

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

WEDNESDAY, THE ELEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J. SREENIVAS RAO**

PUBLIC INTEREST LITIGATION NOS: 135 AND 161 OF 2012

PIL NO.135 OF 2012:

Between:

1. A.B.K. Prasad, S/o. Late Anne Bucchhi Veeraiah R/o. Chandra Rajeswara Rao, Old Age Home, Kondapur, Hyderabad.
2. Vijay Sai Reddy, S/o. Late V. Sundara Rama Reddy Chartered Accountant R/o. 43-I, Road No. 71, Film Nagar, Hyderabad.

...PETITIONERS

AND

1. The Union of India, Rep. by its Secretary Ministry of Home, Shastri Bhavan, New Delhi.
2. The State of A.P., Rep. by its Principal Secretary Home Department, Secretariat Buildings, Hyderabad.
3. The Central Vigilance Commission, Rep. by its Commissioner Satkarta Bhavan, A-Block, GPO Complex, INA., New Delhi - 110 023.
4. The Central Bureau of Investigation, Rep. by its Director Shastri Bhavan, New Delhi.
5. M/s. IMG Bharata Academies Private Limited, NATCO House, Fourth Floor, Road No. 2, Banjara Hills, Hyderabad - 500 033.
6. The Union of India, Rep. by its Secretary Department of Personnel and Training, North Block, New Delhi.
7. Pothuganti Ramulu S/o. Nagaiah, R/o.H.No.17-1-382/V/2/V, Vaishali Nagar (APSRTC Officer Colony) Champapet, Hyderabad

(Respondent No.7 is impleaded as per Court Order dated 05.09.2024 in I.A.No.1 of 2024 in WP(PIL) No.135 of 2012)

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction, one more particularly in the nature of writ of mandamus

a. directing the 1st respondent to issue a notification under Section 5 of the Delhi Special Police Establishment Act, 1946 extending the jurisdiction of the 4th respondent to the subject matter covered by G.O.Ms. No. 310 dt. 13-12-2006 issued by the 2nd respondent by furnishing the necessary resources to the 4th respondent

b. directing the 4th respondent to take up the consequential investigation into the subject matter of Memorandum of Understanding/Sale/Agreement of lands done at

unconscionably low prices and in a non-transparent manner entered into by the Government of A.P. with the 5th respondent

c. directing the 3rd respondent to exercise its power of superintendence in the investigation to be conducted by the 4th respondent

and issue consequential directions to the respondents No. 1 to 4 to conduct enquiry/ investigation forthwith in accordance with law.

I.A. NO: 1 OF 2012(PILMP. NO: 154 OF 2012)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 4th respondent to place before this Hon'ble Court the details of the resources required to conduct investigation into the subject matter in the interests of justice and equity.

**Counsel for the Petitioners: SRI PRABHAKAR SRIPADA, SENIOR COUNSEL
FOR SRI K. RAGHUNATHA RAO**

**Counsel for Respondent Nos. 1, 3 & 6: SRI B. NARASIMHA SHARMA,
ADDITIONAL SOLICITOR GENERAL OF INDIA**

**Counsel for Respondent No. 2: Ms. DIVYA ADEPU,
SPECIAL GOVERNMENT PLEADER**

**Counsel for Respondent No. 4: SRI SRINIVAS KAPATIA,
SPECIAL PUBLIC PROSECUTOR FOR CBI**

**Counsel for Respondent No. 5: SRI VEDULA VENKATA RAMANA,
SENIOR COUNSEL
FOR SRI PERI PRABHAKR**

**Counsel for Respondent No. 7: SRI SIDHARTH KUTHRA, SENIOR COUNSEL
FOR SRI VIMAL VARMA VASIREDDY**

PIL NO: 161 OF 2012

Between:

Mr. T.Sriranga Rao, S/o.Late Gopal Rao Advocate R/o. Flat No.201, Maa Gayatri Apartments Barkatpura, Hyderabad.

...PETITIONER

AND

1. The Union of India, Department of Personnel and Training, Rep by its Secretary North Block, New Delhi
2. The State of A.P. Home Department,, Rep by its Principal Secretary, Secretariat Buildings, Hyderabad
3. The State of A.P. Y.A.T. & C Department, Home Department, Rep by its Principal Secretary Secretariat Buildings, Hyderabad
4. The Central Bureau of Investigation, Rep by its Director, Shastri Bhavan, New Delhi
5. M/s. IMG Bharata Academies Private Limited, NATCO House Fourth Floor, Road No. 2 Banjara Hills, Hyderabad - 500 033

6. Pothuganti Ramulu S/o. Nagaiah, R/o.H.No.17-1-382/V/2/V, Vaishali Nagar (APSRTC Officer Colony) Champapet, Hyderabad

(Respondent No.6 is impleaded as per Court Order dated 05.09.2024 in I.A.No.1 of 2024 in WP(PIL) No.161 of 2012)

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue appropriate Writ, order or direction more particularly a Writ of Mandamus directing the 4th respondent to conduct investigation into the subject matter of Memorandum of Understanding/Sale/Agreement of lands done at unconscionably low prices and in a non-transparent manner entered into by the Government of A.P. with the 5th respondent as requested by the second Respondent vide G.O. Ms. No. 310 HOME (SC.A) Department dt. 13.12.2006 and to prosecute the culprits based on the investigation

I.A. NO: 1 OF 2012(PILMP. NO: 193 OF 2012)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased direct the 4th respondent to conduct a preliminary investigation into the subject matter of Memorandum of Understanding dated 9.08.2003 and the consequential Sale/Agreement of lands done at unconscionably low prices and in a non-transparent manner entered into by the Government of A.P. with the 5th respondent

Counsel for the Petitioner: SRI GANDRA MOHAN RAO, SENIOR COUNSEL

**Counsel for Respondent No. 1: SRI B. NARASIMHA SHARMA,
ADDITIONAL SOLICITOR GENERAL OF INDIA**

**Counsel for Respondent Nos. 2 & 3: Ms. DIVYA ADEPU,
SPECIAL GOVERNMENT PLEADER**

**Counsel for Respondent No. 4: SRI SRINIVAS KAPATIA,
SPECIAL PUBLIC PROSECUTOR FOR CBI**

**Counsel for Respondent No. 5: SRI VEDULA VENKATA RAMANA,
SENIOR COUNSEL
FOR SRI PERI PRABHAKR**

**Counsel for Respondent No. 6: SRI SIDHARTH KUTHRA, SENIOR COUNSEL
FOR SRI VIMAL VARMA VASIREDDY**

The Court made the following: COMMON ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

PUBLIC INTEREST LITIGATION Nos.135 and 161 of 2012

COMMON ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Prabhakar Sripada, learned Senior Counsel representing Mr. K.Raghunatha Rao, learned counsel for the petitioners in P.I.L.No.135 of 2012.

