HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN

AND

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

PUBLIC INTEREST LITIGATION No.117 OF 2015

ORDER (ORAL) : (Per The Hon'ble The Chief Justice Sri Thottathil B. Radhakrishnan)

G.O.Ms.No.9, dated 17.05.2011, hereinafter referred to as 'impugned order', was issued through the Backward Classes Welfare (C2) Department of the then Government of Andhra Pradesh, before the coming into force of Andhra Pradesh Reorganisation Act, 2014; hereinafter referred to as 'A.P.Reorganisation Act'. This Writ Petition is instituted as a Public Interest Litigation, for short 'PIL', seeking a declaration that the action of the States of Telangana and Andhra Pradesh in continuing with the enforcement of that impugned order is arbitrary, discriminatory and unconstitutional. That Government Order as well as proceedings pursuant to that Government Order are sought to be set aside.

2. We have heard the learned counsel for the petitioner, learned Advocate General for the State of Telangana, and the learned Government Pleader for General Administration and the learned Government Pleader for B.C. Welfare appearing for the State of Andhra Pradesh.

3. The petitioner in this PIL is 'O.C. Sankeshema Sangham' (Registered No.1813 of 2004) – for short, 'Sangham' - represented by its President G. Karunakar Reddy. The Petitioner – Sangham, represented

by the very same person, instituted W.P. No.15094 of 2011, along with G. Srinath, represented by his power of attorney holder C. Vishnuvardhan, challenging the impugned order. That writ petition was contested by the combined State of Andhra Pradesh. On adjudication, the Division Bench held, *inter alia,* that the said Government Order was issued in consultation with the Andhra Pradesh Commission for Backward Classes in terms of Section 11 of Andhra Pradesh Commission for Backward Classes Act, 1993; hereinafter referred to as 'APCBC Act'. Resultantly, that writ petition - W.P.No.15094 of 2011 - was dismissed repelling the challenge levied to the impugned order. That decision of this Court has become final. Thereafter, PIL No.119 of 2014 was filed by Vishnuvardhan, who was obviously aware of the fate of W.P. No.15094 of 2011, in which he was power of attorney holder of petitioner No.2 therein viz., G. Srinath. We have compared the description of C. Vishnuvardhan in W.P. No.15094 of 2011 and C. Sai Vishnuvardhan in PIL No.119 of 2014. It is not disputed, in answer to our query, that it is the same person. That PIL No.119 of 2014 was dismissed as withdrawn with liberty to file a fresh one in proper manner. Such leave granted to the petitioner in that matter inures only to the petitioner therein, namely, Vishnuvardhan, if at all he was entitled to file one; even on the face of the finality of the verdict of this Court in W.P. No.15094 of 2011. Thereafter, this writ petition was presented before this Court on 27.04.2015. It is filed by the Sangham, which was petitioner No.1 in W.P. No.15094 of 2011, which was

adjudicated under Article 226 of Constitution of India and dismissed by the Division Bench through the order dated 30.09.2013 as noted above.

4. With the aforesaid situation, we wanted the learned counsel for the petitioner to address us on the sustainability of the present PIL viz., PIL No.117 of 2015. He argued that the earlier judgment in W.P. No.15094 of 2011 does not operate as *res judicata* and that the cause of action pleaded in this PIL is different from that on the basis of which W.P. No.l5094 of 2011 was instituted. To buttress this argument, he made reference to the provisions of Section 11 of APCBC Act and argued that the cause of action recurs on failure to comply with the statutory command in that provision with the passage of every ten (10) years. According to him, after every ten (10) years, there has to be a revision in terms of Sub-Section (1) of Section 11 of APCBC Act and it is obligatory to consult the Commission in terms of that Sub-Section (2) of Section 11 of that Act. The alleged breach, once in every ten (10) years, gives a fresh cause of action, it is argued.

5. All the three aforementioned writ petitions, including the PIL in hand, were instituted challenging the impugned order, either by seeking that it be set aside or seeking a declaration that it is contrary to law. The earliest among them was dismissed after adjudication. The second one was withdrawn.

