigation only after respondent No.10 has assumed the Office of Chief Minister of the State of Jharkhand. We do not find any bona fide in this Public Interest Litigation filed by the writ petitioner and the writ petition is liable to be dismissed with cost.

19. In the facts and circumstances of the case, we are of the view that there is no bona fide in the Public Interest Litigation filed by the petitioner. The writ petition is dismissed with cost of Rs. 50,000/-(fifty thousand). This amount, of course, will be deposited by the petitioner within a period of 6(six) weeks from today before the Jharkhand State Legal Services Authority, "Nyaya Sadan", Doranda, Ranchi. The Registry is hereby directed to send a copy of this order to the Member Secretary, Jharkhand State Legal Services Authority."

The dismissal of a similar PIL was a fact which was also not disclosed by the petitioner, which he would be duty bound to do so in view of Rule 4-B of the Rules, 2010. This Court in the case of **Ashok Kumar Pandey v. State of West Bengal &**

**Ors.**<sup>9</sup> had this to say on the credentials of the person who files a PII, has stated as under :-

"4. When there is material to show that a petition styled as a public interest litigation is nothing but a camouflage to foster personal disputes, said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. Public Interest Litigation which has now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "private interest litigation" or "politics interest litigation" or the latest trend "paise income litigation". If not properly regulated and abuse averted it becomes also a tool in unscrupulous hands to release vendetta and wreck vengeance, as well. There must be real and genuine public interest 'involved in the litigation and not merely an adventure of knight errant or poke one's noses into for a probe. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extra-ordinary jurisdiction. A person acting bona fide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi and can approach the Court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. These aspects were highlighted by this Court in The Janata Oaf case (supra) and Kazi Lhendup Dorji v. Central Bureau of

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<sup>9</sup> AIR 2004 SC 280

Investigation, (1994 Supp (2) SCC 116). A writ petitioner who comes to the Court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective. See Ramjas Foundation v. Union of India (AIR 1993 SC 852) and K. R. Srinivas v. R. M. Premchand (1994 (6) SCC 620).

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12. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the Court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.



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14. The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike balance between two conflicting interests; (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motive, justifiable executive actions. In such case, however, 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. The Court has to act ruthlessly while dealing with imposters and busy bodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of Pro Bono Publico though they have no interest of the Public or even of their own to protect.

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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 large number of so called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in 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 *Dr. Duryodhan Sahu v. Jitendra Kumar Mishra and Ors.* (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 Court should do well not only to dismiss the petitioners 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 afore-stated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the Courts.”

16. The locus of the petitioner who initiates a PIL is therefore of extreme importance as this important form of litigation should not be abused by motivated individuals to abuse the process of the Court for their political purposes or for any other reason, but for a Public Cause.

17. Petitioner in this case is admittedly the son of Dr. Gautam Sharma who was one of the witnesses for the prosecution in a criminal case<sup>10</sup> against the father of the present Chief Minister and therefore the Chief Minister has alleged an old enmity and personal vendetta at the hands of the petitioner. To our mind, in spite of such objection the PIL could have been heard had the petitioner come before the Court with clean hands. He has deliberately and wilfully withheld from the Court that an earlier writ petition (Writ Petition No. (PIL) 4218 of 2013) was filed on similar grounds seeking similar reliefs which was dismissed by the Jharkhand High Court on 22.11.2013 with costs, an order which was upheld by the Supreme Court vide order dated 28.02.2014 in SLP No. 4886 of 2014.
18. Furthermore, the allegations which were made by the petitioner are vague, very much generalized and not at all substantiated by anything worthy to be called an evidence. Allegations of corruption and siphoning of money from shell companies are nothing but a bald allegation, without substantiating the allegations in any manner whatsoever and

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<sup>10</sup> Sessions Case No. 3 of 2006 before Additional Sessions Judge, *Tis Hazari* Court, New Delhi, in a case of Section 302, 201 IPC.

is therefore only asking the Court to direct Central Bureau of Investigation or the Directorate of Enforcement to investigate the matter. This is nothing but an abuse of the process of the court.