Mr. Gandra Mohan Rao, learned Senior Counsel for the petitioner in P.I.L.No.161 of 2012.

Mr. B. Narasimha Sharma, learned Additional Solicitor General of India for the respondents No.1, 3 and 6 in P.I.L.No.135 of 2012 and for respondent No 1 in P.I.L.No.161 of 2012.

Ms. Divya Adepu, learned Special Government Pleader for respondent No.2 in both the petitions.

Mr. Srinivas Kapatia, learned Special Public Prosecutor for Central Bureau of Investigation for respondent No.4 in both the petitions.

Mr. Vedula Venkata Ramana, learned Senior Counsel representing Mr. Peri Prabhakar, learned counsel for respondent No.5 in both the petitions.

Mr. Sidharth Luthra, learned Senior Counsel representing Mr. Vimal Varma Vasireddy, learned counsel for the newly impleaded respondent No.7 in P.I.L.No.135 of 2012 and respondent No.6 in P.I.L.No.161 of 2012 (hereinafter referred to as, "the newly impleaded respondent").

2. In P.I.L.No.135 of 2012, the petitioners seek a direction to the Union of India to issue a notification under Section 5 of the Delhi Special Police Establishment Act, 1946, extending the jurisdiction of the Central Bureau of Investigation (CBI) to the subject matter covered by G.O.Ms.No.310, dated 13.12.2006 issued by the erstwhile State of Andhra Pradesh. The petitioners also seek a

direction to the CBI to take up the consequential investigation into the subject matter of Memorandum of Understanding (MoU)/Sale/Agreement of lands done at unconscionably low prices and in a non-transparent manner entered into by the erstwhile Government of Andhra Pradesh with M/s.IMG Bharata Academies Private Limited (hereinafter referred to as 'the Company'). The petitioners further seek a direction to direct the Central Vigilance Commission (CVC) to exercise the power of superintendence in the investigation conducted by the CBI.

3. In P.I.L.No.161 of 2012, the petitioner seeks a direction to CBI to conduct investigation into the subject matter of Memorandum of Understanding/Sale/Agreement of lands done at unconscionably low prices and in a non-transparent manner entered into by the erstwhile Government of Andhra Pradesh with the Company and to prosecute the culprits based on the investigation.

(i) ANTECEDENTS OF PETITIONERS:

4. The petitioner No.1 in P.I.L.No.135 of 2012 is the Founder Editor of Eenadu Newspaper of Telugu Vernacular News Daily in the erstwhile State of Andhra Pradesh and is a Journalist by profession and lives in an old age home. The petitioner No.2 in the said public interest litigation is a Chartered Accountant by profession since 1986. The petitioner No.2 at the time of filing the public interest litigation was lodged in Central Prison, Chanchalguda, in connection with crime registered in R.C.No.19/2011 by CBI. It has been stated that the aforesaid criminal case pertains to an investigation into Y.S.Jagan Mohan Reddy Group of Companies of which petitioner No.2 is an advisor. The petitioner No.2 is also the advisor to the family of late Sri Y.S.Rajasekhara Reddy and belongs to the Congress Party. He is also a Member of Parliament, Rajya Sabha, from YSRCP, a political party in Andhra Pradesh which was founded by Mr. Y.S.Jagan Mohan Reddy, S/o. Late Sri Y.S.Rajasekhara Reddy.

5. The petitioner in P.I.L.No.161 of 2012 is an Advocate practising in the Metropolitan Criminal Courts, Hyderabad, and other Courts. He got enrolled as an Advocate in the year 1988 and was General Secretary and President of the Metropolitan Criminal Courts, Hyderabad, during the years 1996 to 1998 and 2008-2009. He claims to be active in public life and filed several cases against corrupt officers which were referred to ACB for enquiry.

(ii) BACKGROUND FACTS:

6. Facts leading to filing of the public interest litigations briefly stated are that the Company was incorporated on 05.08.2003 under the provisions of the Companies Act, 1956. The composite State of Andhra Pradesh, on 09.08.2003, had entered into a Memorandum of Understanding (MoU) with the Company. Under the aforesaid MoU, the State of Andhra Pradesh identified the Company as an expert organisation which can produce and train champions in various sports. The erstwhile Government of Andhra Pradesh (hereinafter referred to as, "the State") under the MoU agreed that it shall sell

Acs.400.00 of land in survey No.25 of Kancha Gachibowli Village, Serilingampally Mandal, Ranga Reddy District to the Company to build, develop, own and operate Sports Academies.

7. The State further agreed to sell another extent of land measuring Acs.450.00 in survey No.99/1 of Mammidipalli Village, near Shamshabad Airport, Ranga Reddy District, to enable the Company to build and operate the facilities and activities relating to Sports Academies and also agreed to sell land measuring Acs.1.00 to Acs.5.00 in the area on the main road from Banjara Hills, Hyderabad to Shilparamam, Madhapur, Ranga Reddy District, to build an International Class Office Headquarters with the condition that the Company shall not alienate such lands. In furtherance of the aforesaid MoU dated 09.08.2003, the State executed a registered sale deed in favour of the Company on 10.02.2004 in respect of the land measuring Acs.400.00 at the rate of Rs.50,000/- per acre for a consideration of Rs.2.00 crores.

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8. Thereafter, elections to the State Assembly were held in the year 2004 and the Indian National Congress was voted to power. The said party formed the Government in the erstwhile State of Andhra Pradesh. The State Government, thereafter, vide G.O.Rt.No.614, dated 30.06.2006, constituted a Committee of Officers to go into the circumstances leading to execution of MoU with the Company and the matters connected with the same. The Committee of Officers submitted a Report in the month of August, 2006. Thereafter, in the meeting of the Cabinet held on 30.09.2006, an Ordinance was approved to cancel the MoU as well as the sale deed executed in favour of the Company. A decision was taken by the Cabinet to order a CBI enquiry.

9. The State Legislature issued an Ordinance, namely Ordinance No.12 of 2006 on 20.11.2006. Thereafter, G.O.Ms.No.310, dated 13.12.2006, was issued according to consent for investigation by the CBI.

