

**P L D 2017 Lahore 597**

**Before Syed Mansoor Ali Shah, C J**

**Mian SHABIR ASMAIL---Petitioner**

**Versus**

**CHIEF MINISTER OF PUNJAB and others---Respondents**

Writ Petition No.9156 of 2017, heard on 20th April, 2017.

**(a) Constitution of Pakistan---**

---Art. 199---Constitutional jurisdiction of High Court---Public interest litigation---  
Nature, scope and precondition for petition pertaining to Public Interest Litigation.

"Public interest litigation" is an effort to provide legal representation to groups and interests that have been unrepresented or under-represented in the legal process. These include not only the poor and the disadvantaged but ordinary citizens.

"Public interest litigation" is an innovative strategy which has been evolved over the years for providing easy access to justice to the weaker sections of the humanity and is a powerful tool in the hands of public, spirited individuals and social action groups for combating exploitation and injustice and securing for the underprivileged segments of society their social and economic entitlements.

"Public interest litigation" is, therefore, in the interest of public at large. It is a legal action or proceeding initiated for the protection or enforcement of the rights of public at large. It is totally different from the traditional litigation which is essentially of adversary character, where there is a dispute between two litigating parties, one making claim or seeking relief against the other and that other opposing such claim or resisting such relief. Public interest litigation is brought before the court not for the purpose of enforcing the rights of one individual against another, as happens in ordinary litigation, but it is intended to promote and vindicate public interest, it demands that violation of constitutional or legal rights of large number of people who are poor, ignorant or in a socially or economically disadvantaged position should not go unnoticed and un-redressed.

"Public interest litigation" is essentially a cooperative or collaborative effort on the part of the petitioner, the State or public authority and the Court to secure observance of the constitutional or legal rights, benefits and privileges conferred upon the vulnerable sections of the community and to provide social justice to them. Then a court entertains public interest litigation, it does not do so in a caviling spirit or in a confrontational mood or with a view of tilting an executive authority or seeking to usurp it, but its attempt is only to ensure

observance of social and economic rescue programmes, legislative as well as executive, framed for the benefit of the have-nots and the handicapped and to protect them against violation of their basic human rights, which is also the constitutional obligation of the executive. The court thus merely assists in realization of the constitutional obligations. Such sacrosanct public spiritedness forms the foundation of public interest litigation.

It is, therefore, a precondition that any public interest litigation is grounded in bona fide public interest. the Courts do not allow that the corridors of justice are polluted by vested interest or unscrupulous litigants. The Court must, therefore, be satisfied regarding the credentials of the petitioner, the prima facie correctness of the information placed before the Court, the specific and definite nature of the information and seriousness of the pleadings. The court must distinguish between the public interest litigation and a publicity interest litigation or private interest litigation or politics interest litigation.

Public interest litigation should not be allowed to become a deal to settle personal vendetta or to wreak vengeance or to malign any party or to bring anybody into disrepute with baseless allegations. There must be at all times, real and genuine public interest involved in the litigation and credible information for maintaining a cause before the court. Public interest litigation should not be mere adventure or an attempt to carryout fishing expedition to settle personal scores.

V.G. Ramachandran's Law of Writs, Sixth Edition Volume-I Pp-961-966, 969 and 1000-1001 and Dr. B. Singh v. Union of India AIR 2004 SC 1923 rel.

#### **(b) Constitution of Pakistan---**

---Art. 199---Civil Procedure Code (V of 1908), Ss.35 & 35-A---Punjab Public Procurement Rules, 2014, Preamble---Constitutional jurisdiction of high Court---Public interest litigation---Abuse of process of public interest litigation---Imposition of special costs on such petitioner---Public procurement---Public Policy---Scope---Petitioner, impugned procurement of police uniforms by the Provincial Government and police Force, inter alia, on the ground that the same was a violation of public procurement laws---Validity---Perusal of the record, in the present case, revealed that the tender for the procurement was done strictly in accordance with the Punjab Procurement Rules, 2014 and no specific violation of law was pointed out by petitioner---Introduction of new police uniforms was a policy issue and did not call for interference by the High Court under Art. 199 of the Constitution---High Court observed that there had been no serious effort made by the petitioner to verify whether contract for such procurement was in accordance with the Punjab Public Procurement Rules, 2014 and that such petitions brought a bad name to public interest litigation and lowered credibility of the same in the eyes of the Court and such practice was therefore strongly deprecated---High Court further observed that the petitioner had not only abused the process of public interest litigation but also burdened the Court and drawn upon its time and resources, besides, eating into the time allocated for other cases---Constitutional petition was dismissed, with imposition of special costs of Rupees Ten Thousand on petitioner, accordingly.

