

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (PIL) No. 4290 of 2021

Shiv Shankar Sharma, aged about 43 years, S/o Sri Gautam Sharma, R/o-Village Tikra Toli, Nagari, Piska, P.O. & P.S.-Nagari, District-Ranchi, Jharkhand **Petitioner**

Versus

1. The State of Jharkhand
2. The Chief Secretary, Government of Jharkhand, Project Building, P.O. & P.S.-Dhurwa, District-Ranchi, Jharkhand.
3. The Director General of Income Tax, Investigation, Government of Jharkhand, Central Revenue Building, 5A, Main Road, Ranchi, P.O.-G.P.O., P.S.-Daily Market, District-Ranchi, Jharkhand.
4. The Central Bureau of Investigation, Plot No.5/B, CGO Complex, Lodhi Road, Jawaharlal Nehra Stadium Marg, P.O. & P.S.-Lodhi Road, New Delhi, Delhi 1100033.
5. The Enforcement Directorate, Delhi, 6th floor, Lok Nayak Bhawan, P.O. & P.S.-Khan Market, New Delhi, 110003.
6. Sri Hemant Soren, S/o-Sibu Soren, R/o-Kanke, Ranchi, P.O.-Ranchi, University, P.S-Gonda, District-Ranchi, Jharkhand.
7. Sri Basant Soren, S/o-Sibu Soren, R/o-House No.3030, Bokaro Steel City, Sector-5A, P.O. & P.S.-Sector-6, District-Bokaro, Jharkhand.
8. Sri Ravi Kejriwal, S/o-Not Known, R/o-A/2 Sector-1 Market, Ram Mandir, Bokaro, P.O. & P.S.-Sector-I, District-Bokaro, Jharkhand.
9. Sri Ramesh Kejriwal, S/o-Not Known, R/o-8 BBD Bagh, P.O.-B.B.G. Bagh, P.S. BBG Bagh (East) Kolkata 800001, West Bengal.
10. Sri Rajeev Agrawal, S/o-Not Known, R/o-8 BBD Bagh, PO/PS-B.B.G. Bagh (East) Kolkata 800001, West Bengal.
11. Nidhi Agrawal, D/o-Not Known, R/o-FL-I-C 3 Mayfair Road, Bata Heritage Building, Kolkata, P.O., P.S. & District-Kolkata-700019, West Bengal.
12. Sri Prem Nath Mali, S/o-Not Known, R/o-4D (3rd Floor) Madan Mohan Barman Street, PO/PS- Netaji Subhas Road, Kolkata-700007, West Bengal.
13. Sri Ranjan Sahu, S/o-Not Known, R/o-Hot Lips, Kanke Road, P.O. & P.S.-Kanke, District-Ranchi, Jharkhand.
14. Registrar of Companies-cum-Official Liquidator, Ministry of Corporate Affairs, Mangal Tower, 4th floor, Old

Hazaribagh Road, Near Kanta Toli Chowk, Ranchi-834001.

... .. **Respondents**

With

W.P. (PIL) No. 727 of 2022

Shiv Shankar Sharma, aged about 43 years, S/o Sri Gautam Sharma, R/o-Village Tikra Toli, Nagri, Piska, P.O. & P.S.-Nagri, District Ranchi, Jharkhand **Petitioner**

Versus

1. The State of Jharkhand through the Chief Secretary, Government of Jharkhand, Project Building, P.O. & P.S.-Dhurwa, District-Ranchi, Jharkhand.
2. The Home Secretary, Government of Jharkhand, Project Building, P.O. & P.S.-Dhurwa, District-Ranchi, Jharkhand.
3. The Secretary, Department of Mines, Geology Jharkhand, Nepal House, P.O. & P.S.-Doranda, District-Ranchi, Jharkhand.
4. The District Mining Officer, Ranchi, Nepal House, P.O. & P.S.-Doranda, District-Ranchi, Jharkhand.
5. The Director, Central Bureau of Investigation, Plot No.5B, 10th Floor, B Wing, CGO Complex, Lodhi Road, New Delhi, P.O. & P.S.-Lodhi Road, District-New Delhi-110003.
6. The Director, Enforcement Directorate, 6th Floor, Lok Nayak Bhawan, Khan Market, New Delhi, P.O. & P.S.-Khan Market, District-New Delhi, 110003.
7. Hemant Soren, The Minister, The Department of Mines, Government of Jharkhand, Kanke Road, P.O.-Ranchi University, P.S-Gonda, District-Ranchi, Jharkhand.
8. Puja Singhal Secretary, Department of Mines, Government of Jharkhand, Near Raj Bhawan, P.O.-Ranchi College, P.S.-Gonda, District-Ranchi, Jharkhand.
9. The Principal Secretary to Hon'ble Governor, Raj Bhawan, Ranchi, P.O.-Ranchi College, P.S.-Gonda, District-Ranchi, Jharkhand

... .. **Respondents**

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD**

For the Petitioner : Mr. Rajeev Kumar, Advocate

For the State : Mr. Kapil Sibal, Senior Advocate
: Mr. Rajiv Ranjan, A.G.
: Mr. Piyush Chitresh, A.C. to A.G.

For the Resp. No.3 : Mr. Rahul Lamba, Advocate
[In W.P.(PIL) No.4290 of 2021]

For the Resp. No.6/7: Mr. Mukul Rohatagi, Senior Advocate
Mr. Amritansh Vats, Advocate
[In W.P.(PIL) Nos.4290 of 2021 Resp.
No. 6 & In WP (PIL) No. 727 of 2022
Resp. No. 7]

For the UOI : Mr. Prashant Pallav, A.S.G.I.

For the E.D. : Mr. Tushar Mehta, Senior Advocate
: Mr. Amit Kumar Das, Advocate

ORDER

10/Dated: 3rd June, 2022

With the consent of the parties, hearing of the matters has been done through video conferencing and there is no complaint whatsoever regarding audio and/or visual quality.

2. At the outset it requires to refer herein that three 'Public Interest Litigations being W.P. (PIL) No. 4632 of 2019; W.P. (PIL) No. 4290 of 2021 and W.P. (PIL) No. 727 of 2022 have been filed by Arun Kumar Dubey and Shiv Shankar Sharma respectively and have been ordered to be heard side by side.

3. In W.P. (PIL) No. 4632 of 2019, the petitioner has sought for direction upon the Director, Directorate of Enforcement and the Assistant Director (PMLA), Directorate of Enforcement to investigate the fifteen FIRs in Khunti Police Station and one in Arki Police Station Case pertaining to involvement of Ram Binod Prasad Sinha and others registered under Sections 406, 409, 420, 423, 424, 465 and

120B of the Indian Penal Code and Section 11, 12(2) and 13(1)(e) of the Prevention of Corruption Act, 1988.

In W.P. (PIL) No. 4290 of 2021, direction has been sought upon Director General, Income Tax (Investigation) to enquire into the money transferred of Soren Family in the name of respondent nos. 8 to 13, through SHELL Companies, as also to investigate the sources of income of private respondents and investigate the financial crime committed by respondent no. 6.

In W.P. (PIL) No. 727 of 2022, direction has been sought to prosecute the Chief Minister-cum-Minister Department of Mines for misuse of office in getting the mining lease in his own name.

4. When the matter was taken up on 22nd April, 2022, learned senior counsel appearing for the State has submitted that similar issue was earlier dismissed by this Court, which was affirmed by Hon'ble Supreme Court.

For ready reference, order dated 22nd April, 2022 passed in W.P. (PIL) No. 4290 of 2021 is quoted as under:

“Let the Registrar of Companies-cum-Official Liquidator, Ministry of Corporate Affairs, Mangal Tower, 4th floor, Old Hazaribagh Road, Near Kanta Toli Chowk, Ranchi-834001, Jharkhand be impleaded as party-respondent no. 14.

Learned counsel appearing for the State has informed that an identical writ petition was dismissed with cost by this Court filed by the same counsel and the matter went up to the Hon'ble Supreme Court, where also, the S.L.P. was dismissed.

Mr. Prashant Pallav, learned A.S.G.I. waives notice on behalf of the newly impleaded party-respondent no.14.

Let him seek instructions from the Registrar of Companies regarding the Companies against which allegations have been made in this writ petition.

Let the details of those Companies be furnished by the counsel appearing for the Registrar of the Companies to this Court.

Mr. Amit Kumar Das, learned counsel waives notice on behalf of the Enforcement Directorate.

Let the copy of the supplementary affidavit be served upon all the respondents by the writ petitioner.

Put up this matter on 13.05.2022 along with the records of W.P. (PIL) No. 4218 of 2013.”

Emphasis Supplied

Thereafter, the matter was heard on 13th May, 2022, on which date following order was passed:

Vide order dated 22.4.2022 this Court had directed the Registrar of Companies –cum- Official Liquidator, Ministry of Corporate Affairs to be impleaded as respondent no.14 and directed the learned counsel appearing for the newly added respondent no. 14 to seek instruction from him regarding the Companies against which allegations have been made in the writ petition.

The Registrar of Companies has filed an affidavit informing this Court that he can provide details of only four Companies which fall within the territorial jurisdiction of the said respondent. So far other 45 companies are concerned, they fall within the jurisdiction of RoC, Patna, Delhi, Haryana, Chhatisgarh , Cuttuck (Orissa) as well as Kolkata (West Bengal). The Enforcement Directorate (respondent no.5) was also noticed, however, Mr.Amit Kumar Das learned counsel for the said Department, waived notice on its behalf.