10. The State Legislature enacted the Andhra Pradesh Government Property (Preservation, Protection and

Presumption) Act, 2007 (hereinafter referred to as 'the 2007 Act'). Under Section 2 of the 2007 Act, the MoU dated 09.08.2003 and sale deed dated 10.02.2004 as well as other benefits made available to the Company under the MoU were annulled. In lieu thereof, the Company was held entitled to reasonable compensation along with interest @ 12% per annum.

11. The Joint Director, CBI, Chennai by a communication dated 29.01.2007 addressed to the State expressed its inability to take up the investigation on account of resource constraint and requested the State to conduct an enquiry at their level and refer the matter to them, if cognizable offence against certain officers is made out. Thereafter, the then Chief Minister on 29.03.2007 directed preliminary enquiry to be held by CBCID. The Joint Director, CBI, Chennai again vide communication dated 14.09.2007 expressed inability of the CBI to conduct the investigation due to resource constraint and requested the State to conduct preliminary enquiry and to submit a report to them. The petitioner in P.I.L.No.161 of 2012 submitted a

representation to the Union of India to issue notification under Section 5 of the Delhi Special Police Establishment Act, 1946 on the basis of G.O.Ms.No.310 dated 13.12.2006. In the aforesaid factual background, the Public Interest Litigations were filed seeking the reliefs as stated supra.

12. It is not in dispute that the validity of the 2007 Act was challenged by the Company in a writ petition, namely W.P.No.24781 of 2006. A Division Bench of this Court vide order dated 07.03.2024 upheld the validity of the 2007 Act and dismissed the writ petition. Admittedly, against the aforesaid order, a Special Leave Petition, namely S.L.P. (C) No.9265 of 2024, was filed. The said SLP has been dismissed by the Supreme Court by an order dated 03.05.2024.

(iii) SUBMISSIONS ON BEHALF OF THE PETITIONERS:

13. Mr. Prabhakar Sripada, learned Senior Counsel for the petitioners in P.I.L.No.135 of 2012 submitted that the petitioners have *locus standi* to file the public interest

litigation and the same has been filed *bona fide*. It is further submitted that the law does not prohibit a politician from filing a public interest litigation. It is also submitted that the State Government itself had directed an enquiry by the CBI and the CBI in its counter affidavit has stated that it is willing to conduct an enquiry.

14. Mr. Gandra Mohan Rao, learned Senior Counsel for the petitioner in P.I.L.No.161 of 2012 has invited the attention of this Court to the stand taken by the State Government as well as the CBI in the counter affidavit and has submitted that the State Government has already ordered an investigation by the CBI and the petitioner in the said public interest litigation is merely seeking enforcement of the order passed by the State Government. It is further submitted that investigation in the facts and circumstances of the case deserves to hand over to CBI to ensure fair investigation and to instil confidence of public in general. It is contended that a criminal offence is considered as a wrong against the State or society or

merely on the ground of delay, this Court cannot throw the prosecution away.

**(iv) SUBMISSIONS ON BEHALF OF THE RESPONDENTS,
NAMELY STATE AND CBI:**

15. Ms. Divya Adepu, learned Special Government Pleader for respondent No.2 in both the petitions, while inviting the attention of this Court to the counter affidavit filed on behalf of the State submitted that the State has already taken a decision to hand over investigation to the CBI and the State Government is ready and willing to abide by the directions which may be issued by this Court.

16. Mr. B. Narasimha Sharma, learned Additional Solicitor General of India for the respondents No.1, 3 and respondent No.6 in P.I.L.No.135 of 2012 and for respondent No.1 in P.I.L.No.161 of 2012 has submitted that the CBI had asked the State Government to carry on the investigation and submit a preliminary report into the commission of the offence to enable the CBI to proceed further with the investigation. However, till today, preliminary investigation has not been conducted by the

State Government. However, the CBI shall abide by the direction which may be issued by this Court.

(v) SUBMISSIONS ON BEHALF OF RESPONDENT No.7 in P.I.L.No.135 of 2012 AND RESPONDENT No.6 in P.I.L.No.161 of 2012 (NEWLY IMPEADED RESPONDENT):

17. Mr. Sidharth Luthra, learned Senior Counsel representing Mr. Vimal Varma Vasireddy, learned counsel for the newly impleaded respondent has submitted that the said respondent at the relevant time was the Sports Minister of the State. It is pointed out that Smt Y.S.Vijaya, wife of late Sri Y.S.Rajasekhara Reddy, had filed a writ petition, namely W.P.No.28951 of 2011, being aggrieved by inaction of the erstwhile State of Andhra Pradesh as well as the CBI in not initiating penal action against respondent No.8 therein, namely Sri Nara Chandra Babu Naidu, and his associates who were arrayed as respondent Nos.9 to 20 in the said writ petition. In the said writ petition, a direction was sought to the State as well as the CBI to conduct an investigation into the allotment of lands, grant of licences, decisions of disinvestment and amassing

disproportionate wealth and assets by the respondents No.8 to 10 and the involvement of the respondents No 11 to 20 therein and to prosecute the unofficial respondents. It is pointed out that in the said writ petition, the Managing Director of the Company, namely Mr. Ahobala Rao, was arrayed as respondent No.14. It is further pointed out that the said writ petition was dismissed by a Division Bench of this Court by an order dated 16.02.2012. It is also pointed out that the aforesaid order passed by the Division Bench of this Court was upheld by the Supreme Court vide order dated 23.07.2012 in SLP (C) No.19047 of 2012 and therefore this second round of litigation cannot be entertained, as the issue involved in the writ petition has attained finality in the aforesaid previous round of litigation.

18. Learned Senior Counsel has invited the attention of this Court to a criminal complaint filed by one Mr. Palavai Goverdhan Reddy claiming himself to be a social worker, under Section 200 of the Code of Criminal Procedure, 1973 before the Principal Special Judge for SPE and ACB Cases,

Hyderabad, which was dismissed by order dated 19.04.2004 passed in C.C.SR No.674 of 2004. The aforesaid order was assailed before this Court in Criminal Revision Case No.964 and Criminal Revision Petition No.962 of 2004. The aforesaid criminal revisions were dismissed by an order dated 26.04.2006 by a learned Single Judge of this Court. It is pointed out that in the aforesaid criminal complaint and in the revision revisions, the newly impleaded respondent was arrayed as a respondent. It is submitted that the petitioners have not approached the Court with clean hands and are guilty of suppression of facts. It is further submitted that present public interest litigations are not *bona fide* and have been filed on account of political rivalry. It is argued that this Court can direct investigation by the CBI in rarest of rare cases. It is contended that no complaint has been filed by the petitioners before filing these writ petitions.

