

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

Date of decision : 22nd September, 2010

+ WP(C) No.6302/2010

VINOD KUMAR KANOJIA Petitioner
Through Mr. Ajay Kumar Bhatia, Adv.

versus

UOI AND ORS Respondents
Through Mr. A.S Chandhiok, ASG with
Mr. Jatan Singh, Adv. for R-1.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE MANMOHAN

- | | | |
|----|-----------------------------------------------------------------------|-----|
| 1. | Whether reporters of the local papers be allowed to see the judgment? | Yes |
| 2. | To be referred to the Reporter or not? | Yes |
| 3. | Whether the judgment should be reported in the Digest? | Yes |

DIPAK MISRA, CJ

The petitioner, Vinod Kumar Kanojia, has preferred this public interest litigation on behalf of the Hindustan Kanojia Organization (a community of 'Dhobis', scheduled caste in India) after coming to know from a news item published in 'Amar Ujala' Dehradun Hindi newspaper on 20th July, 2010 that a film in the name of 'Dhobi Ghat' is going to be released in December, 2010 and the name of the film has affected the sensitivity and created a dent in the feeling of the community.

2. Mr. Ajay Kumar Bhatia, learned counsel for the petitioner, has referred to the long history of the depressed and also reproduced the storyline in the writ petition to highlight the contention that the said storyline has nothing to do with the 'dhobi ghat' and further the use of the word

‘dhobi’ is an insult to the Scheduled Caste and has affected the feelings of the persons belonging to the said particular caste. It is urged by the learned counsel for the petitioner that the name of the movie as ‘Dhobi Ghat’ violates Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short ‘the 1989 Act’). The learned counsel has also commended us to the decision in *Swaran Singh and others v. State and another*, (2008) 8 SCC 435. He has placed heavy reliance on paragraphs 14 and 27 and for the sake completeness, we reproduce the said paragraphs:-

“14. Before the coming of the British into India, the chamar were a stable socio-economic group who were engaged in manufacturing leather goods by handicraft. As is well known, feudal society was characterized by the feudal occupation division of labour in society. In other words, every vocation or occupation in India became a caste e.g. dhobi (washerman), badhai (carpenter), lohar (blacksmith), Kumbhar (potter), etc. The same was the position in other countries also during feudal times. Thus, even now many Britishers have the surnames Baker, Butcher, Taylor, Smith, Carpenter, Gardener, Mason, Turner, etc. which shows that their ancestors belonged to their professions.

27. Learned counsel then contended that the alleged act was not committed in a public place and hence does not come within the purview of Section 3(1)(x) of the Act. In this connection it may be noted that the aforesaid provision does not use the expression “public place”, but instead the expression used is “in any place within public view”. In our opinion there is a clear distinction between the two expressions.”

On a reading of the provision contained in the 1989 Act and the decision referred to in *Swaran Singh and others* (supra), we really fail to

fathom how the provisions of the Act and the said decision are applicable to the case at hand. In *Swaran Singh and others* (supra), the Apex Court was dealing with the offences committed under Section 3(1)(x) of the 1989 Act against various castes and further what is the difference between ‘public place’ and ‘in any place within public view’. It has nothing to do with the name of a movie which can be christened as ‘Dhobi Ghat’. We have been apprised by Mr. Chandhiok, learned Additional Solicitor General, that “dhobi ghat” is a description of a place where clothes are washed. Thus, it has a place oriented description. We really fail to understand how naming of a movie/film of this nature can be offensive to the caste in question.

3. At this juncture, we may note with profit that cinema as a medium of expression and as a mode of entertainment has reached an enviable status in the modern world. The Indian cinema has a different conception from its inception inasmuch as myths, historical events, poignant novels, biographical sketches along with melodious songs have dominated the silver screen. The term ‘cinema’ is an abbreviation of the term ‘cinematograph’ or ‘kinematograph’. In the first half of the 20th century, it became popular and gained the status of qualitative entertainment. Initially, it was regarded as a trick photography and thereafter, it earned the status of an art. With the passage of time, certain pictures were contrived and there was no sound. In the third decade of the last century, ‘talkies’ arrived and in the year 1926, introduction of sound transformation and technical form of film production took place and slowly colour photography was introduced and factors in size

and quality of the image changed.