6. Repeated scouting of jurisdictions has been deprecated time and again, not merely on the basis of any statutory rule of procedure or practice, but also because such invocation of jurisdictions infracts sound

and well settled principles founded on public policy. Such repeated litigations or relitigations are abuses of the process of the Court and contrary to justice and public policy. The reagitation need not necessarily be barred as *res judicata*. If the same issue is sought to be reagitated, it amounts to an abuse of the process of the Court. The Courts have the power to stop such proceedings summarily and prevent the time of the public and the Court from being wasted. The Courts ought to endeavour to prevent improper use of its machinery and would, in appropriate cases, summarily prevent its machinery from being used for such purposes. If one has chosen to put his case in one way, that person cannot thereafter bring the same issue before the Court by putting the case in another way and say that the subsequent litigation is instituted relying on a new cause of action. Such situations would be one that would be hit by the doctrine of *res judicata* or be struck out on ground that such relitigation results in abuse of the process of the Court. Even where the plea would not necessarily be hit by the doctrine of *issue estoppel*, the subsequent action would still be open to be struck out as an abuse of the process of the Court because it is an abuse, if a party is to relitigate on a question or issue which has been decided, even if the strict rule of *res judicata* or requirement of *issue estoppel* may not apply on all fours. For support, see **K.K. Modi v. K.N. Modi**[1], **Greenhalgh v. Mallard**[2] and **Mcllkenny v. Chief Constable of West Midlands Police Force**[3]. The effective operation of the judicial system, through the Courts as the adjudicating institutions, ought not to be clogged by

[1] **(1998) 3 SCC 573**
[2] (1947) 2 All ER 255
[3] (1980) 2 All ER 227

multiplicity of litigations. Relitigating the same issue over and again requires to be curtailed. The peril of repeated writ petitions in relation to the same subject matter, even those projected as PILs, is turning out to be a matter of abundant public interest; such litigations being counter productive to the acclaimed concept of Public Interest Litigations.

7. The fundamental principles of jurisprudence that underlines the doctrine of *res judicata* is not confined to Section 11 of Code of Civil Procedure, 1908; hereinafter referred to as 'CPC'. They emanate in the form of principles akin to and flowing contemporaneously with that provision, thereby effectuating the public policy to exclude repeated litigations on same issues. Similar is the public policy engrained in Rule - 2 of Order - II CPC. There can be no exclusion of the principles of due and fair procedure embodied in CPC being borne in mind and applied by all adjudicating authorities. Such basic tenets of justice including the fundamental principles founded on public policy are to be applied also to writ matters, to exclude abuse of the process of the Court and resultant miscarriage of justice. Rules of procedure founded on principles of public policy, as embodied in the CPC, form a bundle of common sense rules, which have to implicitly guide the judicial exercise of regulating and controlling the procedure in adjudication rather than permitting it being repeatedly invoked for the same relief in different garbs.

8. The order issued by this Court on 30.09.2013 in W.P. No.15094 of 2011 categorically shows that this Court was satisfied

that the impugned order was issued by the then Government of Andhra Pradesh in consultation with A.P. Commission for Backward Classes. Such consultation was in obedience to the statutory command contained in Section 11 of APCBC Act. That one Government Order applied to the combined State of Andhra Pradesh, before coming into force of A.P. Reorganisation Act. This PIL is laid challenging the very same Government Order, the judicial scrutiny of which stands concluded by the earlier verdict of this Court in W.P.No.15094 of 2011. This PIL cannot be treated as one on a different cause of action. We do not find any ground for the petitioner to plead that there is a segregable and separable bundle of facts which is eligible to be reckoned and treated as cause of action independent of that which was prosecuted by the petitioner in W.P. No.15094 of 2011. We repel the plea of the petitioner in that regard.

9. Notwithstanding the aforesaid, is the fact that the petitioner Sangham has not disclosed the earlier writ petitions; atleast W.P. No.15094 of 2011 to which it was a party. Suppression of material facts in this case is not something that could go excused as an accidental omission. It is surreptitious. Such suppression of material facts is not only a ground to refuse to entertain a matter in jurisdiction under Article 226 of the Constitution but also formidable to mulct such erring litigants with exemplary costs in such litigations.

10. For the aforesaid reasons, we hold that this PIL is a clear abuse of the process of Court. Resultantly, this Public Interest Litigation is dismissed.

11. On the question of imposition of costs, the learned counsel for the petitioner made a fervent plea that the petitioner is an organization and its attempt is only to espouse a collective cause in terms of the Constitution. Taking into consideration, the fact that the petitioner through its counsel appears to have reconciled to the fact that jurisdiction of this Court was invoked without adequate cause, we impose on the petitioner an order of costs for payment of Re.1/- (Rupee one only). Such imposition would notionally represent the fact that this PIL is eligible only to be rejected lock, stock, and barrel. Such costs shall be remitted by the petitioner by demand draft to Andhra Pradesh State Legal Services Authority within three (3) weeks of receipt of the copy of this order.

Consequent to dismissal of PIL, Miscellaneous Petitions, if any, pending in this PIL stand dismissed.

THOTTATHIL B. RADHAKRISHNAN, CJ

V. RAMASUBRAMANIAN, J

September 26, 2018.

Note: LR Copy be marked.
(By Order)
PV/PLN