19. It is submitted that collateral challenge to a binding judgment of a Court is not permissible by way of a writ petition. In support of the aforesaid submission, reliance

has been placed on the decision of the Supreme Court in **Hoystead v. Commissioner of Taxation**¹, **Hunter v. Chief Constable of the West Midlands Police**², **Kausalya Devi Bogra v. Land Acquisition Officer**³ and **Omprakash Verma v. State of Andhra Pradesh**⁴. It is urged that the second complaint on the same facts is not maintainable. In support of the aforesaid submission, reliance is placed on the decision of the Supreme Court in **Samta Naidu v. State of M.P.**⁵. It is submitted that entertaining a public interest litigation on a mere allegation without exhausting the remedy provided under the law is not justifiable. In support of the said submission reference has been made to the decision of the Supreme Court in **State of Jharkhand v. Shiv Shankar Sharma**⁶. It is argued that the petitioners are guilty of suppression of facts and they have not approached this Court with clean hands and on this ground, the public interest litigations are liable to be dismissed. Reference in this connection has been made to

¹ [1926] A.C. 155

² [1981] 3 WLR 906

³ (1984) 2 SCC 324

⁴ (2010) 13 SCC 158

⁵ (2020) 5 SCC 378

⁶ 2022 SCC OnLine SC 1541

the decision of the Supreme Court in **Kishore Samrite v. State of Uttar Pradesh**⁷.

(vi) SUBMISSIONS ON BEHALF OF RESPONDENT No.5:

20. Mr. Vedula Venkata Ramana, learned Senior Counsel representing for the respondent No.5 in both the writ petitions has contended that the State of Andhra Pradesh has ceased to exist after bifurcation of the State with effect from 02.06.2014 and the State of Telangana has not been impleaded in these writ petitions. It is pointed out from the cause title that the respondent No.5 is a corporate entity and it is not sued through the Managing Director. Therefore, the public interest litigations suffer from the defect of improper description of the respondent No.5. It is contended that the non-impleadment of the then Cabinet which took the decisions in favour of the Company and non-impleadment of the Managing Director of the Company suffers from the inherent defect and therefore the writ petitions are liable to be dismissed. It is further contended that initiation of criminal investigation falls within the

⁷ (2013) 2 SCC 398

domain of the executive power of the State and the executive power of the State is coextensive with the legislative power. It is submitted that once the State Legislature has annulled the transactions, no enquiry into the transaction is necessary. While referring to G.O.Ms.No.310, dated 13.12.2006, it is contended that the aforesaid Government Order does not indicate the offences which are enquired into.

21. It is argued that since no First Information Report has been registered before issuance of the Government Order, the question of investigation does not arise. It is submitted that no complaint has been filed by the petitioners and the consent given by the State is based on assumption of facts and therefore G.O.Ms.No.310 is inchoate and does not fall within the purview of the Delhi Special Police Establishment Act, 1946.

22. It is further submitted that before issuance of the Government Order, the Ordinance, namely Ordinance No.12 of 2006, was issued on 20.11.2006 and therefore,

the transactions in favour of the Company were annulled. It is pointed out that after issuance of G.O.Ms.No.310, dated 13.12.2006, the public interest litigations have been filed after a period of six years, therefore petitions suffer from delay and laches. Nowhere in the public interest litigations the petitioners have explained the delay between the period from 2006 to 2012. It is contended that the decision of the Cabinet cannot constitute an offence.

23. It is submitted that the power of this Court can be exercised to direct the investigation by the CBI in rarest of rare cases and not as a matter of course. In support of the aforesaid submission, reliance has been placed on the decision of the Supreme Court in **State of West Bengal v. Committee for Protection of Democratic Rights, West Bengal**⁸. It is contended that in the public interest litigations, no element of public interest is involved and the petitioners are in active politics and the public interest litigations are motivated and *mala fide*.

⁸ (2010) 3 SCC 571

(vii) REJOINDER SUBMISSIONS:

24. Mr. Prabhakar Sripada, learned Senior Counsel for the petitioners in P.I.L.No.135 of 2012 submits that the petitioner No.2 in the said public interest litigation is a politician. However, the law does not debar him from filing the public interest litigation. It is contended that the public interest litigation has been filed *bona fide* and involves an element of public interest.

25. Mr. Gandra Mohan Rao, learned Senior Counsel for the petitioner in P.I.L.No.161 of 2012, by way of rejoinder submitted that the scope of the public interest litigations has been misconstrued on behalf of the respondents and from the counter affidavit filed on behalf of the CBI, it is evident that it is willing to take up the investigation. The attention of this Court is invited to paragraph 10 of the order of the Supreme Court in SLP (C) No.19047 of 2012, dated 23.07.2012, and it has been pointed out that the Supreme Court itself has not expressed any opinion on any criminal misconduct or misuse of power by the respondents No.9 to 20 in the writ petition. It is contended

that the Supreme Court had granted the liberty to the petitioner in the said writ petition to approach the competent court or the competent authority for any act of misconduct which allegedly may be committed by the respondent No.8 individually or in concert with respondents No.9 to 20 in the writ petition and therefore, the order passed in the previous round of litigation as well as the Supreme Court is not a bar in entertaining the present public interest litigations.

26. It is urged that the petitioner had submitted a representation dated 13.01.2012 to the Government of India and has not approached this Court directly. It is argued that the Committee of Officers had submitted the report to the State Government in the month of August, 2006, and on the basis of the report submitted by the Committee of Officers, the State Government decided to hand over the investigation to CBI. It is pointed out that there is no allegation against the petitioner in P.I.L.No.161 of 2012 and the public interest litigation has been filed in public interest. It is submitted that on the basis of new

material adduced during the course of an enquiry, an investigating agency can conduct further enquiry. It is urged that the decisions relied upon by Mr. Sidharth Luthra, learned Senior Counsel, have no application to the facts of the case, as they have been rendered in different factual context.