Today, when the matter was called out, Mr. Tushar Mehta, learned Senior Advocate appeared for the Enforcement Directorate and informed that after the aforesaid order, the Enforcement Directorate has

conducted operations in which the materials collected during such operations have made certain startling revelations connected with the subject matter of this Public Interest Litigation. He has further submitted that before deliberation, he would request the Court to have a look at those materials. He further submits that since the operations are still going on, it will not be proper to bring those documents/facts on record as the same may hamper such operations. As such a request has been made by him to direct the aforesaid Directorate to produce those materials for perusal of this Court under sealed cover. He further contends that some time may be given to him for submitting the sealed cover.

Let the same be produced for perusal of this Court on or before the next date of hearing.

At this juncture, Mr.Kapil Sibal, learned Senior Advocate, appearing for the State of Jharkhand, has made a submission that he has to raise a preliminary objection regarding the maintainability of the case itself.

We would consider the preliminary objection and then the merit also, if required, on the next date of hearing.

This Court was inclined to fix the date of further hearing on 18.5.2022, but Mr.Kapil Sibal submitted that he would have personal difficulty on that particular date. However, he pointed out that it would be alright, if a date is fixed on 17.5.2022 at 2.15 P.M. There is no opposition to the aforesaid submission by any party.

Accordingly, let these matters be posted on 17.5.2022 at 2.15 p.m. under the Video Conferencing mode.”

Emphasis Supplied

On 17th May, 2022 the matter was heard and following order was passed:

“I.A. 4349 of 2021

The instant interlocutory application has been filed on behalf of the respondent no. 1 for the following reliefs : -

(a) dismiss the Writ Petition being (PIL) No. 4290 of 2021 as non-maintainable.

(b) to recall the orders dated 22.04.2022 and 13.05.2022 passed by this Hon'ble Court in Writ Petition (PIL) No. 4290 of 2021

(c) To direct that sealed cover, if any, submitted by the Respondent No. 5 (ED) pursuant to the order dated 13.05.2022, be returned.

(d) Stay of all further proceedings in Writ Petition (PIL) No. 4290 of 2021 till disposal of the present Application

(e) Ad interim orders in terms of prayers (a), (b), (c) and (d) above;

Mr. Kapil Sibal, learned senior counsel appearing for the Respondent-State of Jharkhand has submitted that the orders dated 22.04.2022 and 13.05.2022 in W.P. (PIL) No.4290 of 2021 may be recalled, since the writ petition itself is not maintainable, and as such, the sealed cover may not be opened.

Mr. Tushar Mehta, learned senior counsel appearing for the Enforcement Directorate, has submitted that the documents have been submitted for perusal of the Court so that the materials, which have been surfaced during investigation by the Enforcement Directorate may be perused, since, it would not be appropriate, at this stage, to bring the documents on record, reason being that, the investigation is in progress, as such, disclosure of the documents would seriously hamper the progress of the investigation.

This Court has heard the learned counsel for the parties on the issue and thought it proper that the Court before proceeding to open the sealed cover, deem it fit and proper to decide the objection raised on behalf of the Respondent-State of Jharkhand.

We have heard the learned counsel for the parties.

The question, which is required to be decided by this Court at this stage, is as to whether the Court can look into the documents and materials produced by the prosecution before the Court without first confronting the accused with these materials.

The aforesaid issue fell for consideration before the Hon'ble Apex Court in the case of **P. Chidambaram-Vs.-Directorate of Enforcement reported in (2019) 9 SCC 24**, wherein, at paragraph 55, it has been laid down as hereunder:-

"55. The Enforcement Directorate has produced the sealed cover before us containing the materials collected during investigation and the same was received. Vide order dated 29-8-2019, we have

stated that the receipt of the sealed cover would be subject to our 3 finding whether the court can peruse the materials or not. As discussed earlier, we have held that the court can receive the materials/documents collected during the investigation and peruse the same to satisfy its conscience that the investigation is proceeding in the right lines and for the purpose of consideration of grant of bail/anticipatory bail, etc. In the present case, though sealed cover was received by this Court, we have consciously refrained from opening the sealed cover and perusing the documents. Lest, if we peruse the materials collected by the respondent and make some observations thereon, it might cause prejudice to the appellant and the other coaccused who are not before this Court when they are to pursue the appropriate relief before various forum. Suffice it to note that at present, we are only at the stage of considering the pre-arrest bail. Since according to the respondent, they have collected documents/materials for which custodial interrogation of the appellant is necessary, which we deem appropriate to accept the submission of the respondent for the limited purpose of refusing pre-arrest bail to the appellant.”

This Court on consideration of the judgment of the Hon’ble Apex Court quoted and referred hereinabove and applying the same on the facts of the given case, deem it fit and proper to peruse the documents considering the public interest at large.

In view thereof, the prayer made on behalf of the Respondent State of Jharkhand, so far as it relates to recall of the orders dated 22.04.2022 and 13.05.2022 passed in W.P. (PIL) No.4290 of 2021 is, hereby, rejected.

Accordingly, the sealed cover has been opened and the documents have been perused by this Court.

Let the records be sealed again and kept in the safe custody of the High Court.

So far as the other prayers made in the instant interlocutory applications are concerned, the same will be considered on its own merit.

W.P. (PIL) No.4290 of 2021

Heard the learned counsel for the parties on the merit of the issue.

Mr. Kapil Sibal, learned counsel appearing for the State of Jharkhand assisted by Mr. Rajiv Ranjan, learned Advocate General of the State, has raised preliminary objection regarding maintainability of the writ application, on the ground of lack of credentials of the writ petitioners. He has relied upon several judgments of the Hon'ble Apex Court. He further submits that it is not a case where the investigation is to be transferred to the special Agency like the Central Bureau of Investigation, since there is no F.I.R.

Learned counsel appearing for the petitioner has submitted that the credentials of the writ petitioner which has been taken as a ground for dismissal of the writ petition is not worth to be considered, since the embezzlement of public money is involved and the Secretary (Mines) of the State of Jharkhand has been apprehended from whose possession huge money has been recovered.

Mr. Tushar Mehta, learned Senior Counsel appearing for the Enforcement Directorate assisted by Mr. Amit Kumar Das, learned counsel, has submitted that the State is making an objection for investigation of the matter by the Central Bureau of Investigation, but, very surprisingly no F.I.R. has been instituted by the State, even though the Secretary (Mines) of the State of Jharkhand has been apprehended and incriminating materials have been recovered from her possession and disclosure of names of the high-ups of the State of Jharkhand and 5 others as would appear from the documents contained in the sealed cover. As such, for public interest at large, for fair investigation, it is necessary to hand over the investigation to the Central Bureau of Investigation.

Mr. Rajiv Kumar, learned counsel, has submitted by making reference of W.P. (PIL) No. 4632 of 2019 that the issue pertaining to embezzlement of public money under the MGNREGA Scheme is involved, wherein, the Enforcement Directorate is proceeding for investigating the matter, as such, these cases may be listed along with W.P. (PIL) No. 4632 of 2019.

In course of argument, it has been submitted on behalf of the parties that 16 F.I.Rs. have been instituted and investigation of the same is being conducted by the District Police, the said fact has not been disputed by the learned Advocate General appearing for the State.

Considering the aforesaid facts, the learned Advocate General of the State of Jharkhand is directed to furnish the details of the F.I.Rs, date of institution of the cases as also the stage of the investigation.

This is also a fact that the Mining Secretary of the State has been apprehended and has been suspended by the State Government.

It is contended by the learned counsel for the writ petitioner that it would be apt to hear the W.P. (PIL) No. 4632 of 2019 also along with this in view of the fact that it relates to such matter in which one of the Junior Engineers and some accused have already been apprehended and certain directions were given by this Court.

Let the aforesaid matter being W.P. (PIL) no. 4632 of 2019 be also placed side by side this matter on the next date of hearing.

Since we would be directing the State Government to produce the details of those 16 First Information Reports, accordingly, let these matters be posted day-after-tomorrow (19.05.2022) at 10.30 a.m. under the Video Conferencing mode.

Emphasis Supplied

On 19th May, 2022, when the W.P. (PIL) No. 4290 of 2021 was taken up, it was informed that order dated 17.05.2022 passed in W.P. (PIL) No. 4290 of 2021 and W.P. (PIL) No. 727 of 2022 has been assailed before the Hon'ble Supreme Court and the same is likely to be taken up tomorrow, as such following order was passed:

Mr. Piyush Chitresh, learned A.C to Advocate General, appearing for the State of Jharkhand has submitted that there is typographical error in order dated 17.05.2022, wherein the year of Interlocutory Application, being I.A. No. 4349 of 2022, has been shown to be 2021 instead of 2022.

This Court, after going through the record, has found that typographical error has crept up in order dated 17.05.2022, wherein year of Interlocutory Application, being I.A. No. 4349 of 2022, has wrongly been typed as 2021 instead of 2022.

Accordingly, order dated 17.05.2022 is modified to the extent that year of Interlocutory Application shall be read as 2022, being passed in I.A. No. 4349 of 2022.

