

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.4579 OF 2017  
(Arising out of SLP(C)No.9640/2017 (CC No.5802))

JAGDISH NARAYAN SHUKLA

.....APPELLANT

VERSUS

STATE OF UP & ORS.

.....RESPONDENTS

O R D E R

1. Delay condoned.

2. Leave granted.

3. A petition filed before the High Court, as a Public Interest Litigation, was dismissed on 30.08.2016. In fact, the High Court went to the extent of recording, that hearing the appellant would be a mere waste of time. A number of reasons were given, even on merits, for declining to entertain the petition.

4. Dissatisfied with the order passed by the High Court dated 30.08.2016, the appellant has approached this Court under Article 136 of the Constitution of India.

5. During the course of hearing, the attention of the learned counsel for the appellant was drawn to the factual position, placed on the record of the High Court, through the counter affidavit filed on behalf of respondent Nos.1, 2 and 4 namely, on behalf of the Principal Secretary to the Government,

Department of Information and Public Relations; the Chief Secretary to the Government of Uttar Pradesh; and the Director, Information and Public Relations of the Government of Uttar Pradesh, wherein it was expressly averred as under:

"4. That the petitioner by his own admission is the owner and editor of daily newspaper "Nishpaksh Pratidin" and fortnightly magazine "Akhir Kab Tak" and hence the petitioner is the interest (sic) person as he has been getting advertisement for the aforesaid two publications from the Department of Information and Public Relations.

5. That the instant writ petition has been filed for oblique motive and purpose for obtaining maximum advertisement for the two abovenamed publications and this writ petition has been preferred to create undue pressure by adopting arm twisting tactics.

6. That the petitioner's aforesaid two publications are not found on any bookstall in the entire city of Lucknow or any other city except few stalls. The aforesaid two publications are being published primarily to create pressure so as to enable the petitioner to blackmail bonafide persons and authorities.

7. That in this regard it would be pertinent to submit here that in the year 1988 the petitioner obtained a loan of Rs.5 lacs from the Information Department on account of his political connections and for the repayment of the said loan the petitioner manoeuvred government order dated 9<sup>th</sup> June, 1988 that the loan would be repaid from his bills towards the publication namely "Nishpaksh Pratidin". Subsequently the petitioner again obtained a loan of Rs.5 lacs for the same publication namely "Nishpaksh Pratidin" and for payment of the same the petitioner manoeuvred another government order dated 20<sup>th</sup> August, 1988 that the repayment of the loan would be adjusted from his bills toward the advertisement published in his daily namely "Nishpaksh Pratidin". Subsequently the petitioner manoeuvred and obtained government order dated 27<sup>th</sup> October, 1994, that the aforesaid two loans amounting to Rs.10 lacs would be interest free. A true copy of the aforesaid government order dated 9<sup>th</sup> June, 1988, 20<sup>th</sup> August, 1988 and 27<sup>th</sup> October, 1994 are being annexed with as Annexure No.CA-2, 3 and 4 respectively to this counter affidavit.

8. That the petitioner is primarily a politician

and has contested the election for the office of Member Legislative Assembly in the year 1996 and in 2002 on a National Congress Party ticket; thereafter the petitioner contested the election for the office of Member of Parliament from Sitapur in the year 2009 on the ticket of the National Congress Party.

9. That it is pertinent to submit that the instant writ petition has not been filed with any bonafide public interest, and has been filed with an oblique motive and purpose of securing enhanced advertisement from the State of U.P. for the petitioner's publications. It is submitted that over the past two years the scrutiny wing of the Directorate of Information found that the publications of the petitioner did not have any circulation and therefore advertisements being given for publication in the petitioner's newspapers were reduced substantially in the financial year 2008-2009 and 2009-2010. It is the reduction in advertisements that has annoyed the petitioner and the petitioner has filed the instant Public Interest Litigation as a counter blast and to further his personal interest."

6. In order to answer the query posed, learned counsel for the appellant drew our attention to the rejoinder affidavit, which was filed by the appellant before the High Court. The response to the factual position indicated in the paragraphs, extracted hereinabove, was by recording the following assertions:

"4. That the averments contained in paragraph 4 of the Counter Affidavit are false; frivolous and misleading, drafted only on conjectures and surmises, sans record and the answering opposite parties are put to strict proof of the same. It is submitted that the petitioner has neither requested for, nor has been granted any advertisement from the opposite parties. It is further submitted that merely by being the owner and publisher of a newspaper, the petitioner does not become a "Person Interested" as alleged. The opposite parties have miserably failed to adopt the due process in the grant of tenders, and have, in a most fraudulent and illegal manner, played havoc with public money, in order to earn illegal gratification, for which an independent and impartial enquiry by the CBI has been requested by the petitioner, to dig out the truth from the aid illegalities by the opposite parties Nos.1 to 4.

5. That the averments contained in paragraph 5 of the Counter Affidavit are false, frivolous and misleading, drafted only on conjectures and surmises, sans record and the answering opposite parties are put to strict proof of the same. It is submitted that the petition has been filed for an impartial enquiry into this scam, which has taken its toll on public monies. It is submitted that since the answering opposite parties are not able to provide any justification to their misdeeds, therefore, they are making false and frivolous statements against the petitioner, which do not have any nexus with the instant Public Interest Litigation filed by the petitioner. It is reiterated that the petitioner had neither applied/requested for nor was granted any advertisement by the answering opposite parties.