27. It is submitted that by virtue of Section 104 of the Andhra Pradesh Reorganisation Act, 2014, the State of Telangana stands substituted in place of the State of Andhra Pradesh and therefore, it is not necessary for the petitioner to amend the cause title. In support of his submissions reliance has been placed on the decisions of the Supreme Court in **Central Bureau of Investigation v. Rajesh Gandhi**⁹, **K.Karunakaran v. State of Kerala**¹⁰, **Jagdish Ram v. State of Rajasthan**¹¹, **K.Karunakaran v. State of Kerala**¹², **Dinubhai Boghabhai Solanki v. State of Gujarat**¹³, **E.Sivakumar v. Union of India**¹⁴ and **State**

⁹ (1996) 11 SCC 253

¹⁰ (2000) 3 SCC 761

¹¹ (2004) 4 SCC 432

¹² (2007) 1 SCC 59

¹³ (2014) 4 SCC 626

¹⁴ (2018) 7 SCC 365

through Central Bureau of Investigation v. Hemendhra Reddy¹⁵.

(viii) DELHI SPECIAL POLICE ESTABLISHMENT ACT, 1946:

28. The Delhi Special Police Establishment Act, 1946 is an Act to make provision for constitution of a special police force in Delhi for investigation of certain offences in the Union Territory, for the superintendence and administration of the said force and for extension to other areas, of the powers and jurisdiction of members of the said force in regard to the investigation of the said offences. Section 2 deals with Constitution and Powers of Special Police Establishment. Section 2(1) provides that notwithstanding anything in the Police Act, 1861, the Central Government may constitute a special police force to be called the Delhi Special Police Establishment for investigation in any Union Territory of the offences notified under Section 3. Section 3 enables the Central Government to specify the offences or classes of offences, by a notification in the Official Gazette which are to be

¹⁵ 2023 SCC OnLine SC 515

investigated by the Delhi Special Police Establishment. Section 5 deals with extension of powers and jurisdiction of Special Police Establishment to other areas. Section 6 provides that nothing contained in Section 5 shall be deemed to enable any member of the Delhi Special Police Establishment to exercise powers and jurisdiction in any area in a State, not being a Union Territory or railway area, without the consent of the Government of that State.

(ix) G.O.Ms.No.310, dated 13.12.2006:

29. After the change of the Government in the erstwhile State of Andhra Pradesh, the then State Government decided to entrust the enquiry about transactions relating to and the matters connected with Memorandum of Understanding/sale/agreement of lands, entered into by Government of Andhra Pradesh at unconscionably low prices and in a non-transparent manner with the Company, for investigation under Section 6 of the Delhi Special Police Enactment, 1946 for enabling the Central Bureau of Investigation to investigate the case. Thereupon,

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the following notification vide G.O.Ms.No.310, dated 13.12.2006 was issued:

“Under Section 6 of the Delhi Special Police Establishment Act, 1946 (Central Act XXV of 1946), the Government of Andhra Pradesh hereby accord consent for exercise of powers and jurisdiction of the members of the Delhi Special Police Establishment in the whole of the State of Andhra Pradesh for the investigation into the transactions entered into between IMG Academies Bharatha Private Limited and Government of Andhra Pradesh on 09.08.2003 relating to and the matters connected with the Memorandum of Understanding/sale/Agreement of lands entered into by the Government of Andhra Pradesh at low price and its subsequent transactions held with IMG Academies Bharatha Private Limited and attempts, abetments and conspiracies in relation to or in connection with the said transactions and any other transaction committed in the course of the same transaction or arising out of the same fact or facts.”

30. The CBI on receipt of the aforesaid G.O.Ms.No.310, dated 13.12.2006, requested the State Government vide letter No.1/150/C1/2007/Hyd/SZ/70, dated 29.01.2007 to conduct a preliminary enquiry with regard to the allegations mentioned in the aforesaid GO and refer the matter to it if commission of cognizable offences were made

out against certain officials and if deemed appropriate. Thereafter, nearly after eight months by another communication dated 14.09.2007, CBI again requested the State Government to conduct a preliminary enquiry. However, till today no preliminary enquiry has been conducted by the State Government to find out whether commission of any cognizable offences with regard to the transactions and the matters connected thereto as referred to in G.O.Ms.No.310, dated 13.12.2006.

(x) PRINCIPLE OF FINALITY OF LITIGATION:

31. Twin principles, firstly that finality should be attached to binding decisions of the Court and secondly, that individuals should not be vexed twice over the same kind of litigation from the foundation of general rule of *res judicata*. The principles of *res judicata* applied to the writ proceeding (see **Daryao vs. State of Uttar Pradesh**¹⁶, **Virudhuttagar Steel Rolling Mills Limited vs. Government of Madras**¹⁷ and **Shankara Cooperative**

¹⁶ AIR 1961 SC 1457

¹⁷ AIR 1968 SC 1196

Housing Society Limited vs. M.Prabhakar¹⁸). Similarly, the issue whether principles of constructive *res judicata* apply to writ proceedings has also been answered in the affirmative by Supreme Court (see **Direct Recruit Class II Engineering Officers' Association vs. State of Maharashtra**¹⁹, **S.Nagaraj (dead) by LRs vs. B.R.Vasudeva Murthy**²⁰, **M.Nagabhushana vs. State of Karnataka**²¹ and **Union of India vs. Major S.P.Sharma**²²).

32. It is equally a well settled legal proposition that a decision rendered in public interest litigation has a binding effect as long as litigants act *bona fide*, as judgment in such a case binds the public at large and bars any member of the public from raising any connected issue or an issue which has been raised or should have been raised on an earlier occasion by way of public interest (see **Forward Construction Company vs. Prabhat Mandal**²³, **Kantaru Rajeevaru vs. Indian Young Lawyers' Association**²⁴ and

¹⁸ (2011) 5 SCC 607

¹⁹ (1990) 2 SCC 715

²⁰ (2010) 3 SCC 353

²¹ (2011) 3 SCC 408

²² (2014) 6 SCC 351

²³ (1986) 1 SCC 100

²⁴ (2020) 2 SCC 1

**National Confederation of Officers Association of
Central Public Sector enterprises vs. Union of India²⁵).**

(xi) PREVIOUS PUBLIC INTEREST LITIGATION:

33. In the backdrop of aforesaid legal principles, we may now advert to the facts of the case in hand. Admittedly, Smt Y.S.Vijaya, w/o late Sri Y.S.Rajasekhara Reddy, former Chief Minister of erstwhile State of Andhra Pradesh had filed a public interest litigation. In the said writ petition, Sri Nara Chandra Babu Naidu was arrayed as respondent No.8 and the Managing Director of the Company, namely Mr. Ahobala Rao was arrayed as respondent No.14. It is pertinent to note that petitioner No.2 in P.I.L.No.135 of 2012 is a Member of Parliament (Rajya Sabha), YSRCP in Andhra Pradesh, a political party constituted by Sri Y.S.Jagan Mohan Reddy, s/o late Sri Y.S.Rajasekhara Reddy. The petitioner No.2 in P.I.L.No.135 of 2012 is associated with Smt Y.S.Vijaya as he was the advisor to the family of late Sri Y.S.Rajasekhara Reddy. In

²⁵ (2022) 4 SCC 764

the writ petition filed by Smt Y.S.Vijaya, W/o late Sri Y.S.Rajasekhara Reddy, it was *inter alia* averred that respondent No.8 in the writ petition, namely Sri Nara Chandra Babu Naidu, during his tenure as Chief Minister of the erstwhile State of Andhra Pradesh, and respondent Nos.9 to 20 in the said writ petition have acted in concert to ensure that there is a wrongful gain and designed to advantage them at the cost of exchequer. In the writ petition, various allegations were made against the then Chief Minister of the State of Andhra Pradesh Sri Nara Chandra Babu Naidu, including the action taken by the Cabinet to allot the land to the Company. It was further pleaded that they have committed offences under Prevention of Corruption Act, 1988, Representation of People Act, 1951, the A.P.Land Grabbing (Prohibition) Act, 1982 and Benami Transaction (Prohibition) Act, 1988. In the said writ petition, Managing Director of Company was arrayed as respondent No.14. A direction was therefore sought for an enquiry by an appropriate agency, like CBI into alleged acts of criminal misconduct committed by

respondent Nos.8 to 20 from 1995 till 2004. In the said writ petition, the following reliefs were prayed for:

“.. to issue a writ, order or direction more particularly one in the nature of Mandamus declaring the inaction of the respondent Nos.1 to 6 in initiating penal action against the 8th respondent and his associates i.e., respondent Nos.9 to 20 under the provisions of Prevention of Corruption Act, 1988 and the Money Laundering Act, 2002 and other applicable penal laws as illegal, arbitrary and consequently direct the respondent Nos.1 to 6 to initiate proceedings under law including by issuing a further direction to the 4th respondent to conduct an investigation/probe in respect of allotment of lands granting of licences decisions of disinvestment and amassing disproportionate wealth and assets by the respondent Nos.8 to 10 and the involvement of the respondent Nos.11 to 20 and prosecute the unofficial respondents and others in accordance with law.”

34. A Division Bench of this Court, vide order dated 16.02.2012 dismissed the writ petition. The operative portion of the aforesaid order is extracted below for the facility of reference:

“From the decisions noticed above, it can be concluded that for entertaining a writ petition as a Public Interest Litigation what is required to be seen is existence of substance in the material and failure of

public duty. That apart the petitioner must not have a personal interest and he should be in a position to demonstrate that he is moving the process of law for the benefit of unrepresented or underrepresented strata of the society. In case the Court comes to a conclusion that there are no *bona fides* on the part of the petitioner and that the petitioner has abused the process of law, such litigation should be curbed at the earliest stage.

The petitioner in the instant case has never taken any steps before the competent authority to take up the inquiry/investigation against the respondent No.8 and not even a complaint is lodged with the police. Hence, the petitioner cannot attribute any inaction on the part of the respondent Nos.1 to 6. Thus, it is not a case of failure of public duty.

Moreover, there is political rivalry and the present writ petition is filed as a counter attack to the investigation ordered against the son of the petitioner in P.Shankar Rao's case (P.Shankar Rao vs. Government of Andhra Pradesh (2011 (5) ALT 1(DB)). The admitted facts borne out of the record make it clear that the writ petition is not *bona fide* and that the approach of the petitioner is motivated to settle the political scores. Therefore, in our considered opinion, the writ petition cannot be maintained as a Public Interest Litigation.

Conclusion:

For the reasons stated hereinbefore, the writ petition is not maintainable as a Public Interest Litigation and therefore, it is liable to be dismissed.

We have already expressed above that the order dated 14.11.2011 being in violation of the fundamental principles of natural justice is a nullity.

Accordingly, the order dated 14.11.2011 is hereby recalled and the writ petition is dismissed. Consequently, W.P.M.P.Nos.39944 and 40862 of 2011 which are filed by the proposed interveners shall also stand dismissed. No costs."

35. Against the aforesaid order, special leave petition, namely S.L.P. (C) No.19047 of 2012 was preferred by Smt Y.S.Vijaya, which was dismissed by a speaking order dated 23.07.2012 by the Supreme Court. The relevant extract of the order reads as under:

"On the facts set out by the High Court in its order, we are of the opinion that the High Court was entitled to take the view that the writ petition filed by the petitioner was not genuinely in public interest. If that be so as we think it is, we are not inclined to interfere under Article 136 of the Constitution, which too is discretionary in nature. We, however, make it clear that the refusal of the High Court to invoke its writ jurisdiction in public interest or the refusal of this Court to interfere with the discretionary order passed by the High Court should not be understood to mean that we have expressed any opinion about the correctness or otherwise of the allegations made against respondents 8 to 20. Whether or not respondent has amassed wealth and whether or not

he has committed any criminal misconduct or misused his powers to give benefit to respondents 9 to 20 or to anyone else are matters to which we have not adverted nor expressed any opinion about the same. All that the High Court has done by its order is that it has refused to exercise its powers under Article 226 of the Constitution; which order we are not inclined to interfere with under Article 136 of the Constitution. There is therefore no gainsaying that if the petitioner is aggrieved of any act of misconduct allegedly committed by respondent No.8, individually or in concert with respondents 9 to 20, she shall be free to approach the competent court or the competent authority in accordance with law for redress including redress in the nature of demanding an investigation into the allegations levelled against the said respondent or anyone who has benefitted from the alleged illegal acts of omission or commission of respondent No.8."

(xii) CRIMINAL COMPLAINT:

36. One Palvai Govardhan Reddy filed a complaint under Section 200 CrPC. In the aforesaid complaint, Sri Nara Chandra Babu Naidu, the then Chief Minister of the State of Andhra Pradesh, was impleaded as respondent No.1, whereas newly impleaded respondent was arrayed as respondent No.4, whereas Director of the Company,

Mr. Ahobala Rao was arrayed as respondent No.7. The Company was arrayed as respondent No.7 in the said complaint. In the complaint, it was inter alia averred that the then Chief Minister acted in utmost haste, throwing to winds norms of good governance to enable the Company to acquire Acs.850.00 of land for a throw away price.