4. The cinema as a public medium has something to communicate to the society. The grant of certification of cinema is governed by the Cinematograph Act and the Rules framed thereunder. There is a Censor Board under the Act which screens the movies. The said Act prohibits use and presentation of visual or words contemptuous of racial, religious or other groups. In the case at hand, the name of the movie is 'Dhobi Ghat'. It is difficult to understand how an association which is represented by the petitioner can conceive the idea that if a movie is named 'Dhobi Ghat', it is offensive or plays foul of the provisions contained in the 1989 Act. Therefore, we are of the considered opinion that there is actually no public interest.

5. At this stage, we are inclined to reproduce few passages from ***Ashok Kumar Pandey v. State of West Bengal***, (2004) 3 SCC 349 which read 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, the said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. Public interest litigation which has now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "private interest litigation" or "politics interest litigation" or the latest trend "paise income litigation". If not properly regulated and abuse averted it also becomes a tool in unscrupulous hands to release vendetta and wreak vengeance, as well. There must be real and genuine public interest involved in the litigation and not

merely an adventure of a knight errant or poke one's nose into for a probe. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting *bona fide* and having sufficient interest in the proceeding of public interest litigation will alone have a *locus standi* and can approach the court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. These aspects were highlighted by this Court in Janta Dal case (1992) 4 SCC 305 and *Kazi Lhendup Dorji v. Central Bureau of Investigation*, 1994 Supp. (2) SCC 116. A writ petitioner who comes to the court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective. See *Ramjas Foundation v. Union of India*, AIR1993 SC 852 and *K.R. Srinivas v. R.M. Premchand*, (1994) 6 SCC 620.

11. 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 genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death and facing the gallows under untold agony, persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters - government or private, persons awaiting the disposal of cases wherein huge amounts of public revenue or unauthorized 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 of themselves or as a proxy of others or for any other extraneous motivation or for the 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 frustration in the minds of genuine litigants and resultantly, they lose faith in the administration of our judicial system.

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 armory 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 publicity-oriented or founded on personal vendetta. As indicated above, court must be careful to see that a body of persons or a member of the public, who approaches the court is acting *bona fide* and not for personal gain or private motive or political motivation or other oblique consideration. The court must not allow its process to be abused for oblique considerations. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.”

6. We have quoted in extenso from the aforesaid decision as we are disposed to think that the present litigation, styled as a public interest litigation, has been initiated just to satisfy one’s own egoism or megalomania. It is to be borne in mind that a public cause is required to be espoused in a public interest litigation. It must have some kind of nexus

with the public interest. We are not oblivious of the fact that if the Censor Board grants a certificate in violation of the Act, Rules, Regulations and the Guidelines, the same can be assailed in a court of law regard being had to the other provisions but definitely christening of a movie as ‘Dhobi Ghat’ would not come in the said realm or sphere. We have no hesitation in holding that this is an abuse of the process of the Court and defeats the basic concept of public interest litigation for public good. The present litigation has only exhibited ostentatious proclivity of a personality who intended to occupy the centre stage as a protagonist harbouring the notion that the Court is a laboratory and he can come to play at his own whim and fancy. This is not permissible and not to be countenanced.

7. In view of our preceding analysis, the present writ petition stands dismissed with costs of Rs.25,000/- which shall be deposited within a period of four weeks in favour of The Blind Relief Association, Lal Bahadur Shastri Marg, Near Oberoi Hotel, New Delhi – 110 003. If the petitioner would fail to deposit, liberty is granted to Mr. Chandhiok, learned Additional solicitor General, to move an application before this Court so that the petitioner can be booked under appropriate law.

CHIEF JUSTICE

SEPTEMBER 22, 2010
vk

MANMOHAN, J