Government of Khyber Pakhtunkhwa through Chief Secretary Peshawar and others v. Hayat Hussian and others 2016 SCMR 1021; Kawas B. Aga and another v. City District Government, Karachi (CDGK) through Nazim-e-Ala and others PLD 2010 Kar. 182; The Postmaster-General, Northern Punjab and (AJ&K), Rawalpindi v. Muhammad Bashir and 2 others 1998 SCMR 2386; Inyatullah v. Sh. Muhammad Yousaf and 19 others 1997 SCMR 1020 and M.D. Tahir, Advocate v. Federal Government and others PLD 1999 Lah. 409 rel.

Abdullah Malik, M. Rizwan Gujjar, S. Parveen Mughal and Hafza Mafia for Petitioner.

Anwaar Hussain and Ahmad Hassan Khan, Assistant Advocates-General Punjab for Respondents.

Imtiaz Rashid Siddiqi, Shehryar Kasuri and Raza Imtiaz for Respondent No.9.

Kamran Adil, AIG (Legal), Hman Rihts Cell.

Rana Ilyas, AIG (Legal), Punjab.

Saleem Chughtai, Muhammad Imtiaz Ali and Asif Ali Sheikh, DSPs. (Legal).

Date of hearing: 20th April, 2017.

## **JUDGMENT**

**SYED MANSOOR ALI SHAH, C J.**---It is stated that this is a public interest petition, where the petitioner has prayed as follows:--

"In view of the above facts and circumstances of the case instant writ petition may very kindly be allowed and the process of tendering calling for bid is in violation of PPRA laws and the same is not sustainable in the eyes of law read with the Judgments of the superior courts and hitting the Principle of transparency, merit and level playing field, hence, the same may very kindly be set aside, in the interest of justice, fair-play and equity.

It is further prayed that our system is not capable of affording such a lavish expenses pertaining to the uniform and whereby the Police Station are lacking basic facilities, good buildings, infrastructures, utensils and other daily products, so, instead of wasting precious public money on uniform, it is requested directions may very kindly be made to improve the police culture and all the basic facilities for the betterment of the citizens of Punjab in order to enforce the Articles, 9, 14, 25, 38 read with 4 and 5 of the Islamic Republic of Pakistan, 1973."

2. Learned counsel appearing on behalf of the petitioner submits that Mr. Azhar Siddique, Advocate is busy before august Supreme Court of Pakistan at Islamabad.

3. Perusal of order sheet reveals that on the first date of hearing i.e., 30.03.2017 Mr. Azhar Siddique, Advocate appeared in this case but on the subsequent dates i.e. 05.04.2017 and 14.04.2017, he was not present.

4. The instant petition, as well as, power of attorney has been signed by the following advocates: -

1. Munir Ahmad, Advocate High Court;

2. Muhammad Irfan, Advocate High Court;

3. Abdullah Malik, Advocate High Court;

and also by the petitioner namely: Mian Shabir Asmail, Advocate High Court. In addition, S. Parveen Mughal, Advocate High Court has also signed the petition. It is startling to note that Mr. Mohammad Azhar Siddique. Advocate has neither signed the petition nor the power of attorney. Copies of the Power of Attorney, as well as, writ petition have been initialed and attached with this order as Marks-A & B.

5. The petitioner is being ably represented by a host of Advocates of this Court mentioned above, therefore. I proceed further to hear the matter.

6. Learned Law Officer along with learned counsel for respondent No.9 has placed on record details of the process adopted for allocating the tender to respondent No.9. The entire process relating to the cutting and stitching of Punjab Police uniform, as well as, purchase of cloth has been placed on the record as Marks-C & D. Mr. Anwaar Hussain, AAG, further submitted that the instant petition is not a public interest petition but has been filed with mala fide intention and is liable to be dismissed with costs.

7. Perusal of the said summary reveals that the tender was processed strictly in accordance with Punjab Procurement Rules, 2014 ("PPRA Rules"). No specific violation of law has been highlighted by the learned counsel for the petitioner. The contents of the petition show that it has been filed without verifying the facts. It is important to note that some of the paragraphs of this petition have no relevance whatsoever with the main prayer made in this petition. On the whole, there is nothing on the record to establish that PPRA Rules have been violated by the respondents in awarding tender to respondent No.9.