Mr. Tushar Mehta, learned Solicitor General of India, appearing for the Enforcement Directorate, has submitted that an affidavit has been filed in order to bring the facts, which were argued on the previous date, on oath.

Upon this, learned counsel appearing for the State of Jharkhand has submitted that since the aforesaid affidavit has been filed today itself, therefore, time may be allowed to go through the contents of the same and if required to file response thereto.

In view thereof, let the State file response to the affidavit filed by the Enforcement Directorate, if so required, as stated.

Mr. Kapil Sibal, learned senior counsel for the State has informed to this Court that the State of Jharkhand has assailed the orders dated 17.05.2022 passed by this Court in W.P. (PIL) No. 4290 of 2021 and W.P. (PIL) No. 727 of 2022 before the Hon'ble Supreme Court, having Filing Diary No. 16067 of 2022 dated 19.05.2022, which is likely to be taken up tomorrow.

Mr. Tushar Mehta, learned Solicitor General of India, has also submitted that order dated 17.05.2022 passed in W.P. (PIL) No. 4290 of 2021 and W.P. (PIL) No. 727 of 2022 has been assailed before the Hon'ble Supreme Court and the same is likely to be taken up tomorrow.

In such view of the matter, learned Advocate General, appearing for the State has submitted that matter may be adjourned. We accordingly deem it fit and proper to adjourn the matter for today.

We were fixing the matter for Saturday taking into consideration the urgency of the matter since there is allegation of siphoning of huge public money by high officials of the State as also there is allegation upon high-ups in the political side of the State for allowing such embezzlement of public money, upon which, learned Advocate General has informed that since Saturday (21.05.2022) is not a Court working day, therefore, it may be kept for another day. Thereafter, we were keeping the matter to be heard on Monday (23.05.2022), whereupon, it was

submitted on behalf of learned Advocate General that on Monday Mr. Kapil Sibal, learned Senior Counsel would not be available as he has to go to Jabalpur, therefore, prayer was made to post the matter on Tuesday (24.05.2022). There is no objection from the other side for fixing the matter on Tuesday (24.05.2022).

We, therefore, considering the submission advanced by learned Advocate General appearing for the State of Jharkhand and having no objection on the other side, deem it fit and proper to post the matter to be heard on 24th May, 2022.

Let the records produced by the Enforcement Directorate be sealed again and kept in safe custody of the High Court to be produced on the next date of hearing.

Accordingly, list this case on 24th May, 2022 at 11.00 a.m. to be heard through Video Conferencing Mode.”

Emphasis Supplied

5. When the matter was taken up on 24th May, 2022, it was informed that the S.L.Ps. being Special Leave to Appeal (C) No. 9729-9830/2022, preferred against order dated 13.05.2022 and 17.05.202 passed in W.P. (PIL) No. 4290 of 2021 have been disposed of.

The order passed by Hon’ble Supreme Court in Special Leave to Appeal (C) No. 9729-9830/2022 reads as under:

1. A batch of three writ petitions is pending before the Division Bench of the High Court of Jharkhand:

- (i) In Writ Petition (PIL) No 4632 of 2019; the petitioner, Arun Kumar Dubey, seeks, inter alia, a direction to the Directorate of Enforcement to investigate 15 FIRs pertaining to alleged offences arising out of the disbursement of MANREGA funds to Khunti Zila Parishad implicating offences under Sections 406, 409, 420, 423, 429, 465 and 120B of the Indian Penal Code and Sections 11, 12(2) and 13(1)(e) of the Prevention of Corruption Act, 1988;*
- (ii) In Writ Petition (PIL) No 4290 of 2021; the petitioner, Shiv Shankar Sharma seeks a direction for an investigation into the alleged transfer of SLP(C) 9729-9730/2022 3 monies by the Soren*

family in the names of respondent Nos 8 to 13 through the instrumentality of certain shell companies; and

(iii) In Writ Petition (PIL) No 727 of 2022; the petitioner Shiv Shankar Sharma seeks a direction for sanctioning the prosecution of the Chief Minister for obtaining a mining lease in his own name implicating offences under the provisions of the Prevention of Corruption Act, 1988 and the Indian Penal Code.

2. On 22 April 2022, when Writ Petition (PIL) No 4290 of 2021 came up before a Division Bench presided over by the Chief Justice, the Court recorded the submission of the counsel for the State that “an identical writ petition was dismissed with costs by this Court filed by the same counsel and the matter went up to the Supreme Court” where the Special Leave Petition was dismissed. After issuing certain procedural directions for the impleadment of the Registrar of Companies, the Division Bench directed that the proceedings in Writ Petition (PIL) No 4290 of 2021 be placed along with the records of Writ Petition (PIL) No 4218 of 2013 on 13 May 2022.

3. On 13 May, 2022, the High Court, *inter alia*, noted the submissions of the State of Jharkhand objecting to the maintainability of the petition. This was dealt with in the following extract:

“At this juncture, Mr Kapil Sibal, learned Senior Advocate, appearing for the State of Jharkhand, has made a submission that he has to raise a preliminary objection regarding the maintainability of the case itself.

We would consider the preliminary objection and then the merit also, if required, on the next date of hearing” SLP(C) 9729-9730/2022

4. The High Court posted the proceedings on 17 May 2022. On 17 May 2022, the High Court, after perusing a sealed cover which was tendered on behalf of the Directorate of Enforcement, noted the submission of the petitioner that WP (PIL) No 4362 of 2019 may be placed along side the petition which the High Court was considering on the next date of hearing and accordingly the proceedings were adjourned to 19 May 2022. On 19 May 2022, the High Court has passed separate orders in Writ Petition (PIL) Nos 727 of 2022, 4632 of 2019 and 4290 of 2021. The High Court posted the proceedings on 24 May 2022.

5. The Special Leave Petitions have been instituted by the State of Jharkhand in order to challenge the orders dated 13 May 2022 and 17 May 2022 in Writ Petition (PIL) No 4290 of 2021.

6. We have heard Mr Kapil Sibal, senior counsel appearing on behalf of the State of Jharkhand, Mr Mukul Rohatgi, senior counsel appearing on behalf of the sixth respondent (Shri Hemant Soren) and Mr Tushar Mehta, Solicitor General appearing on behalf of the Central Bureau of Investigation and the Directorate of Enforcement.

7. The sequence of events narrated in the earlier part of the present order indicates that the High Court had, by its order dated 13 May 2022, specifically noted that it would consider the primary objection to the maintainability of Writ Petition (PIL) No 4290 of 2021 and deal with the merits thereafter, if required, on the next date of hearing.

8. Mr Kapil Sibal, senior counsel appearing on behalf of the petitioner has adverted to the provisions of the Jharkhand High Court (Public Interest Litigation) Rules, 2010, more particularly the provisions of Rules 4, 4-A, 4-B and 5. SLP(C) 9729-9730/2022

9. **Since the High Court has observed in its order dated 13 May 2022 that it would deal with the maintainability of the petition upfront, we are of the considered view that it would be appropriate in the interests of justice that the Division Bench presided over by the learned Chief Justice does so before without proceeding to the merits of the public interest litigation.**

10. **The issue of maintainability should be dealt with by the High Court on the next date of listing when the proceedings are taken up. Based on the outcome of the objections to the maintainability of the proceedings, the High Court may thereafter proceed in accordance with law.**

11. The Special Leave Petitions are disposed of in the above terms.

12. This Court has had no occasion to deal with the merits of the rival contentions which arise in the Special Leave Petitions or nor has it become necessary for this Court to express any view on the allegations which are levelled in the writ petition since that is a matter which is pending consideration before the High Court.

13. Pending applications, if any, stand disposed of.”

Emphasis supplied

It appears from the order passed by Hon'ble Supreme Court that the issue of maintainability has been raised in W.P. (PIL) No. 4290 of 2021 and W.P. (PIL) No. 727 of 2022. The aforesaid fact is also being corroborated from order dated 19th May, 2022 passed in W.P. (PIL) No. 4290 of 2021. Mr. Kabil Sibal, learned senior counsel appearing for the respondents-State of Jharkhand informed this Court that order dated 17.05.2022 passed in W.P. (PIL) No. 4290 of 2021 and W.P. (PIL) No. 727 of 2022 have been assailed before the Hon'ble Supreme Court. It is apparent that a final order was passed by the Hon'ble Apex Court in the S.L.P.(s) filed against our order.

This Court, taking into consideration the order passed by Hon'ble Apex Court on 24th May, 2022 is proceeding to hear the issue of preliminary objection with regard to maintainability of these two writ petitions i.e., W.P. (PIL) No. 4290 of 2021 and W.P. (PIL) No. 727 of 2022.

6. At the outset, during course of hearing of the matter, this Court put a query upon Mr. Sibal, learned senior counsel for the respondent-State of Jharkhand as to whether he would addressing the issue of maintainability in both the writ petitions, i.e. W.P. (PIL) No. 4290 of 2021 and W.P. (PIL) No. 727 of 2022, he submitted that he would be only addressing the issue of maintainability in W.P. (PIL) No. 4290 of 2021.

However, Mr. Mukul Rohatagi, learned senior counsel

appearing for respondent no. 6 in W.P. (PIL) No. 4290 of 2021, (respondent no. 7 in W.P. (PIL) No. 727 of 2022) has submitted that he would be addressing the issue of maintainability in both the writ petitions, i.e., W.P. (PIL) No. 4290 of 2021 and W.P. (PIL) No. 727 of 2022 since respondent no. 6 in W.P. (PIL) No. 4290 of 2021 is respondent no. 7 in W.P. (PIL) No. 727 of 2022.

