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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 31st MAY, 2023

IN THE MATTER OF:

\+ **W.P.(C) 7824/2023 & CM APPL. 30169/2023**

FORUM OF INDIAN LEGISTS & ANR ..... Petitioners

Through: Mr. Manoj Sharma and Mr. Raj Kumar, Advocates.

versus

UNION OF INDIA , MINISTRY OF EDUCATION & ORS.

..... Respondents

Through: Ms. Monika Arora, CGSC with Mr. Subhrodeep Saha, Advocate for UoI.
Mr. Tushar Mehta, SG with Mr. Vikramjeet Banerji, ASG, Mr. Mohinder J S Rupal, Mr. Hardik Rupal, Mr. Aakash Pathak, Mr. Prashant Rawat, Ms. Akansha, Advocates for University of Delhi.
Mr. Apoorv Kurup, Mr. Akhil Hasija, Mr. Ojaswa Pathak, Advocates for R-2/UGC.
Mr. Jasbir Bidhuri, Advocate for R-3.
Mr. Amitesh Kumar, Advocate for R-5.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

1. The instant writ petition has been filed as a Public Interest Litigation (PIL) by Forum of Indian Legists which is represented by an Advocate who claims to be the Secretary General of the Petitioner No.1/Organization.

2. The challenge in the instant PIL is to the appointment of Respondent No.5 as Professor in Guru Gobind Singh Indraprastha University, i.e., Respondent No.3 herein and thereafter his appointment as Vice-Chancellor of the Delhi University, i.e., Respondent No.4 herein.

3. At the outset, it is to be noted that the instant writ petition is actually a PIL in service law which is not maintainable.

4. It is well settled that a PIL is not maintainable in service matters as held by the Hon'ble Supreme Court in Ashok Kumar Pandey v. State of W.B., **(2004) 3 SCC 349,** whereby the Hon'ble Supreme Court after referring to the judgment of Duryodhan Sahu (Dr.) v. Jitendra Kumar Mishra, **(1998) 7 SCC 273,** has held as under:

> *"**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 aforestated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts."* (emphasis supplied)

5. Material on record discloses that Respondent No.5 was appointed as a Professor in Guru Gobind Singh Indraprastha University in the year 2001 and the mode of selection was through direct recruitment.

6. The first prayer made in the instant writ petition is for setting aside the order appointing Respondent No.5 as a Professor in Guru Gobind Singh Indraprastha University. The instant PIL has been filed after 22 years of his appointment as a Professor. It is equally settled that PILs ought not to be filed with a lot of delay. The Apex Court in R & M Trust v. Koramangala Residents Vigilance Group & Ors,, **2005 (3) SCC 91,** has observed as under:-

> ***"23. Next question is whether such public interest litigation should at all be entertained and laches thereon. This sacrosanct jurisdiction of public interest litigation should be invoked very sparingly and in favour of vigilant litigant and not for the persons who invoke this jurisdiction for the sake of publicity or for the purpose of serving their private ends***.
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> ***24.*** *Public interest litigation is no doubt a very useful handle for redressing the grievances of the people but*

unfortunately lately it has been abused by some interested persons and it has brought a very bad name. Courts should be very very slow in entertaining petitions involving public interest : in very rare cases where the public at large stand to suffer. This jurisdiction is meant for the purpose of coming to the rescue of the downtrodden and not for the purpose of serving private ends. It has now become common for unscrupulous people to serve their private ends and jeopardise the rights of innocent people so as to wreak vengeance for their personal ends. This has become very handy to the developers and in matters of public contracts. ***In order to serve their professional rivalry they utilise the service of the innocent people or organisation in filing public interest litigation****. The courts are sometimes persuaded to issue certain directions without understanding the implications and giving a handle in the hands of the authorities to misuse it.* ***Therefore, the courts should not exercise this jurisdiction lightly but should exercise in very rare and few cases involving public interest of a large number of people who cannot afford litigation and are made to suffer at the hands of the authorities****. The parameters have already been laid down in a decision of this Court in the case of Balco Employees' Union (Regd.) v. Union of India [(2002) 2 SCC 333] wherein this Court has issued guidelines as to what kind of public interest litigation should be entertained and all the previous cases were reviewed by this Court. It was observed as under : (SCC pp. 376-77, paras 77-80)*

> *"77. Public interest litigation, or PIL as it is more commonly known, entered the Indian judicial process in 1970. It will not be incorrect to say that it is primarily the judges who have innovated this type of litigation as there was a dire need for it. At that stage, it was intended to vindicate public interest where fundamental and other rights of the people who were poor, ignorant or in socially or*

economically disadvantageous position and were unable to seek legal redress were required to be espoused. PIL was not meant to be adversarial in nature and was to be a cooperative and collaborative effort of the parties and the court so as to secure justice for the poor and the weaker sections of the community who were not in a position to protect their own interests. Public interest litigation was intended to mean nothing more than what words themselves said viz. 'litigation in the interest of the public'.