37. The Special Judge for SPE and ACB Cases, City Civil Court, Hyderabad by an order dated 19.04.2004 passed CCSR No.674 of 2004, in para 11, held as under:

“11. For these reasons, I hold that the complaint does not make out any basis for ordering enquiry for the offence covered under the Provisions of Prevention of Corruption Act, 1988. Thus considered, I do not find any sufficient grounds for referred the matter for investigation or for proceeding against the accused persons.”

38. The aforesaid order was assailed by the Complainant, namely Sri Palvai Govardhan Reddy in Criminal Revision Case No.964 and Criminal Revision Petition No.962 of 2004 before the High Court of Andhra Pradesh. A learned Single Judge of this Court by an order dated 26.04.2006,

dismissed the criminal revisions. The operative portion of the order reads as under:

“32. Even with regard to the allotment made in favour of the company, in case it is found that it is not to the advantage of the State and no public interest is involved, the subsequent government may cancel the same, in case the same can be done, as per law. But the decision of the previous Cabinet/Government cannot be called an offence. No case is brought to my notice, where for a cabinet decision prosecution was launched.

33. In all these circumstances, I hold that there are no grounds to allow the revision case and it is accordingly dismissed.”

39. It is not in dispute that in pursuance of liberty granted to the petitioner by the Supreme Court in S.L.P. (C) No.19047 of 2012, the petitioner therein has not filed any complaint. Admittedly, the order passed in criminal revisions has also attained finality.

40. Thus, it is evident that the issues with regard to allotment of land to the Company and the alleged irregularity/offence which might have been committed

while allotting the land to the Company have been adjudicated and attained finality. The eminent need for consistency in the view taken by the Courts on the same issue does not need any emphasis (see **Shanti Conductor Private Limited vs. Assam SEB**²⁶). The decision rendered in a public interest litigation as well as the complaint filed under Section 200 CrPC have a binding effect and binds the public at large. The petitioners in these writ petitions, therefore, cannot be permitted to raise any issue, which has been raised or should have been raised on an earlier occasion and any connected issue, namely an enquiry by the CBI.

(xiii) DELAY AND LACHES:

41. The principle that extraordinary discretionary jurisdiction of the Court under Article 226 of the Constitution of India would not be exercised in favour of a person who approaches this Court with delay and laches (see **S.S.Balu vs. State of Kerala**²⁷, **Vijay Kumar Kaul vs.**

²⁶ (2016) 15 SCC 13

²⁷ (2009) 2 SCC 479

Union of India²⁸ and **U.P.Power Corporation Limited vs. Ram Gopal**²⁹). The Supreme Court in **Bombay Dyeing and Manufacturing Company Limited vs. Bombay Environmental Action Group**³⁰, has held that doctrine of delay and laches applies to public interest litigations as well. In para 341, it has been held as under:

“341. Delay and laches on the part of the writ petitioners indisputably have a role to play in the matter of grant of reliefs in a writ petition. This Court in a large number of decisions has categorically laid down that where by reason of delay and/or laches on the part of the writ petitioners the parties altered their positions and/or third-party interests have been created, public interest litigations may be summarily dismissed. Delay although may not be the sole ground for dismissing a public interest litigation in some cases and, thus, each case must be considered having regard to the facts and circumstances obtaining therein, the underlying equitable principles cannot be ignored. As regards applicability of the said principles, public interest litigations are no exceptions. We have heretofore noticed the scope and object of public interest litigation. Delay of such a nature in some cases is considered to be of vital importance. (See *Chairman & MD, BPL Ltd. v. S.P. Gururaja* [(2003) 8 SCC 567].)”

²⁸ (2012) 7 SCC 610

²⁹ (2021) 13 SCC 225

³⁰ (2006) 3 SCC 434

42. In the instant case, the land was sold to the Company on 10.02.2004. The State Government vide G.O.Rt.No.614, dated 30.06.2006 had constituted a Committee of Officers to go into circumstances leading to execution of MoU and the matters connected therein. The Committee of Officers submitted a report in the month of August, 2006. An Ordinance was approved on 20.11.2006 to cancel the MoU as well as the sale deed executed in favour of the Company. On 13.12.2006, the State Government issued G.O.Ms.No.310 according consent for investigation by the CBI. Thereafter, the 2007 Act was amended by which the sale deed and the MoU and others benefits made available to the company were annulled. The petitioner in P.I.L.No.161 of 2012 after a period of six years submitted a representation to Government of India 23.07.2012. The petitioners in the other writ petitions, did not take any action for six long years. These writ petitions, namely P.I.L.Nos.135 of 2012 and 161 of 2012 have been filed on 01.03.2012 and 13.04.2012 respectively i.e. after a period of six years. No explanation has been offered on

behalf of the petitioners for their inaction for six long years. The writ petitions therefore suffer from delay and laches and on this ground also no interference in exercise of extraordinary discretionary jurisdiction is called for in these petitions.

(xiv) DIRECTIONS FOR ENQUIRY BY CENTRAL BUREAU OF INVESTIGATION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA:

43. A Constitution Bench of the Supreme Court in **State of West Bengal vs. Committee for Protection of Democratic Rights, West Bengal** (supra) held that a direction by the High Court in exercise of jurisdiction under Article 226 of the Constitution of India, to CBI to investigate a cognizable offence alleged to have been committed within the territory of a State without the consent of that State will neither impinge upon the federal structure of the Constitution nor violate the doctrine of separation of powers and shall be valid in law. In para 70 it was held as under:

“70. Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these constitutional powers. The very plenitude of the power under the said articles requires great caution in its exercise. Insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.”

44. The aforesaid legal position was referred to with approval in para 42 in **Arnab Ranjan Goswami vs. Union**

of India³¹. The principle that power to order an investigation by the CBI must be exercised with great caution and cannot be issued as a matter of routine or merely because a party have levelled allegations against the local police, has been reiterated in **Himanshu Kumar vs. State of Chattisgarh**³² and **Anant Thanur Karmuse vs. State of Maharashtra**³³.