In view thereof, we started the hearing on the issue of maintainability on 1st June, 2022. For ready reference order dated 1st June, 2022 is quoted under as:

“We have perused the order passed by the Hon’ble Supreme Court in S.L.P. (C) No. 9729-9730 of 2022, which has been brought on record by filing I.A. No. 4525 of 2022 in W.P. (PIL) No. 727 of 2022 by the State of Jharkhand.

The relevant passage from the aforesaid order containing direction given by the Hon’ble Supreme Court is extracted and reproduced as under: -

“10. The issue of maintainability should be dealt with by the High Court on the next date of listing when the proceedings are taken up. Based on the outcome of the objections to the maintainability of the proceedings, the High Court may thereafter proceed in accordance with law.

11. The Special Leave Petitions are disposed of in the above terms

12. This Court has had no occasion to deal with the merits of the rival contentions which arise in the Special Leave Petitions or nor has it become necessary for this Court to express any view on the allegations which are levelled in the writ petition since that is a matter which is pending consideration before the High Court.”

Mr. Kapil Sibal, learned Senior Counsel for the State of Jharkhand confines his argument with respect to the issue of maintainability as raised in W.P. (PIL) No. 4290 of 2021 only.

At the time of hearing, referring the aforesaid order of the Hon’ble Supreme Court, question was put to him twice by this Court as to whether he is raising the issue of maintainability in

both the matters i.e. W.P. (PIL) No. 4290 of 2021 and W.P. (PIL) No. 727 of 2022.

He submitted that he is raising the issue only in W.P. (PIL) No.4290 of 2021 and proceeded to do that.

However, Mr. Mukul Rohatagi, learned Senior Counsel has submitted that he is raising the issue of maintainability as respondent no.6 in W.P. (PIL) No. 4290 of 2021 and respondent no. 7 in W.P. (PIL) No.727 of 2022. We have heard the parties on the issue of maintainability in detail. Put up these matters 'For Orders' day after tomorrow i.e. 03.06.2022 at 10.30 a.m.

7. This Court, in order to decide the issue of maintainability, deems it fit and proper to first refer the factual aspect of the matter.

8. W.P.(PIL) No.4290 of 2021

By way of instant writ petition, the following directions have been sought for: -

- (a) For the direction upon the respondents specially respondent no.3 to enquire into the money transferred of Soren Family in the name of respondent nos.8 to 13 and may also submit the report to Income Tax Department as to how the companies which are 28 in numbers have been used as a parking place for ill gotten money.*
- (b) For the direction upon the respondent no.3 to investigate the sources of income of respondent no.8 to 13 as because they being the close friends of Hemant Soren and Basant Soren have invested the money in number of companies as chain of hotels as it is shown that the owner is Ranjan Sahu and the Hotlips chain of hotels and restaurants which was situated in a small area near the Chief Minister's residents and later on removed have transformed into six hotel chains situated at Kanke Road, Ratan Lal Complex, Ratu Road, Lalpur, Hinoo and Kamre.*
- (c) For the direction upon the respondent no.4 also to investigate the financial crime committed by Hemant Soren which income has given to Ravi Kejriwal as he is connected to him since childhood and also having close*

connection with Ranjan Sahu, the so called owner of Hotlips Chain of hotels and restaurants and may also investigate as at which point of time and place Mr. Hemant Soren has committed illegality and earned crores of rupees and invested in the name of these persons.

(d) For the direction upon the respondent no.5 to investigate the money trail of crime proceed lying with respondent no.8 to 13 and they have amassed the huge wealth and returning the money at the time of election to Jharkhand Mukti Morcha headed by Hemant Soren.

9. Facts of the case

According to the writ petitioner, the money earned through illegal means has been invested in the companies, as per the details furnished in the writ petition under paragraph 2(A), the details of which is quoted as under:-

- (i).Anoop Tea Company Pvt. Ltd.
- (ii).Aurora Film Corpn Ltd.
- (iii).Aurora Studio Pvt. Ltd.
- (iv).Bhasha Construction & Industrial Projects Private Ltd.
- (v).Bright Financial Management Services Private Ltd.
- (vi).Destination Nirman Pvt. Ltd.
- (vii).Dumraon Textiles Pvt. Ltd.
- (viii).Elegant Commodeal Pvt. Ltd.
- (ix).Gaurang Alloys & Iron Ltd.
- (x).Gayatri Commotrade Pvt. Ltd.
- (xi).Jupiter Commotrade Pvt. Ltd.
- (xii).Lotus Re-roller & Metals Pvt. Ltd.
- (xiii).Maritime Merchants Pvt. Ltd.
- (xiv).Marsglory Corporate Advisors Pvt. Ltd.
- (xv).Max-Cot Vyapar Pvt. Ltd.
- (xvi).Mr. Vanijya Pvt. Ltd.
- (xvii).Muskan Minerals Pvt. Ltd.
- (xviii). Nidhi Agrawal House of Design Pvt. Ltd.
- (xix).Pinnsafe Advisory Services Pvt. Ltd.
- (xx).Rajesh Auto Merchandise Pvt. Ltd.
- (xxi).S. M. Scrap Processing Co. Pvt. Ltd.
- (xxii).Salasar Dealtrade Pvt. Ltd.

- (xxiii).Shivmangal Vinimay Pvt. Ltd.
- (xxiv) .Simple Viniyog Pvt. Ltd.
- (xxv).Singhal Enterprises (Jharsuguda) Pvt. Ltd.
- (xxvi) .Singhal Projects & Developers Pvt. Ltd.
- (xxvii).Sun Enclave Pvt. Ltd.
- (xxviii).Tammanna Commosale Pvt. Ltd.
- (xxix). Urmindra Vincom Pvt. Ltd.
- (xxx).Variety Commotrade Pvt. Ltd.
- (xxxi).Vasundhara Vincome Pvt. Ltd.
- (xxxii).Vedic Maths Forum Pvt. Ltd.

It is the grievance of the writ petitioner that being a citizen of the Country, he has drawn the attention on all these malpractices of siphoning of public money through these Shell Companies by filing due representation in this regard but no action since been taken, the instant writ petition has been filed.

It has been submitted that if the matter will be directed to be inquired from the Income Tax Department, the truth will come on surface about the *modus operandi* of the investment of money earned by the respondent no. 6 and his political advisor.

The writ petitioner has disclosed in paragraph-3 of the writ petition about his credentials by making a statement that he has no personal interests, either direct or indirect in the subject of this public interest litigation. He has further stated that other writ petitions in the nature of public interest litigation are lying pending before this Court being W.P.(PIL) No.1704/20, W.P.(PIL) No.2139/20, W.P.(PIL) No.4250/20,

W.P.(PIL) No.689/21, W.P.(PIL) No.416/21 and W.P.(PIL) No.3819/20, in which also, ample of evidences are there to establish the siphoning of the public money.

It is, in this backdrop, the instant writ petition has been filed for issuance of directions as quoted and referred hereinabove.

A supplementary affidavit has been filed on behalf of petitioner on 21.04.2022 stating therein that prior to filing of the instant writ petition, one Late Diwan Indranil Sinha had sent representations, giving details of all the companies accompanying all the relevant documents in support of illegal earnings, before the Hon'ble President of India, Hon'ble Home Minister, Hon'ble Governor of Jharkhand, the Director, CBI, The Director, Enforcement Directorate, The Central Vigilance Commissioner and The Director General (Investigation), Income Tax. Upon receipt of such representation by the CBI, they enquired the matter on their own level and communicated to him vide letter no. 376 dated 05.11.2014 stating therein that *"...if so desire, approach the competent Court,....."*

It has further been stated that incumbent Chief Minister of the State of Jharkhand has certain persons who works for him and they are the investment agents and have been asked by respondent no. 6 and 7 to take care of the business like, mining, liquor and real estate.

It has been alleged that business of mining is being looked into by a group of persons, who are connected with each other. The details of such persons have been given at paragraph 5, relevant portion of which is quoted as hereunder:

“The Business of Mining is being looked into by Ravi Kejriwal, Gulab Chand Jain, Umesh Kumar modi, Brijesh Dayal Gard, Shyam Babu Bose, Jawesh Mi, Hemant Agarwal, Moti Ram Dhakeri, Ajay Kaneria, Rajiv Agarwal, Ramesh Kejriwal, Ramakant Srivastava, Ajay Kumar, Sunil Kumar Ashwani Bose, Awanti Aggrawal, Amar Kumar & Rajesh Aggrawal, Vijay Prakash, Prem Nath Mali, Guruwe Tekriwal, Ansuri Goenka, Radha Krishna Aggrawal and Vivek Aggrawal, Ela Bose. All these persons are connected with each other in all companies.

These are persons whose whereabouts details are given herein after:-

(a).Ravi Kejriwal:- Resident of Bokaro, has given changed address in DIN/DPIN No. 02317277 company incorporated before the Registrar of Companies.

(b).Gulab Chand Jain:- A resident of Dhanbad close to Ravi Kejriwal, but shown as resident of Calcutta, in order to escape from the clutches of Income Tax Authorities.