78. While PIL initially was invoked mostly in cases connected with the relief to the people and the weaker sections of the society and in areas where there was violation of human rights under Article 21, but with the passage of time, petitions have been entertained in other spheres, Prof. S.B. Sathe has summarised the extent of the jurisdiction which has now been exercised in the following words:

'PIL may, therefore, be described as satisfying one or more of the following parameters. These are not exclusive but merely descriptive:

— Where the concerns underlying a petition are not individualist but are shared widely by a large number of people (bonded labour, undertrial prisoners, prison inmates).

*— **Where the affected persons belong to the disadvantaged sections of society (women, children, bonded labour, unorganised labour etc.).***

— Where judicial law-making is necessary to avoid exploitation (inter-country adoption, the education of the children of prostitutes).

— Where judicial intervention is necessary for the

protection of the sanctity of democratic institutions (independence of the judiciary, existence of grievances redressal forums).

— Where administrative decisions related to development are harmful to the environment and jeopardise people's right to natural resources such as air or water.'

79. There is, in recent years, a feeling which is not without any foundation that public interest litigation is now tending to become publicity interest litigation or private interest litigation and has a tendency to be counterproductive.

80. PIL is not a pill or a panacea for all wrongs. It was essentially meant to protect basic human rights of the weak and the disadvantaged and was a procedure which was innovated where a public-spirited person files a petition in effect on behalf of such persons who on account of poverty, helplessness or economic and social disabilities could not approach the court for relief. There have been in recent times, increasingly instances of abuse of PIL. Therefore, there is a need to re-emphasise the parameters within which PIL can be resorted to by a petitioner and entertained by the court. This aspect has come up for consideration before this Court and all we need to do is to recapitulate and re-emphasise the same."

***25**. In this connection reference may be made to a recent decision given by this Court in the case of Dattaraj Nathuji Thaware v. State of Maharashtra [(2005) 1 SCC 590] in which Hon'ble Pasayat, J. has also observed as follows : (SCC p. 595, para 12)*

"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 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 be publicity-oriented or founded on personal vendetta."

26. *We fully share the views expressed in the aforesaid decision of this Court and reiterate that it should go as a warning to the courts that this extraordinary power should be used sparingly and absolutely in necessary matters involving downtrodden people.*

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28. *In the case of State of M.P. v. Bhailal Bhai [(1964) 6 SCR 261 : AIR 1964 SC 1006] it was observed as follows : (AIR pp. 1007-08)*

"The provisions of the Limitation Act do not as such apply to the granting of relief under Article 226. However, the maximum period fixed by the legislature as the time within which the relief by a suit in a civil court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured. The Court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the Court to hold that it is unreasonable."

29*. In the case of Rabindranath Bose v. Union of India*

[(1970) 1 SCC 84 : AIR 1970 SC 470] it was observed as follows : (AIR p. 470)

> *"**No relief can be given to petitioners who, without any reasonable explanation, approach Supreme Court under Article 32 of the Constitution after inordinate delay. The highest court in this land has been given original jurisdiction to entertain petitions under Article 32 of the Constitution. It could not have been the intention that Supreme Court would go into stale demands after a lapse of years. Though Article 32 is itself a guaranteed right, it does not follow from this that it was the intention of the Constitution-makers that Supreme Court should discard all principles and grant relief in petitions filed after inordinate delay." (SCC p. 97, para 32**)*

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***33.** In the case of State of Maharashtra v. Digambar [(1995) 4 SCC 683] Their Lordships observed as follows : (SCC p. 684)*

> *"**The power of the High Court to be exercised under Article 226 of the Constitution, if is discretionary, its exercise must be judicious and reasonable, admits of no controversy. Persons seeking relief against the State under Article 226 of the Constitution, be they citizens or otherwise, cannot get discretionary relief obtainable thereunder unless they fully satisfy the High Court that the facts and circumstances of the case clearly justified the laches or undue delay on their part in approaching the Court for grant of such discretionary relief. Therefore, where the High Court grants relief to a citizen or any other person under Article 226 of the Constitution against any person including the State without considering his***

> ***blameworthy conduct, such as laches or undue delay, acquiescence or waiver, the relief so granted becomes unsustainable even if the relief was granted in respect of alleged deprivation of his legal right by the State."***
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> ***34.*** *There is no doubt that delay is a very important factor while exercising extraordinary jurisdiction under Article 226 of the Constitution. We cannot disturb the third-party interest created on account of delay. Even otherwise also why should the Court come to the rescue of a person who is not vigilant of his rights?"* (emphasis supplied)

7. There is no explanation as to why the Petitioner has chosen to approach this Court challenging the appointment of Respondent No.5 as Professor in Guru Gobind Singh Indraprastha University after 22 years.