6. That the averments of paragraph 6 of the writ petition are concocted to suit the interests of the answering opposite parties, who have by their actions tried to sabotage the freedom of press, by making false and frivolous allegations, which have got no relevance so far as the instant writ petition is concerned. It is submitted that on one hand it is averred that the publications of the petitioner are not found on any bookstall in Lucknow or any other city, and in the following lines it is stated "except few stalls" again followed by a frivolous and baseless statement that "the aforesaid publications are being published primarily to create pressure so as to enable the petitioner to blackmail the bonafide persons and authorities". The allegations are absolutely false, frivolous, concocted and answering opposite parties are put to strict proof of the same.

7. That the averments contained in paragraph 7 of the counter affidavit is made in a most malafide manner. It is submitted that the grant of loan to the petitioner, way back in the year 1988 does not possibly preclude him from bringing an action by way of a Public Interest Litigation seeking indulgence of this Hon'ble Court, into the illegalities and improprieties by the answering opposite parties, at the behest of opposite party No.3, who was, and still is, at the helm of affairs in the Uttar Pradesh Information Department, whereby the hard earned money of the taxpayers was floundered by the answering opposite parties at the behest of opposite party No.3. It is further submitted that the grant of loan to the petitioner, in the year 1988 was made in accordance with the rules and regulations prevailing at that time and that the said loan was granted in a very bonafide manner, sans political pressure as alleged. The opposite parties No.1 to 4 are experts in manoeuvring

and not the petitioner, as is evident from a bare perusal of the records, which exhibit the callous and fraudulent manner in which the public money, which runs into crores of rupees, was floundered in the publication which is a subject matter of the instant Public Interest Litigation.

8. That the averments contained in paragraph 8 of the counter affidavit are stated in a misleading manner. It is submitted that merely contesting elections does not make a person a "politician" as alleged. It is further submitted that even if, for the sake of arguments, it is supposed that the petitioner is a politician, it does not possibly preclude him from bring in an action under a PIL for an independent and impartial inquiry into the instant Scam, which runs into crores of rupees, comprising of hard earned taxpayers money.

9. That the averments made in paragraph 9 of the counter affidavit are false, frivolous and misleading, and made with a view to divert the attention of this Hon'ble Court from the main issue of the case, which is the illegalities and improprieties committed by the opposite parties Nos.1, 2 and 4 at the behest of opposite party No.3. It is further submitted that grant or non grant of advertisements to a newspaper is not a bounty, but a process, which has to be followed, in accordance with the relevant government order on the subject. It is further submitted that the PIL has not been filed for furthering any personal interest as alleged, but they (sic) said PIL is filed seeking indulgence of this Hon'ble Court for ordering an independent and impartial inquiry into the issue, by the opposite party No.5, the premier investigating agency of the country, to ensure that the "Caesar's wife I above suspicion".

7. We find, that the High Court was fully justified in arriving at the conclusion, that the cause raised by the appellant before the High Court was frivolous. We affirm the aforesaid conclusion arrived at by the High Court.

8. In view of the fact, that the appellant has agitated and re-agitated a frivolous cause, we dismiss the instant appeal with costs, which are quantified as Rs.10,000/-. The aforesaid costs shall be deposited by the appellant with the Supreme Court Legal

Services Committee, within four weeks from today.

9. We also consider it just and appropriate to restrain the appellant from filing any further Public Interest Litigation.

Ordered accordingly.

.....CJI.  
(JAGDISH SINGH KHEHAR)

.....J.  
(Dr.D.Y.CHANDRACHUD)

.....J.  
(SANJAY KISHAN KAUL)

NEW DELHI;  
MARCH 27, 2017.

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C).....CC No(s).  
5802/2017

(Arising out of impugned final judgment and order dated 30/08/2016  
in WP No.10062/2010 passed by the High Court of Judicature at  
Allahabad, Lucknow Bench, Lucknow)

JAGDISH NARAYAN SHUKLA

Petitioner(s)

VERSUS

STATE OF UP & ORS.

Respondent(s)

(With appln.(s) for c/delay in filing SLP)

Date : 27/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

For Petitioner(s) Mr.M.C.Dhingra, Adv.

Mr. D. L. Chidananda, Adv.

For Respondent(s)

Upon hearing the counsel the Court made the following

O R D E R

Delay condoned.

Leave granted.

In view of the fact, that the appellant has agitated and  
re-agitated a frivolous cause, we dismiss the instant appeal with  
costs, which are quantified as Rs.10,000/-. The aforesaid costs  
shall be deposited by the appellant with the Supreme Court Legal  
Services Committee, within four weeks from today.

We also consider it just and appropriate to restrain the  
appellant from filing any further Public Interest Litigation.  
Ordered accordingly.

(SATISH KUMAR YADAV)

AR-CUM-PS

(RENUKA SADANA)

ASSISTANT REGISTRAR

(Signed order is placed on the file)