



2023:DHC:8513-DB



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

+ W.P.(C) 8405/2023 & C.M. Appl.32050/2023

JATIN KHURANA

..... Petitioner

Through: Mr. Vaibhav Mahajan, Mr. Ishaan
Dhingra, Mr. Mridul Tiwari,
Advocates

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Aditya Singla, Advocate for
CBIC

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Date of Decision : 24th November, 2023

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MINI PUSHKARNA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present public interest petition has been filed seeking quashing of the impugned Circular instruction No. 22/2022-Customs dated 06th September, 2022 and Circular instruction No. 27/2021-Customs dated 03rd December, 2021, to the extent it mandates compulsory disposal and sale to RBI of all gold ornaments/ jewellery within three months from the date of seizure as *ultra vires* Section 150, 125 and 110(2) of the Customs Act, 1962 (the 'Customs Act') and violative of Articles 14, 21, 31 and 300A of the Constitution of India.

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W.P.(C) 8405/2023

Page 1 of 4



2023:DHC:8513-DB



2. Learned counsel for the Petitioner states that the impugned Instructions are arbitrary and *ultra vires* the Customs Act as they fail to differentiate between gold jewellery/ornaments/articles which have design and emotional value from other forms of gold. He further states that conversion of gold jewellery into gold bars and their consequent sale closes all doors for restitution and causes irreparable loss to the rightful owners. He also states that the impugned Instructions are arbitrary as they fail to differentiate between 'seized' gold jewellery and 'confiscated' gold jewellery.

3. After hearing the learned counsel for the petitioner at some length, this Court is of the view that the present petition is not maintainable as it is a settled principle of law that an aggrieved person must approach the Court. The standing doctrine characteristic is that a potential litigant must be injured by the action it is challenging. In the opinion of this Court, the petitioner is a stranger, who has not been adversely affected by either of the impugned Circular Instructions as none of his ornaments or articles or jewellery items have been seized.

4. Undoubtedly, the rule of *locus standi* is relaxed in case of public interest litigation, but that is to be done only to ensure that the poor or socially and economically backward or persons with disability are not denied their rights. In a public interest case, there need be no litigant, if a problem is deemed by the Court as worthy of attention. The concept of public interest litigation, as stated hereinabove, is linked to the enforcement of the social and economical rights in India. The Supreme Court in ***Guruvayoor Devaswom Managing Committee & Anr. vs. C.K. Rajan & Ors., (2003) 7 SCC 546*** has held as under:-



2023:DHC:8513-DB



“41. The courts exercising their power of judicial review found to their dismay that the poorest of the poor, the depraved (sic), the illiterate, the urban and rural unorganized labour sector, women, children, those handicapped by “ignorance, indigence and illiteracy” and other downtrodden persons have either no access to justice or had been denied justice. A new branch of proceedings known as “social action litigation” or “public interest litigation” was evolved with a view to render complete justice to the aforementioned classes of persons. It expanded its wings in course of time. The courts in pro bono publico granted relief to inmates of prisons, provided legal aid, directed speedy trials, maintenance of human dignity and covered several other areas. Representative actions, pro bono publico and test litigations were entertained in keeping with the current accent on justice to the common man and a necessary disincentive to those who wish to bypass real issues on merits by suspect reliance on peripheral procedural shortcomings. (See Mumbai Kamgar Sabha v. Abdulbhai Faizullabhai [(1976) 3 SCC 832 : 1976 SCC (L&S) 517 : (1976) 3 SCR 591] .)

42. The Court in pro bono publico proceedings intervened when there had been callous neglect as a policy of State, a lack of probity in public life and abuse of power in control and destruction of the environment. It also protected inmates of prisons and homes. It sought to restrain exploitation of labour practices.”

5. At this stage, learned counsel for the petitioner states that the petitioner has filed the present Public Interest Litigation as jewellery / ornaments worth as low as Rs.50,000 can be seized at the airport and sold immediately.

6. This Court is of the view that any individual who owns gold jewellery/ ornaments and who travels by air is not economically or socially backward and can approach the Courts directly.

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W.P.(C) 8405/2023

Page 3 of 4



2023:DHC:8513-DB



7. Consequently, the present petition which has been filed as Public Interest Litigation is held to be non-maintainable and the same is dismissed alongwith pending application.

ACTING CHIEF JUSTICE

MINI PUSHKARNA, J

NOVEMBER 24, 2023
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W.P.(C) 8405/2023

Page 4 of 4