8. The instant PIL has also challenged the appointment of Respondent No.5 as a Vice-Chancellor of the Delhi University. The qualifications for appointment as Vice-Chancellor has been given in Clause 3.7 of the UGC Regulations, 2018 which reads as under:-

> ***"7.3. VICE CHANCELLOR:***
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> *i. A person possessing the highest level of competence, integrity, morals and institutional commitment is to be appointed as Vice-Chancellor. The person to be appointed as a Vice-Chancellor should be a distinguished academician, with a minimum of ten years' of experience as Professor in a University or ten years' of experience in a reputed research and / or academic administrative organisation with proof of having demonstrated academic leadership.*
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> *ii. The selection for the post of Vice-Chancellor should be through proper identification by a Panel of 3-5 persons by a Search-cum-Selection-Committee,*

through a public notification or nomination or a talent search process or a combination thereof. The members of such Search-cum-Selection Committee shall be persons' of eminence in the sphere of higher education and shall not be connected in any manner with the University concerned or its colleges. While preparing the panel, the Search cum-Selection Committee shall give proper weightage to the academic excellence, exposure to the higher education system in the country and abroad, and adequate experience in academic and administrative governance, to be given in writing along with the panel to be submitted to the Visitor/Chancellor. One member of the Search cum Selection Committee shall be nominated by the Chairman, University Grants Commission, for selection of Vice Chancellors of State, Private and Deemed to be Universities.

iii. The Visitor/Chancellor shall appoint the Vice Chancellor out of the Panel of names recommended by the Search-cum-Selection Committee.

iv. The term of office of the Vice-Chancellor shall form part of the service period of the incumbent making him/her eligible for all service related benefits."

9. An affidavit has been handed over on behalf of Union of India, which reads as under:-

*"**AFFIDAVIT ON BEHALF OF THE UNION OF INDIA***

I, P K Singh, S/o Shri Jagdish Singh aged about 49 years, working as Under Secretary in Ministry of Education, Government of India, do hereby solemnly affirm and state as follows:-

1. I am well conversant with the facts and circumstances of the case on the basis of the record

> *maintained by the Ministry of Education. I am duly competent to swear this Affidavit in my official capacity.*
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> *2. It is respectfully submitted that "there is no lapse on the part of the Ministry as due procedure was followed on the appointment of the Vice-Chancellor of the University of Delhi," i.e. Respondent No.5 herein.*
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> *3. The panel comprising of 5 eligible members was submitted by the Selection Committee which was in turn referred to the visitor (The President of India) with due recommendation for appointment of the Vice Chancellor of University of Delhi."*

10. A perusal of the aforesaid affidavit discloses that due procedure was followed for the appointment of Respondent No.5 as the Vice-Chancellor and Respondent No.5 was qualified to be appointed as Vice-Chancellor of the Delhi University and the procedure envisaged in Clause 3.7 of the UGC Regulations, 2018 has been followed.

11. A perusal of the facts discloses that the Petitioners have nothing to do with the education system. This petition appears to be filed with oblique motive and is in fact a Publicity Interest Litigation. Aspersions have been cast upon the procedure followed by the Hon'ble the President of India, which has been found to be false.

12. The Apex Court has held that frivolous PILs have to be dealt with an iron hand. Lamenting on the waste of time caused by the frivolous PILs and the fact that Petitions are being camouflaged as PILs to settle personal scores, the Apex Court in Janata Dal v. H.S. Chowdhary, **(1992) 4 SCC 305,** has held as under:

> ***"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 unheared; 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 the courts and as a 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."

13. Similarly, in B. Singh (Dr.) v. Union of India, **(2004) 3 SCC 363**, the

Apex Court has held 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 or vendetta to bring to terms a person, not of one's liking, or gain publicity or a facade for blackmail, the said petition has to be thrown out. Before we grapple with the issues involved in the present case, we feel it necessary to consider the issue regarding the "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 and strictly regulated at least in certain vital areas or spheres and abuse averted, it becomes also a tool in unscrupulous hands to release vendetta and wreak vengeance, as well as to malign not only an incumbent-to-be in office but demoralise 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. There must be real and genuine public interest involved in the litigation and concrete or credible basis for maintaining a cause before court and not merely an adventure of a knight errant borne out of wishful thinking. 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 extraordinary jurisdiction. The credibility of such claims or litigations should be adjudged on the creditworthiness of the materials averred and not even on the credentials claimed of the person moving the courts in such cases. 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 Janata Dal v. H.S. Chowdhary [(1992) 4 SCC 305 : 1993 SCC (Cri) 36] and Kazi Lhendup Dorji v. Central Bureau of Investigation [1994 Supp (2) SCC 116 : 1994 SCC (Cri) 873] . 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 [1993 Supp (2) SCC 20 : 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 allowed to 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, courts 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 by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives and try to*

