



**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

D.B. Civil Writ Petition No. 5856/2020

Kshitiz Sharma S/o Shri Rajeev Lochan Sharma, Aged About 27 Years, R/o D-249, Devi Marg, Banipark, Jaipur. Presently Residing At 148, Bhaskar Marg, Banipark, Jaipur (Raj.)

-----Petitioner

Versus



The State Of Rajasthan, Through Additional Chief Secretary, Finance Department, Government Of Rajasthan, Jaipur.

2. State Insurance And Provident Fund Department Through Its Director, 2-2A, Bima Bhawan, Sawai Jaisingh Highway, Banipark, Jaipur.

Income Tax Department, Government Of India, Through Principal Chief Commissioner Of Income Tax Rajasthan, Jaipur.

-----Respondents

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For Petitioner(s) : Mr. Kshitiz Sharma-petitioner in person through video conferencing  
For Respondent(s) :

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**HON'BLE MR. JUSTICE GOVERDHAN BARDHAR  
HON'BLE MR. JUSTICE CHANDRA KUMAR SONGARA**

**Judgment / Order**

**30/05/2020**

सत्यमेव जयते

The petitioner has filed this Public Interest Litigation (in brevity 'the PIL') under Chapter XXII-A Rule 385A to 385R of the High Court Rules read with Article 309 of the Constitution of India with the following prayers:-

*"It is, therefore, respectfully submitted that your Lordships may be graciously enough to kindly allow this Public Interest Litigation, and -*



I. to kindly issue a writ of Mandamus or any other writ, order or direction in the nature thereof and thereby the respondents be directed to deduct the TDS from the provident fund account of the Retd. Employees who have availed the option to continue their GPF account.

II. to kindly issue a writ of Mandamus or any other writ, order or direction in the nature thereof and thereby the respondents be directed to recover the tax from the subscribers from whom account respondent have failed to deduct TDS.

III. to kindly issue a writ or Mandaums or any other writ, order or direction in nature thereof and thereby the respondents be directed to give the option to continue with GPF account and not to add various others pension benefits in the scheme.

IV. to kindly issue a writ of Mandamus or any other writ, order or direction in the nature thereof and the impugned amendment be held illegal and void.

V. Any other appropriate writ, order or directions which is deemed just and proper by this Hon'ble Court may also be passed in favour of the petitioner."

The petitioner, heard in person, through video conferencing alleged in the petition that the State Government by exercising the powers conferred by the proviso of the Article 309 of the Constitution and Rule 21C of the Rajasthan Service Rules, 1951 (in brevity 'the Rules of 1951'), formulated the Rajasthan 'The New General Provident Funds Rules, 1997' (in brevity 'the Rules of 1997'). The Rules of 1997 were formulated so as to reduce or minimize the difficulties faced by the government servants in getting their provident funds claims cleared. However, the State Government from time to time through various



amendments has changed the basic structure of the fund by exercising the power under Article 309 of the Constitution and Rule 21 of the Rules of 1951. These amendments provide that the account holders can also deposit their gratuity, commutation of pension, leave encashment etc. in their provident fund account.

The petitioner further alleged in the aforesaid PIL that due to lack

of proper clarification and classification between the provident fund account of servicing and retired employees, there is a scope of misusing this scheme by the retired employees by using advantage of taxation laws which were meant only for servicing employees. The petitioner along-with the PIL has annexed

Annex.3-amendment dated 28.06.2012, by which again an amendment was introduced under Article 309 of the Constitution of India and Rule 21 of the Rules of 1951, wherein sub-rule (1) of Rule 4 of the Rules of 1997 was substituted, which reads ad-infra:-

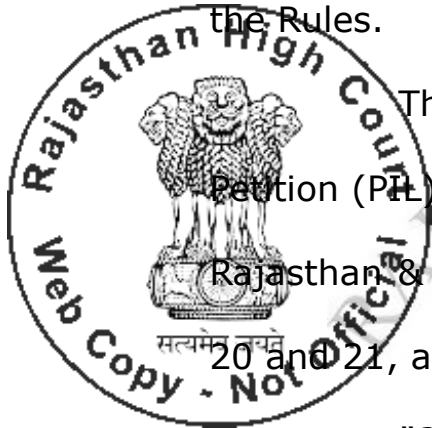
*“(1) An account holder/ an AIS Officer of Rajasthan Cadre on his retirement shall have the option of continuing his Provident Fund Account with the department for any period for depositing pensionary benefits like amount of gratuity, commutation of pension, maturity claim of insurance, encashment of balance of Privilege Leave etc. An account holder/ an AIS Officer of Rajasthan Cadre whose account has been closed shall also be eligible to get his account revised and continue for aforesaid deposits. This facility shall also be available to the retired Judges of Rajasthan High Court at their option”.*

We have heard the petitioner in person through video conferencing and scanned and scrutinized the entire material which is with the instant PIL.





Indisputably, the petitioner is not a retired government servant. It is thus clear that the petitioner failed to show that he is acting bonafide and having sufficient interest with the proceedings of PIL. We are of the opinion that the amendment dated 28.06.2012 (Annex.3) made by the State Government whereby the Scheme impugned is implemented, is not invalid or contrary to the Rules.



The Division Bench of this Court in D.B. Civil Writ Petition (PIL) No.10087/2011 (Ram Narain Sharma Versus State of Rajasthan & Ors.) decided on 18<sup>th</sup> September 2013, held in paras 20 and 21, ad-infra:-

*"20. In the matter of public interest litigation, the Court has to be satisfied about (i) the credentials of the petitioner; (ii) prima facie trustworthiness and correctness as well is the nature of information furnished; (iii) the information furnished should not be vague and indefinite. The information should show gravity and seriousness involved in the matter that is brought before the court as public interest litigation. The Court has to strike a balance between two conflicting interests; (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others without there being any factual foundation to sustain such allegations; and (ii) to avoid public mischief and to avoid mischievous petitions seeking to assail, for personal gains and oblique motives; justifiable executive actions.*

*21. The Court has to be extremely careful to see that under the guise of redressing a public grievance in the name of public interest litigation, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature. The Court has to act ruthlessly while dealing with imposters and busy bodies or meddlesome interlopers as well as the proxy for others, impersonating as public-spirited citizens. They masquerade as crusaders of justice. They pretend to act in the name of Pro Bono Publico, through they have no interest of the public or even of*



*their own to protect rather they may be fostering the interests of others for personal gains.”*

In view of above, after carefully considering the contents of the writ petition and the facts and circumstances of the present case, we are of the considered view that no ground for exercising jurisdiction under Article 226 of the Constitution of India in this petition filed by way of Public Interest Litigation, is made out as the issue raised in the instant petition does not fall within the purview of 'Public Interest Litigation' but is nothing more than a "publicity interest litigation".

In view of above, the instant PIL filed by the petitioner is without any substance and accordingly stands dismissed.

(CHANDRA KUMAR SONGARA),J

(GOVERDHAN BARDHAR),J

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