(c).Umesh Kumar Modi:-An actual resident of Dumka, but shown as resident of West Bengal (Salt Lake area of Kolkata).

(d).Brijesh Dayal Gard:-Friend of Basant Soren (Son of respondent no. 11, resident of Delhi, but has shown his residence as from West Bengal.

(e).Shyam Babu Bose:-A resident of Delhi has shown himself as resident of West Bengal.

(f).Jawesh Mi:-A resident of Dumka, has shown himself resident of West Bengal.

(g).Hemant Aggrawal:- A permanent resident of Bokaro, has shown as resident of West Bengal.

(h).Moti Ram Dhakeri:-A close relation to Ravi Kejriwal, a permanent resident of Chhattisgarh, but, has shown himself a resident of West Bengal.

- (i).Ajay Kaneria & Rajiv Aggrawal: They are close one's of respondent no. 9 to 11 family and also connected with Ravi Kejriwal, originally from Bokaro, but shown themselves belonging to West Bengal.
- (j).Ramesh Kejriwal:-Brother of Ravi Kejriwal, he being a resident of Bokaro, is stationed at Raigarh, to control the empire of investment.
- (k).Ramakant Srivastava:-A permanent resident of Ranchi has also shown himself as resident of West Bengal.
- (l).Ajay Kumar: A permanent resident of Chennai shown himself as resident of West Bengal.
- (m).Sunil Kumar Singh-From Ranchi has been shown himself resident of West Bengal.
- (n).Ashwani Bose-A resident of West Bengal is also associated with Ravi Kejriwal.
- (o).Awanti Aggrawal, Amar Kumar and Rajesh Kumar Aggrawal: All relations of the Ravi Kejriwal, associated with him in construction business.
- (p).Vijay Prakash: A resident of Bokaro, has shown himself a resident of West Bengal for purposes of the investment of Ravi Kejriwal's money.
- (q).Prem Nath Mali:-A Resident of Bokaro but he has shown himself as resident of West Bengal.
- (r).Sandhu Banerjee: A resident of Dhanbad, a present resident at Salt Lake in Kolkata, West Bengal, does the business.
- (s).Ritish & Nidhi Aggrawal:-Also relations of Ravi Kejriwal does the business from the money earned from Soren's family and invested in the company's.
- (t).Guruwe Tekriwal:-Relation of Ravi Kejriwal, is also associated with the business empire of soren's family.
- (u).Ansuri Goenka:-A resident of Bokaro, at present resident at Kolkata, does investment of the money earned illegally by Soren's family and siphoned through Ravi Kejriwal.
- (v).Radha Krishna Aggrawal & Vivek Aggrawal:-Having a showroom in Dhanbad and collects the money soren's family everyday and sends it to Kolkata to some of the persons, whose names are mentioned in this application.
- (w).Ela Bose: Also a resident of Bokaro, does the business in West Bengal from the funds raised illegally by Ravi Kejriwal."

According to writ petitioner, these persons are connected with each other, in one company or the other just to invest black money, therefore, it requires thorough enquiry by the special agencies like Income Tax Department, Central Bureau of Investigation and Enforcement Directorate, so that investment of money through illegal means may surface and laundering of public money may be restricted.

It has further been alleged, as would appear from paragraph 8, 9 and 10 of the supplementary affidavit, that likewise allegations have also been leveled against SHELL companies, which according to the petitioner are fake one. The writ petitioner has also given name and details of the companies in the affidavit showing that illegal money has been transferred from one company to another.

It has further been alleged, as per the information gathered by the petitioner that total balance in the bank account of Saran Alchohol Pvt. Ltd. was Rs. 57106.77 as on 20.05.2021 but in between 20.05.2021 to 24.06.2021 approximately Rs. Six crores was deposited from different sources or through cash deposit and closing balance as on 25.06.2021 remained Rs. 12384.27. In the similar manner, huge amounts have been transferred by the parties, namely, Mackmorn Commodities, Alokik Heights to the tune of Rs. Three crores and fifty lakhs approximately. Likewise details of other companies have also been given in the affidavit.

In these backdrop, it has been stated that a thorough investigation is required to be conducted which is not possible by the district police since the high-ups in the political side as well as in the bureaucracy are at the helm of the affairs and as such it is a fit case where the investigation is required to be conducted by the special agency like Central Bureau of Investigation for the alleged swindling and siphoning of public money.

Petitioner has filed another supplementary affidavit dated 27.04.2022 pointing out the names of the company, which are dealing in the business of liquor from Kolkata but the man behind the trade are Amit Aggrawal, Prem Prakash, Abhisek Prasad @ Pintoo, Joginder Tiwary and Amrender Tiwary and several other persons and ultimately handled by one Vinay Kumar Choubey, I.A.S., Secretary, Department of Excise and holding the post of Managing Director, Beverages Corporation Ltd.

It has further been alleged that the money trail is quite clear as the companies which are dealing here in Jharkhand has a monopoly over Liquor Trade and modus is quite simple because Mr. Hemant Soren and Mr. Basant Soren are getting major share of profit from these firms and these persons have amassed not less than hundreds of crores out of this.

It has also been alleged that Abhisek Prasad @ Pintoo is considered as mastermind behind all the businesses of liquor,

real estate or mining, carried out in Jharkhand. He has his own business which he is carrying on either through himself or by his henchman i.e., Abhisek Prasad @ Pintoo, owner of the company, viz., M/s Shiv Shakti Enterprises, Ranchi; Dhavvadanga Mines having partnership with Tarun Mandal located in Pakur. It is further alleged that M/s Shiv Shakti Enterprises has obtained coal transportation work from Amrapali and Magadh Project of CCL to Usha Martin Industries under the threat to the Vice-President of the company by Abhisek Prasad @ Pintoo.

Further allegation has been made by stating that Mr. Hemant Soren has also managed to get an area of 11 acres in Chanhoo block for opening fisheries, food processing livestock in the name of M/s Sohrai Livestock Pvt. Ltd., Sohrai Bhawan, Harmu, in which, Mrs. Kalpana Murmu Soren and Sarla Murmu are Directors. Further, Sarla Murmu is also director of M/s Bihangam Builder's Developers Pvt. Ltd, Kanke Chowk, Ranchi. The other directors in Bihangam Builder's Developers are Nishant Singh and Nisikant Singh and Mrs. C. Singh. In one another firm, namely Rakpur Trading Pvt. Ltd, of which Ravi Kumar Sharma, Nishant Singh were directors since 2017, Sarla Murmu became director in 2021. Sarla Murmu is close relative of Mr. Hemant Soren, thus, it is clear that whatever the assets M/s

Bihangam Builder Developers Pvt. Ltd have, it all belongs to Mr. Hemant Soren and Mrs. Kalpana Soren.

Two more supplementary affidavits dated 05.05.2022 and 18.05.2022 were filed by the petitioner. In those affidavits also serious allegation of corruption and embezzlement of public money has been made.

10. Counter affidavit filed on behalf of respondent no.1- State of Jharkhand dated 12.05.2022 on the maintainability of the instant Public Interest Litigation:

Counter affidavit has been filed raising the issue of maintainability of the writ petition, on the ground, the same has been filed for extraneous reason and with ill-motive under the garb of the Public Interest Litigation.

It has been stated that the writ petitioner is a habitual litigant having filed a total number of ten Public Interest Litigations before this Court, out of which, four Public Interest Litigations are against the incumbent Chief Minister of the answering respondent-State, i.e., the Respondent No.7 herein, the list whereof has been furnished, as under:-

Sl.No.	Writ Petition (PIL) No.
1.	WP (PIL) No.1704/2020
2.	WP (PIL) No.2139/2020
3.	WP (PIL) No.3819/2020
4.	WP (PIL) No.4250/2020
5.	WP (PIL) No.416/2021
6.	WP (PIL) No.490/2021
7.	WP (PIL) No.4290/2021
8.	WP (PIL) No.5573/2021

9.	WP (PIL) No.727/2022 (Present PIL)
10.	'Public Interest Litigation' filed on 27.04.2022, <i>inter alia</i>, seeking an inquiry against the Press Advisor of the Respondent No.7. Herein, the Respondent no.7 has been arraigned as the Respondent No.9 in the said PIL. Note:- The said PIL is yet to be numbered.

It has been stated though masquerading as a Public Interest Litigation is actually acting as a front of political parties. It has further been stated that since the petitioner has not approached any authority with his purported grievances before approaching this Court and thereby, he is misusing the judicial process, as such on this ground alone the writ petition deserves to be dismissed.

The judgment rendered by the Hon'ble Apex Court in ***Esteem Properties Pvt. Ltd. Vs. Chetan Kamble & Ors.*** (Judgment dated 28.02.2022 in Civil Appeal Nos.10425 of 2010 & 10764 of 2010), has been referred, wherein, it has been observed that *if the Court concludes that the litigation was initiated under the shadow of reasonable suspicion, then the Court may decline to entertain the claim on merits.*

Therefore, the writ petition, since having been filed with extraneous reasons, is fit to be dismissed.

More-so, the writ petition has been filed contrary to the Rules formulated by this Court, i.e., under the Jharkhand High Court (Public Interest Litigation) Rules, 2010 as also contrary to the law laid down by the Hon'ble Apex Court in

State of Uttaranchal Vs. Balwant Singh Chaufal, [(2010) 3 SCC 402].