19. The Courts cannot allow its process to be abused for oblique purposes, as was observed by this Court in **Ashok Kumar Pandey v. State of West Bengal**<sup>11</sup>. In **Balwant Singh Chauhal** (supra) this Court had discussed the three stages of a PIL which has been discussed above. Then this Court in **Balwant Singh Chauhal** (supra) states as to how this important jurisdiction, i.e., PIL has been abused at Para 143 by observing as under:

“143. Unfortunately, of late, it has been noticed that such an important jurisdiction which has been carefully carved out, created and nurtured with great care and caution by the courts, is being blatantly abused by filing some petitions with oblique motives. We think time has come when genuine and bona fide public interest litigation must be encouraged whereas frivolous public interest litigation should be discouraged. In our considered opinion, we have to protect and preserve this important jurisdiction in the larger interest of the people of this country but we must take effective steps to prevent and cure its abuse

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<sup>11</sup> (2004) 3 SCC 349

on the basis of monetary and non-monetary directions by the courts.”

This Court then refers to the case of **Holicow Pictures (P) Ltd.**

v. **Prem Chand Mishra**<sup>12</sup> which has relied on the Judgement of

this Court in **Janata Dal v. H.S. Chowdhary**<sup>13</sup>, at Para 10 said as

under:

“12. It is depressing to note that on account of such trumpety 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 spare no efforts in fostering and developing the laudable 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 undue delay in service matters—government or private, persons awaiting the disposal of cases wherein huge amounts of public revenue or unauthorised collection of tax amounts are locked up, detenu expecting their release from the

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<sup>12</sup> (2007) 14 SCC 281

<sup>13</sup> (1992) 4 SCC 305

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 of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity, break the queue muffing 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 the courts and as a result of which the queue standing outside the doors of the courts never moves, which piquant situation creates frustration in the minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system.

20. Now let us see what are the nature of allegations which have been made by the petitioner in the PIL filed before the Jharkhand High Court. Petitioner alleges that the one of the respondents who is the present Chief Minister of Jharkhand has amassed a huge wealth by corrupt means by abusing his position as a Chief Minister and has invested this money in about 32 companies of which description has been given. The petitioner then gives details of these companies as to who are the Directors, etc. The respondent or his relatives are not the

Directors of the Companies. But then the petitioner states that he has information that he has been siphoning off this money and investing it in these shell companies through one Ravi Kejriwal who is allegedly a close associate of the Chief Minister. The allegations of the respondent of money laundering through shell companies has not been supplemented by any kind of evidence, whatsoever. The names of persons who are allegedly responsible for the operation of these companies have been mentioned, but without producing any concrete evidence, it has been stated that these persons are connected/close aides or related to the Chief Minister. Further, none of the companies have been made a party to the present PILs, before the Jharkhand High Court. Thus, an order is sought from the High Court to direct the Enforcement Directorate to investigate these so called "shell companies" without even making the companies a party in the writ proceedings. It is also an admitted fact that in relation to present two PILs, no FIR or complaint has been filed with the police or any authority agitating the grievances and these petitions have been filed before the High Court, without availing the statutory remedies.

21. We are not for a moment saying that people who occupy high offices should not be investigated, but for a High Court to take cognizance of the matter on these generalized submissions which do not even make prima facie satisfaction of the Court, is nothing but an abuse of the process of the Court. The non-disclosure of the credentials of the petitioner and the past efforts made for similar reliefs as it has been mandated under the Rules, 2010 further discredits these petitions. The petitioner in the PILs did not go with clean hands before the High Court. In our view, such a petition was liable to be dismissed at the very threshold itself. If the petitioner has a genuine reason to pursue the matter, he has his remedies available under the Companies Act or under other provisions of the law where he can apprise the relevant authorities of the misdeeds of the Directors or Promoters of the Companies. But on generalized averments which are nothing but mere allegations at this stage, the Court cannot become a forum to investigate the alleged acts of misdeeds against high constitutional authorities. It was not proper for the High Court to entertain a PIL which is based on mere allegations and half baked truth that too at the hands of a person who has not been



able to fully satisfy his credentials and has come to the Court with unclean hands.

22. Consequently, we allow the present appeals and set aside the order of 03.06.2022 passed by the Jharkhand High Court in W.P. No. (PIL) 4290 of 2021 and W.P. No. (PIL) 727 of 2022.

.....CJI.  
(UDAY UMESH LALIT)

.....J.  
(S. RAVINDRA BHAT)

.....J.  
(SUDHANSHU DHULIA)

**New Delhi**  
**November 07, 2022**