8. As far as the second prayer made in this petition is concerned, introduction of new Police uniform is a policy issue and does not call for interference by this Court. Reliance is placed on Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others v. Hayat Hussain and others (2016 SCMR 1021). Moreover, learned law officer has informed the Court that the Police uniforms have already been procured and are currently in use, hence this petition has become infructuous on this score alone.

**PUBLIC INTEREST LITIGATION ("PIL")1**

9. Public interest litigation is an effort to provide legal representation to groups and interests that have been unrepresented or under-represented in the legal process. These include not only the poor and the disadvantaged but ordinary citizens.

10. Public interest litigation is an innovative strategy which has been evolved over the years for providing easy access to justice to the weaker sections of the humanity and is a powerful tool in the hands of public, spirited individuals and social action groups for combating exploitation and injustice and securing for the underprivileged segments of society, their social and economic entitlements.

11. Public interest litigation is, therefore, in the interest of public at large. It is a legal action or proceeding initiated for the protection or enforcement of the rights of public at large. It is totally different from the traditional litigation which is essentially of adversary character, where there is a dispute between two litigating parties, one making claim or seeking relief against the other and that other opposing such claim or resisting such relief. Public interest litigation is brought before the court not for the purpose of enforcing the rights of one individual against another, as happens in ordinary litigation, but it is intended to promote and vindicate public interest, it demands that violation of constitutional or legal rights of large number of people who are poor, ignorant or in a socially or economically disadvantaged position should not go unnoticed and un-redressed.

12. Public interest litigation is essentially a cooperative or collaborative effort on the part of the petitioner, the State or public authority and the Court to secure observance of the constitutional or legal rights, benefits and privileges conferred upon the vulnerable sections of the community and to provide social justice to them. When a court entertains public interest litigation, it does not do so in a caviling spirit or in a confrontational mood or with a view of tilting an executive authority or seeking to usurp it, but its attempt is only to ensure observance of social and economic rescue programmes, legislative as well as executive, framed for the benefit of the have-nots and the handicapped and to protect them against violation of their basic human rights, which is also the constitutional obligation of the executive. The court thus merely assists in realization of the constitutional obligations. Such sacrosanct public spiritedness forms the foundation of public interest litigation.

13. It is, therefore, a precondition that any public interest litigation is grounded in bona fide public interest. The Courts do not allow that the corridors of justice are polluted by vested interests or unscrupulous litigants. The Court must, therefore, be satisfied regarding the credentials of the petitioner, the prima facie correctness of the information placed before the Court, the specific and definite nature of the information and seriousness of the pleadings. The court must distinguish between the public interest litigation and a publicity interest litigation or private interest litigation or politics interest litigation.

14. Public interest litigation should not be allowed to become a deal to settle personal vendetta or to wreak vengeance or to malign any party or to bring anybody into disrepute with baseless allegations. There must be at all times, real and genuine public interest involved in the litigation and credible information for maintaining a cause

before the court. Public interest litigation should not be mere adventure or an attempt to carryout fishing expedition to settle personal scores. Reliance is placed on Dr. B. Singh v. Union of India (AIR 2004 SC 1923).

### **PRESENT PETITION**

15. Coming to the present petition, perusal of the pleadings shows that there has been no serious effort made by the petitioner to verify whether the contract obtained by respondent No.9 was or was not in accordance with PPRA Rules. Such like petitions bring bad name to public interest litigation and lower their credibility in the eyes of the Court. Such practice is strongly deprecated. In the present case four Advocates of this Court have failed to furnish any plausible explanation that can justify the seriousness and genuineness of this petition. The petitioner has not only abused the process of public interest litigation but has also burdened the Court and drawn upon its time and resources, besides, eating into the time allocated for other cases.

16. For the above reasons, this petition has no force and is hereby dismissed subject to costs of Rs.10 000/-, which shall be deposited with the Dispensary of Lahore High Court, Lahore and the deposit slip be placed on the record within one month from today. Reliance is placed on Kawas B. Aga and another v. City District Government, Karachi (CDGK) through Nazim-e-Ala and others (PLD 2010 Karachi 182), The Postmaster-General, Northern Punjab and (AJ&K), Rawalpindi v Muhammad Bashir and 2 others (1998 SCMR 2386), Inayatullah v. Sh. Muhammad Yousaf and 19 others (1997 SCMR 1020) and M.D. Tahir, Advocate v. Federal Government and others (PLD 1999 Lahore 409).

17. In case the deposit slip is not placed on the record within one month, from today, office shall put up the file on the administrative side for necessary orders/actions.

KMZ/S-40/L Order accordingly.