It has further been stated that though the petitioner has alleged that one Late Diwan Indranil Sinha had raised the issues similar to those raised in the present writ petition but has suppressed that said Late Diwan Indranil Sinha had filed writ petition being W.P.(PIL) No. 4218 of 2013 on the self-same allegations made by the petitioner in the present writ petition, which was dismissed vide order dated 22.11.2013 imposing cost of Rs. 50,000/-. The appeal, being S.L.P. No. 4886 of 2014, preferred against the order passed by this Court before the Hon'ble Supreme Court was also dismissed vide order dated 28.02.2014. It has been submitted that conduct of the petitioner in suppressing material facts itself is a good enough ground to dismiss the writ petition as has been held by Hon'ble Apex Court in ***T.N. Godavarman Thirumulpad Vs. Union of India (2006) 5 SCC 28]***.

11. Rejoinder to the counter affidavit filed on behalf of the petitioner dated 11.05.2022:

A rejoinder to the counter affidavit has been filed on behalf of the petitioner stating *inter-alia* about his credentials.

It has been submitted on behalf of the learned counsel for the petitioner that the instant writ petition cannot be said to be frivolous one due to subsequent development arisen during course of pendency of the writ petition as the

Enforcement Directorate has conducted investigation regarding siphoning of public money under the MGNREGA Scheme, which is the subject matter of the another writ petition being W.P.(PIL) No.4632 of 2019, in which, the Officer in the rank of Principal Secretary heading the Mines and Geology Department, has been apprehended and huge amount of money has been recovered from her residences as also from the residence of her Chartered Accountant, v.i.z., Suman Kumar Singh. As such, now it cannot be said that the writ petition is frivolous one.

It has been submitted that whatever money has been siphoned which was for the purpose of proper execution of the work pertaining to MGNREGA Scheme, has been invested through the SHELL Companies.

In the backdrop of these subsequent developments, it is not available for the respondent-State of Jharkhand to make any objection about the maintainability of the writ petition.

12. Counter affidavit filed on behalf of the respondent no.14, i.e., the Registrar of Companies, Jharkhand.

An affidavit has been filed on behalf of the Registrar of Companies, respondent no. 14, giving the details of four companies which fall within the territorial jurisdiction of the State of Jharkhand has been referred. However, the details of rest of the Companies, since they fall under the jurisdiction of Registrar of Companies, Kolkata (West Bengal), Patna and some of the Companies fall under the jurisdiction of Registrar

of Companies, Delhi & Haryana and one Company registered in Chhattisgarh and 2 Companies registered with Registrar of Companies Cuttack (Odisha), the details of such companies which fall beyond the territorial jurisdiction of this Court could not be furnished.

13. W.P. (PIL) No. 727 of 2022

The instant writ petition has been preferred *pro bono publico* invoking the jurisdiction conferred to this Court under Article 226 of the Constitution of India praying for the following reliefs:-

(A) For the direction upon the respondents no.9 to grant sanction for prosecution, to prosecute the “The Chief Minister Cum, Minister Department of Mines, for act of misuse of office, and getting the Mining Lease done in his own name, although, he being a Departmental Minister/Chief Minister, cannot do business (Article 191(9) of Constitution) of mining, and also committed criminal act, so he is liable to be prosecuted under section 7(A) & 13(I) (d) of Prevention of Corruption Act, 1988 & section 169 of IPC, and also to cancel his membership of assembly of Jharkhand, and also he has violated section 9 of the Peoples Representation Act, 1950 & lastly, he has contravened the code of conduct framed by Union Government for the Hon’ble Chief Minister & Ministers of States.

(B). For the direction upon the respondents especially respondent no.1 the Chief Secretary, Jharkhand to protect the relevant file of Department of Mines wherein, the mining lease of Angadha Mauza, Thana No.26, Khata No.187, Plot No.482, Area 0.88 Acre for that Letter of Intent (LOI) was issued on 16.06.21, approval of mining plan was given on 10.07.21, mining plan approved on 09.09.21 & finally on 09.09.21 the respondent no.7 has given application, which was approved in its 90th meeting dated 14-18 September 2021, within such a short time, although, the SEIAA has given environmental clearance to new High Court building after so many months, AND, directions may be issued to Central

Bureau of Investigation (CBI) & Enforcement Directorate to Investigate the crime committed by the respondent no.7 & 8.

(c).For the direction upon the respondents CBI especially also to investigate the history of illegal mining committed by the person like the respondent no.7 and due to his official influence, illegal mining is done & public properties sold by Mr. Soren against the provisions of law to himself only.

14. Facts of the case:

The facts of the case, as per the pleading made in the writ petition is that the Hon'ble Chief Minister, Jharkhand who also holds the portfolio of Department of Mines & Department of Forest, has obtained mining lease of Thana-Angardha, Mauza Angadha, P.S. No.26, Khata-187, Plot 482, Area 0.88 and in this regard, a letter of intent has been issued by the District Mining Officer, Ranchi vide no.615 dated 16.06.2021.

It has been alleged that the letter of intent has been issued by the Signature of District Mining Officer, Ranchi and the Chief Minister of the State, being the departmental head, has got the public property leased in his favour, which is contrary to the Code of Conduct framed by the Government of India, for Chief Ministers & Ministers. He has misused his post and started business of stone crusher mines, which he cannot do as per the law.

It has been submitted that the Chief Minister/Departmental Mines, Minister, by obtaining mining lease in his favour has indulged himself in corrupt practices by mis-utilizing the Constitutional posts.

15. Counter affidavit filed on behalf of the State as also the respondent no.7 who is respondent no. 6 in WP (PIL) No. 4290 of 2021

Counter affidavit has been filed on behalf of the State by the Deputy Commissioner, Ranchi, namely, Mr. Chhavi Ranjan.

It has been stated that the issue as to whether there is any violation of Section 9-A of the Representation of Peoples Act, 1951 and whether the respondent no.7 has suffered any disqualification by executing the mining lease is pending before the Election Commission of India in Reference Case No.3(G) of 2022 registered on the reference received by the Hon'ble Governor of Jharkhand under Article 192 of the Constitution of India, in which, the notices have been issued to the respondent no.7 and as such, the writ petition may be dismissed since the matter is pending before the Election Commission of India.

The respondent no.7 has also filed an affidavit stating *inter-alia* that the writ petition is not maintainable on the ground of credentials of the writ petitioner as also the notices have been issued by the Election Commission of India and as such, the matter is now being pending before the Constitutional Body, i.e., the Election Commission of India and therefore, the writ petition may be dismissed.

It has been submitted that the aforesaid mining lease has been surrendered and as such, now there is no lease in favour of the respondent no.7.

It has further been submitted that the writ petition suffers from the vice of *mala fide* inasmuch as the father of the writ petitioner stood as a witness in a criminal case against the father of respondent no. 7 v.i.z., Sri Sibbu Soren, in which he was convicted. However, the judgment of conviction and the order of sentence passed by the trial Court were reversed by the High Court, which was affirmed by the Hon'ble Supreme Court. Therefore, due to grudge, the son who is writ petitioner herein, has filed the present writ petitions, which shows *mala fide* on the part of the writ petitioner and as such on this count alone, the instant writ petitions are fit to be dismissed.

Counter affidavit filed on behalf of Enforcement Directorate dated 19.05.2022:

Counter affidavit has been filed on behalf of enforcement directorate. At paragraphs 6, 7 and 8 thereof, it has been stated that during course of investigation incriminating materials have surfaced which has led to arrest of Ms. Pooja Singhal, I.A.S., Secretary Mines, who was District Programme Co-ordinator-cum-Deputy Commissioner, Khunti at the relevant time when MGNREGA Scam surfaced in the year 2019.

For ready reference, paragraph 6, 7 and 8 of the affidavit is quoted hereunder as:

“6. That is humbly stated and submitted that the Enforcement Directorate is investigating ECIR vide No. ECIR/PAT/14/2012 which is registered in pursuance of 16 FIRs registered in Khunti P.S. and Arki PS in the State of Jharkhand which is the subject matter of WP (PIL) No. 4632 of 2019.

7. That is stated that during the course of said investigation under the Prevention of Laundering Act, a serious implication of one Ms. Pooja Singhal, Secretary (Mines) state of Jharkhand is found. The said material pertains to allotment of lease in favuor of Respondent no. 7, which is subject matter of W.P. PIL No. 727 of 2022. The role of some of the companies mentioned in paragraph-A [Page 8 of W.P. (PIL) No. 4290 of 2021] has also emerged. These companies are spread over to the jurisdiction beyond the State of Jharkhand.

8. That is stated that the Enforcement Directorate is a party in all the writ petitions and is served with notice issued by this Hon’ble Court. In response to the notice issued by this Hon’ble Court and as substantial evidence showing strong prima facie case of commission of serious cognizable offences has emerged, the Enforcement Directorate feels duty bound and has placed the same before this Hon’ble Court in a sealed cover. The Enforcement Directorate is also duty bound to bring these facts to the notice of this Court under Section 66(2) of the Prevention of Money Laundering Act. Considering the strong prima facie case emerging so far, the Enforcement Directorate found it advisable not to share the material with any police authority under the administrative and disciplinary control of State of Jharkahnd.”