45. It is pertinent to note that neither any complaint has been filed nor any offence has been registered. It is noteworthy that the CBI requested the State Government vide communication dated 29.01.2007 to conduct a preliminary enquiry and refer the matter to CBI in case a cognizable offence is made out. It is also noteworthy that the Chief Minister, thereafter on 29.03.2007 directed the preliminary enquiry to be held by CBCID. The CBI by a communication dated 14.09.2007 once again requested the State Government to conduct a preliminary enquiry and to submit a report to it. The State Government, despite the order of the Chief Minister, till today did not even conduct a preliminary enquiry and has failed to explain in its inaction in the counter affidavit. It is relevant to mention that

³¹ (2020) 14 SCC 12

³² 2022 SCC OnLine SC 884

³³ (2023) 5 SCC 802

the petitioners in the writ petitions have not made any allegations against the local police. It is also noteworthy that no first information report has been registered with regard to the transaction in question. In the aforesaid facts and circumstances of the case, no case for grant of any direction to CBI to conduct investigation is made out.

(xv) SCOPE AND AMBIT OF PUBLIC INTEREST LITIGATION:

46. The Supreme Court while dealing with the scope and ambit of public interest litigation in **State of Uttaranchal v. Balwant Singh Chaufal**³⁴, in para 181 has held as under:

“(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.

³⁴ (2010) 3 SCC 401

(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.”

47. The aforesaid principles have been reiterated with approval in **Anirudh Kumar vs. Municipal Corporation of Delhi**³⁵. A three-Judge bench of Supreme Court in

³⁵ (2015) 7 SCC 779

Prasanth Bhushan and another, in Re³⁶ has reiterated the well settled position for relaxation of *locus standi* and has cautioned the Courts to be careful in exercising the jurisdiction while dealing with public interest litigation. The relevant extract of para 46 reads as under:

“46. ...

“96. ...

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 Chauhan* *State of Uttaranchal v. Balwant Singh Chauhan*, (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)

113. 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

³⁶ (2021) 3 SCC 160

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.'

48. It is trite law that a person invoking the jurisdiction under Article 226 of the Constitution of India must approach the Court with clean hands and should not conceal material facts. It has further been held that there is necessity to save judicial process from becoming abuse to subvert justice. The need to approach the Court with clean hands is all the more necessary as law is not a game of chess (See **Ramjas Foundation v. Union of India**³⁷, **Rajkumar Sani v. State of U.P**³⁸, **K.D.Sharma v. Steel Authority of India Limited**³⁹, **Manoharlal v. Ugrasen**⁴⁰, **Amarsingh v. Union of India**⁴¹ and **Shri. K.Jayaram v. Bangalore Development Authority**⁴²).

³⁷ 1993 Supp (2) SCC 20

³⁸ (2007) 10 SCC 635

³⁹ (2008)12 SCC 481

⁴⁰ (2010) 11 SCC 557

⁴¹ (2011) 7 SCC 69

⁴² 2021 SCC Online SC 1194

49. In the instant case, petitioner No.2 in P.I.L.No.135 of 2012 is associated with petitioner in W.P.No.28951 of 2011, namely Smt. Y.S.Vijaya, W/o late Sri Y.S.Rajasekhara Reddy. The petitioner No.2 admittedly has a political background and was a Member of Parliament (Rajya Sabha) from YSRCP, a political party in the State of Andhra Pradesh formed by Sri Y.S.Jagan Mohan Reddy, S/o late Sri Y.S.Rajasekhara Reddy. It is also not in dispute that at the time of filing of the petition, petitioner No.2 in P.I.L.No.135 of 2012 was lodged in Central Prison, Chanchalguda in connection with crime registered in R.C.No.19 of 2012 which pertains to investigation into Y.S. Jagan Mohan Reddy Group of Companies. Thus, the petitioner No.2 in P.I.L.No.135 of 2012 is political rival of newly impleaded respondent. The petitioners in P.I.L.No.135 of 2012 themselves in para 3 of the petition had stated that they have filed an application for intervention in WPMP No.40862 of 2011 in W.P.No.28951 of 2011 filed by Smt Y.S.Vijaya, W/c late Sri Y.S.Rajasekhar Reddy. Thus, the averments made in W.P.No.28951 of 2011 were well within the knowledge of

the petitioners in P.I.L.No.135 of 2012. The petitioner in P.I.L.No.161 of 2012 claims to be a practising advocate in Metropolitan Criminal Courts and other courts in Hyderabad. The complaint filed by one Mr. Palvai Govardhan Reddy under Section 200 CrPC was tried by a Court at Hyderabad and was upheld by a learned Single Judge of this Court in Criminal Revision Case No.964 and Criminal Revision Petition No.962 of 2004. Therefore, it can safely be inferred that an advocate practising in Hyderabad, namely petitioner in P.I.L.No.161 of 2012, had the knowledge of such high profile litigation. It is pertinent to note that it is not the case of petitioner in P.I.L.No.161 of 2012 that he had no knowledge of the order passed in the complaint. However, there is no mention in the affidavit about the order of dismissal dated 19.04.2004 of the complaint filed by Mr. Palvai Govardhan Reddy under Section 200 CrPC by the Principal Special Judge for SPE and ACB Cases, City Civil Court, Hyderabad, and the dismissal of the Criminal Revision Case No.964 and Criminal Revision Petition No.962 of 2004, vide order dated 26.04.2006 by a learned Single Judge of this Court.

Therefore, in the aforesaid obtaining factual matrix of the case, we are not inclined to invoke the extraordinary jurisdiction which otherwise is discretionary in nature.

(xvi) CONCLUSION:

50. In view of the preceding analysis we hold that the orders passed in the earlier public interest litigation as well as the complaint under Section 200 CrPC have a binding effect and binds the public at large. The petitioners, therefore, cannot be permitted to agitate the issue afresh in these writ petitions. The writ petitions also suffer from delay and laches. In the facts and circumstances of the case, no case for grant of direction to CBI to investigate the transaction in question is made out. Similarly, in the obtaining factual matrix of the case, no case for exercise of extraordinary discretionary jurisdiction is made out.

For the aforementioned reasons, we do not find any merit in the public interest litigations. The same fail and are hereby dismissed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

//TRUE COPY//

Sd/- MOHD. ISMAIL
ASSISTANT REGISTRAR
SECTION OFFICER

To,

One fair copy to the **HON'BLE THE CHIEF JUSTICE ALOK ARADHE**
(For His Lordship's Kind Perusal)

AND

One fair copy to the **HON'BLE SRI JUSTICE J. SREENIVAS RAO**
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HIGH COURT

DATED: 11/09/2024



COMMON ORDER

PIL NOS: 135 AND 161 OF 2012

DISMISSING THE PUBLIC INTEREST LITIGATIONS

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23/9/24