> *bargain for a good deal as well to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs."*

14. In Kalyaneshwari v. Union of India, **(2011) 3 SCC 287**, the Apex Court has held as under:

> ***"41.*** *In Ashok Kumar Pandey v. State of W.B. [(2004) 3 SCC 349 : (2011) 1 SCC (Cri) 865] this Court took a cautious approach while entertaining public interest litigations and held that public interest litigation is a weapon, which has to be used with great care and circumspection. The judiciary has to be extremely careful to see that no ugly private malice, vested interest and/or seeking publicity lurks behind the beautiful veil of public interest. It is to be used as an effective weapon in the armoury of law for delivering social justice to citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief.*
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> ***42.*** *In Rajiv Ranjan Singh 'Lalan' (8) v. Union of India [(2006) 6 SCC 613 : (2006) 3 SCC (Cri) 125] , this Court reiterated the principle and even held that howsoever genuine a case brought before a court by a public interest litigant may be, the court has to decline its examination at the behest of a person who, in fact, is not a public interest litigant and whose bona fides and credentials are in doubt; no trust can be placed by the court on a mala fide applicant in a public interest litigation."*

15. In Tehseen Poonawalla v. Union of India, **(2018) 6 SCC 72**, the Apex Court held as under:

"97. *Yet over time, it has been realised that this jurisdiction is capable of being and has been brazenly misutilised by persons with a personal agenda. At one end of that spectrum are those cases where public interest petitions are motivated by a desire to seek publicity. At the other end of the spectrum are petitions which have been instituted at the behest of business or political rivals to settle scores behind the facade of a public interest litigation. The true face of the litigant behind the façade is seldom unravelled. These concerns are indeed reflected in the judgment of this Court in State of Uttaranchal v. Balwant Singh Chaufal [State of Uttaranchal v. Balwant Singh Chaufal, (2010) 3 SCC 402 : (2010) 2 SCC (Cri) 81 : (2010) 1 SCC (L&S) 807] . Underlining these concerns, this Court held thus : (SCC p. 453, para 143)*

> *"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 on the basis of monetary and non-monetary directions by the courts."*

98. *The misuse of public interest litigation is a serious matter of concern for the judicial process. Both this Court and the High Courts are flooded with litigations and are burdened by arrears. Frivolous or motivated petitions, ostensibly invoking the public interest detract from the time*

> *and attention which courts must devote to genuine causes. This Court has a long list of pending cases where the personal liberty of citizens is involved. Those who await trial or the resolution of appeals against orders of conviction have a legitimate expectation of early justice. It is a travesty of justice for the resources of the legal system to be consumed by an avalanche of misdirected petitions purportedly filed in the public interest which, upon due scrutiny, are found to promote a personal, business or political agenda. This has spawned an industry of vested interests in litigation. There is a grave danger that if this state of affairs is allowed to continue, it would seriously denude the efficacy of the judicial system by detracting from the ability of the court to devote its time and resources to cases which legitimately require attention. Worse still, such petitions pose a grave danger to the credibility of the judicial process. This has the propensity of endangering the credibility of other institutions and undermining public faith in democracy and the rule of law. This will happen when the agency of the court is utilised to settle extra-judicial scores. Business rivalries have to be resolved in a competitive market for goods and services. Political rivalries have to be resolved in the great hall of democracy when the electorate votes its representatives in and out of office. Courts resolve disputes about legal rights and entitlements. Courts protect the rule of law. There is a danger that the judicial process will be reduced to a charade, if disputes beyond the ken of legal parameters occupy the judicial space."*

16. The concept of Public Interest Litigation was evolved in order to give voice to the voiceless and represent those people who are unable to approach the Courts because of their penury conditions and are unable to afford

lawyers and come to court to ventilate their grievances. PIL is not meant for people to settle scores with others. Public Interest Litigation was conceptualised as a weapon to secure justice for the voiceless. The Apex Court said that Public Interest Litigation 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. The attractive brand name of Public Interest Litigation should not be used for suspicious products of mischief and should be aimed at genuine public wrong or public.

17. Even though the instant PIL was not maintainable as it was a PIL in service law, it has been filed belatedly and aspersions have been cast upon the very high office and appears to be purely a motivated frivolous petition.

18. This Court is desisting from imposing any costs but the Petitioners are warned to be careful in future. The PIL is dismissed, along with pending application(s), if any.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

MAY 31, 2023
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