16. Argument advanced on behalf of respondent-State of Jharkhand and Respondent no. 6:

Mr. Kapil Sibal, learned senior counsel appearing for the respondent-State of Jharkhand assisted by Mr. Rajiv Ranjan, learned Advocate General has submitted that the writ petition

[W.P. (PIL) No. 4290 of 2021] is not maintainable, since the writ petitioner lacks credentials.

It has been submitted that on the earlier occasion also, similar writ petition was filed by one Indranil Sinha being W.P.(PIL) No.4218 of 2013, raising similar allegation but the said writ petition was dismissed with a cost of Rs.50,000/- and the aforesaid order was affirmed by the Hon'ble Apex Court and as such, on the same self-allegations, again the writ petition has been filed which suggests that the writ petition has been filed for extraneous reason as also due to non-observance of the provision contained under the High Court of Jharkhand Rules, 2001 as under Appendix-19, the writ petitions are fit to be dismissed and accordingly, the same may be dismissed.

Mr. Kapil Sibal, learned senior counsel appearing for the respondents-State of Jharkhand, has referred Rule 4, 4-A and 5 of the Jharkhand High Court (Public Interest Litigation) Rules, 2010, appended as Appendix 19 to the High Court of Jharkhand Rules, 2001 and submitted that writ petition has been filed without complying with the aforesaid Rules.

It has further been alleged that approach of the writ petitioner in filing the writ petition cannot be said to be *bona fide* since his father was witness in a criminal case instituted against the father of respondent no. 6, namely, Mr. Sibbu Soren, in which, father of respondent no. 6 was convicted.

However, the judgment of conviction and the order of sentence passed by the trial Court were reversed by the High Court, which was finally affirmed by the Hon'ble Supreme Court.

Further objection has been raised that the writ petitioner has rushed to this Court by filing the instant writ petition without exhausting the alternative remedy available under the Code of Criminal Procedure to put the police into motion by instituting the complain before the police under Section 154 and 156(3) of the Code of Criminal Procedure.

In support of his submission, learned senior counsel has placed reliance the judgments rendered by the Hon'ble Apex Court in ***Sakiri Vasu Vs. State of Uttar Pradesh & Ors., (2008) 2 SCC 409, State of Uttaranchal Vs. Balwant Singh Chauhal & Ors., (2010) 3 SCC 402, Kunga Nima Lepcha and Ors. Vs. State of Sikkim and Ors., (2010) 4 SCC 513, P. Chidambaram, Vs. Directorate of Enforcement, (2020) 13 SCC 791 and M. Subramaniam and Anr. Vs. S. Janaki and Anr., (2020) 16 SCC 728.***

In furtherance to the argument advanced by learned counsel for the respondent-State of Jharkhand, Mr. Mukul Rohatagi, learned senior counsel appearing for respondent no. 6 in W.P.(PIL) Nos.4290 of 2021 and respondent no. 7 in W.P. (PIL) No. 727 of 2022 has submitted that the instant writ petitions by way of Public Interest Litigation is not

maintainable reason being that the petitioner did not disclose his credentials and further the writ petitioner has not exhausted the alternative remedy available under Code of Criminal Procedure by instituting F.I.R before the concerned Police Station or before the Magistrate rather he directly rushed to this Court and as such the writ petitions are fit to be dismissed on the ground of maintainability itself.

He has further submitted by taking the plea that since the father of the writ petitioner has deposed as witness in a criminal case instituted against the father of respondent no. 6, namely, Mr. Sibusoren, the former chief minister of the State of Jharkhand, in which he was convicted, however, the judgment of conviction and the order of sentence passed by the trial Court were reversed by the High Court, which was affirmed by the Hon'ble Supreme Court, it cannot be said that the writ petitioner has approached this Court with *bona fide* intention.

17. Mr. Mukul Rohatgi, learned senior counsel has submitted that he is raising preliminary objection on behalf of respondent no. 7 in W.P. (PIL) No. 727 of 2022 who happens to be respondent no. 6 in W.P. (PIL) No. 4290 of 2021 in addition to what has been argued by Mr. Kapil Sibal, learned senior counsel appearing for the respondents-State of Jharkhand.

In support of his submission he has relied upon the judgment rendered in ***Dataraj Nathuji Thaware Vs. State of Maharashtra & Ors*** [(2005) 1 SCC 590]; ***T.N. Godavarman Thirumulpad Vs. Union of India & Ors*** (2006) 5 SCC 28] and ***Jaipur Shahar Hindu Vikas Samiti Vs. State of Rajasthan & Ors*** [(2014) 5 SCC 530].

Further, argument has been advanced that the allegation as has been leveled of obtaining the mining lease by the Mines Minister of the State of Jharkhand is concerned, it cannot be construed to be illegal, due to subsequent development, i.e., the said lease license has been surrendered without obtaining any profit/gain from the aforesaid lease.

18. Argument advanced on behalf of petitioner:

Learned counsel for the petitioner has submitted rebutting the argument advanced on behalf of State of Jharkhand about fulfillment of statutory provision as contained under Rule 4, 4-A, 4-B and 5 of the Jharkhand High Court [Public Interest Litigation] Rules, 2010 that the petitioner has furnished the details/credentials in the writ petition and subsequent thereto one supplementary affidavit has been filed giving therein the credential of the writ petitioner as such it is incorrect on the part of the State to submit that the writ petitioner has not come out with credentials for maintainability of the instant writ petitions, as

required under Jharkhand High Court [Public Interest Litigation] Rules, 2010

It has further been submitted that even accepting that there is lack of credentials, it is not available for the State of Jharkhand to raise the technical issue of maintainability of writ petition when siphoning of public money has surfaced as per the investigation of the Enforcement Directorate. The matter pertaining to *MGNREGA* for which W.P. (PIL) No. 4632 of 2019 is pending before this Court.

It has also been submitted that since this Court, under Article 226 of the Constitution of India, has got power even to take *suo motu* cognizance specially when there is apparent siphoning of huge public money causing injustice to people at large and jeopardizing of public interest at large.

In support of his argument, he has relied upon the judgment rendered in ***Vishwanath Chaturvedi (3) Vs. Union of India & Ors*** [(2007) 4 SCC 380]; ***Raju Ramsing Vasave Vs. Mahesh Deorao & Ors*** [(2008) 9 SCC 54]; ***State of Uttaranchal Vs. Balwant Singh Chaufal & Ors*** [(2010) 3 SCC 402] and ***T.N. Godavarman Thirumulpad Vs. Union of India*** (2006) 5 SCC 28] by the Hon'ble Apex Court.

19. Argument Advanced on behalf of the Enforcement Directorate:

Mr. Tushar Mehta, learned Solicitor General of India, appearing for the Enforcement Directorate has submitted, referring to the affidavit dated 19.05.2022 filed by the

Enforcement Directorate in W.P. (PIL) No. 727 of 2020, in particular paragraphs 5 and 6 of the affidavit that the matter pertains to siphoning of public money through illegal means and the Enforcement Directorate is investigating vide No. ECIR/PAT/14/2012 which is registered in pursuance to 16 FIRs registered in Khunti Police Station and Arki Police Station in the State of Jharkhand, which is the subject matter of W.P. (PIL) No. 4632 of 2019. It has further been submitted that during the course of investigation under Prevention of Money Laundering Act, a serious implication of one Pooja Singhal, Secretary Mines, State of Jharkhand has been found even in the material allotment of lease in favour of respondent no. 7 (WP (PIL) No. 727 of 2022). The role of some of the companies mentioned in paragraph-2(A) of W.P. (PIL) No. 4290 of 2021 has also emerged. These companies are spread over to the jurisdiction beyond the State of Jharkhand.

It has further been stated at paragraph 8 of the affidavit filed by respondent no. 6 as appended to the writ petition (WP (PIL) No. 727 of 2022) that the Enforcement Directorate has been made respondents in all the writ petitions and served with notice issued by this Court. In response to the notice issued by this Court and as substantial evidence showing strong *prima facie* case of commission of serious cognizable offences has emerged, the Enforcement Directorate felt duty

bound, and, thus had placed the same before this Court in a sealed cover. The Enforcement Directorate is also duty bound to bring these facts to the notice of this Court under Section 66(2) of the Prevention of Money Laundering Act. Therefore, according to him this case is maintainable to be heard and fit to be handed over to the special agency like C.B.I.

Mr. Mehta, has further submitted that all the natural resources owes to the nation. The State has only to act as its trustee. Grant of various leases, in the present context are inter-linked with the SHELL companies which is being investigated for the purpose of laundering of ill-gotten money. As such, the objection being made by the respondents-State of Jharkhand about investigation to be conducted by the special agency has to be rejected as the State of Jharkhand cannot and should not take steps for protecting the wrong doers. If such act comes to the notice of High Court, it can duly exercise power under Article 226 in order to unearth the truth so that public money may not be left to be squandered.

It has further been submitted, referring to the documents contained in the sealed cover which was opened by this Court, as would appear from the order dated 24.05.2022, that it is evident that the several incriminating materials have surfaced not only against the Mining Secretary of the State of Jharkhand and its connection with the Shell Companies who are facilitating the investment of the public

money obtained through illegal means for the purpose of its investment and laundering but it indicates involvement of many high-ups.

It has also been submitted, rebutting the contention raised on behalf of the learned senior counsel for the State about maintainability of the writ petition on the ground of lack of credentials of the writ petitioner, that credentials of the writ petitioner as per the decision rendered by the Hon'ble Apex Court is required to be seen only in order to see as to whether *prima-facie* case is available for invoking the extraordinary jurisdiction conferred to the High Court under Article 226 of the Constitution of India, so that, judicial proceedings may not be misused by way of the Public Interest Litigation.

It has been urged that there is no dispute about the aforesaid settled position of law, as has been held by the Hon'ble Apex Court in the catena of decisions. However, that stage has already crossed since it is admitted on the part of the respondent-State that the Enforcement Directorate has raided the residence of the Mines Secretary, namely, Mrs. Puja Singhal from whose possession huge amount of money has been recovered. The State has put the Mines Secretary under suspension, but very surprisingly no further action has been taken against her.

Therefore, the issue of non-availability of *prima-facie* case cannot be said to be correct argument advanced by the State of Jharkhand.

It has further been submitted that the State of Jharkhand is treating the writ petition to be an adversarial litigation in such a manner as if it is intending to defend the wrong doers.

Since, the Enforcement Directorate has got ample evidences of complicity of the high-ups of the State of Jharkhand also on the political side, as such, for the ends of justice, the investigation is required to be handed over to the Central Bureau of Investigation.

It is contended referring to the provision of Section 66(2) of the Prevention of Money Laundering Act, 2002, that there is no provision conferring power upon the Enforcement Directorate to institute FIR and as such, since, the State is not instituting the FIR, now the Enforcement Directorate is helpless, even though huge incriminating materials showing complicity of bureaucrats and politicians with the Shell Companies has emerged and the statement has also been recorded showing nexus of the Shell Companies with the persons sitting at pinnacle of the system of the State. Therefore, on this ground also, the matter is required to be investigated by the Central Bureau of Investigation.

20. This Court has considered the rival submissions advanced on behalf of parties on the issue. The conscience of the Court has shocked to notice the fact that a senior I.A.S. officer, namely, Pooja Singhal, has been apprehended by the Enforcement Directorate and huge money has been recovered from her residence. The concerned person as alleged and is languishing behind the bar but as yet the said Pooja Singal has not been implicated by the district police in the criminal case instituted for embezzlement of MGNREGA fund, who, at the relevant point of time, was District Programme Coordinator of MGNREGA cum Deputy Commissioner, Khunti.

21. This Court had put a pin-pointed question to learned senior counsel for the respondent-State of Jharkhand that 16 FIRs were instituted in the year 2010 and even though the senior IAS officer who happened to be the District Programme Officer (MGNREGA)-cum-Deputy Commissioner during the relevant time in the district of Khunti, why FIR has not been instituted against her or she has not been made accused even after lapse of 12 years, no reply could be given.

22. However, this Court, in order to decide the issue of maintainability, deems it fit and proper to first refer certain judicial pronouncement of the Hon'ble Supreme Court on the issue of entertaining the Public Interest Litigation.

23. There is no dispute about the fact that a person 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, as has been propounded by the Hon'ble Apex Court in ***Ramjas Foundation and Others v. Union of India and Others***, [AIR 1993 SC 852] at paragraph 7 and ***K. R. Srinivas v. R.M. Premchand and Others*** [(1994) 6 SCC 620] at paragraph 7.

It is necessary to take note of the meaning of expression '**public interest litigation**'. In Strouds Judicial Dictionary, Volume 4 (IV Edition), '**Public Interest**' is **defined** as under:

"Public Interest (1) a matter of public or general interest does not mean that which is interesting as gratifying curiosity or a love of information or amusement but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected."

In Black's Law Dictionary (Sixth Edition), "**public interest**" is **defined** as follows :

"Public Interest something in which the public, or some interest by which their legal rights or liabilities are affected. It does not mean anything the particular localities, which may be affected by the matters in question. Interest shared by national government...."

In ***Janata Dal v. H.S. Chowdhary and Others***, [(1992) 4 SCC 305], the Hon'ble Apex Court has considered the scope of Public Interest Litigation and at paragraph 52 of the said judgment considering what is 'Public Interest' has laid down as follows :-

“52. In *Black's Law Dictionary* (6th edn.), ‘public interest’ is defined as follows:

“Public Interest — Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interests of the particular localities, which may be affected by the matters in question. Interest shared by citizens generally in affairs of local, state or national government”

At paragraph 53, the Hon’ble Apex Court has defined the expression ‘litigation’ which is quoted hereunder:-

“53. *The expression ‘litigation’ means a legal action including all proceedings therein, initiated in a court of law with the purpose of enforcing a right or seeking a remedy. Therefore, lexically the expression ‘PIL’ means a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected. There is a host of decisions explaining the expression ‘PIL’ in its wider connotation in the present day context in modern society, a few of which we will refer to in the appropriate part of this judgment.”*

At paragraph 62 of the said judgment it was pointed out that *“be that as it may, it is needless to emphasise that the requirement of locus standi of a party to a litigation is mandatory; because the legal capacity of the party to any litigation whether in private or public action in relation to any specific remedy sought for has to be primarily ascertained at the threshold.”*

At paragraph 98 of the said judgment, it has further been observed that *“while this Court has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly-developed*

doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that courts should not allow its process to be abused by a mere busybody or a meddlesome interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration.”

In subsequent paragraphs of the said judgment it has been held that *“it is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the court for vindicating any personal grievance, deserves rejection at the threshold”.*

It has further been propounded that the 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 armoury 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 be publicity oriented or founded on personal vendetta.

As indicated above, Court must be careful to see that a body of persons or member of 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 by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the past time of meddling with judicial process either by force of habit or from improper motives and try to bargain for a good deal as well to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown at the threshold and, in appropriate cases, with exemplary costs.

Therefore, the Court has to be satisfied about the credentials of the applicant; the *prima facie* correctness or nature of information given by him; and the information being not vague and indefinite.

It is also settled that the requirement of *locus standi* of a party to a litigation is mandatory; because the legal capacity of the party to any litigation whether in private or public action in relation to any specific remedy sought for has to be primarily ascertained at the threshold. It is also evident that

only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a *locus standi* and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration.

Further, it has been laid down that the Court has to be satisfied about the credentials of the applicant; the *prima facie* correctness or nature of information given by him; and the information being not vague and indefinite.

24. In the light of proposition laid down by Hon'ble Apex Court and argument advanced by learned counsel for the parties, this Court is proceeding to examine the objection raised on behalf of respondent-State of Jharkhand as also on behalf of respondent no. 6 in W.P. (PIL) No. 4290 of 2021, who happens to be respondent no. 7 in W.P. (PIL) No. 727 of 2022, who have raised following objections with regard to maintainability of the writ petitions:

(I).Rule 4, 4-A and 4-B of the Jharkhand High Court (Public Interest Litigation) Rules, 2010, appended as Appendix 10 to the High Court of Jharkhand Rules, 2001 has not been followed while filing the instant writ petitions.

(II).The writ petitioner has not furnished the credentials, as required under Jharkhand High Court

(Public Interest Litigation) Rules, 2010, appended as Appendix 10 to the High Court of Jharkhand Rules, 2001 and credentials of the writ petitioner in filing the writ petitions.

(III).The writ petitions have been filed with *mala fide* intention since father of the writ petitioner was the witness in a criminal case instituted against father of respondent no. 6, namely, Mr. Sibbu Soren, in which he was convicted, however, the judgment of conviction and the order of sentence passed by the trial Court were reversed by the High Court, which was finally affirmed by the Hon'ble Supreme Court.

(IV).The writ petitioner has directly rushed to this Court without exhausting the remedy available under the Code of Criminal Procedure.

(V).Since the lease has been surrendered already by the Chief Minister, there is no occasion for continuation of this proceeding.

25. In order to settle the issue of maintainability, this Court is taking up objection raised by learned counsel for the concerned respondent one by one.

Since objection No. 1 and 2 are inter-linked, they are taken up together to be answered by this Court:

Objection No. 1: Rule 4, 4-A and 4-B of the Jharkhand High Court (Public Interest Litigation) Rules, 2010, appended as Appendix 10 to the High Court of Jharkhand Rules, 2001 has not been followed while filing the instant writ petitions; and

Objection No. II: The writ petitioner has not furnished the credentials, as required under Jharkhand High Court (Public Interest Litigation) Rules, 2010, appended as Appendix 10 to the High Court of Jharkhand Rules, 2001 and credentials of the writ petitioner in filing the writ petitions

26. Mr. Sibal, learned senior counsel appearing for the respondent-State of Jharkhand has submitted that the provisions as contained under Rule 4 of the Jharkhand High Court (Public Interest Litigation) Rules, 2010 have not been complied with, since, the petitioner has not submitted the credentials. Learned senior counsel appearing for the State of Jharkhand has submitted that since the writ petitioner lacks credentials which is mandatory requirement as per Jharkhand High Court (Public Interest Litigation) Rules, 2010, the writ petitions are not maintainable.

The credential of the writ petitioner has been questioned taking the ground that the writ petitioner has not furnished the details, save and except the detail to the effect that he is citizen of India and tax-payer, which according to learned senior counsel appearing for the respondent-State of Jharkhand is not sufficient for entertaining the writ petition

pro bono publico, in view of provision as contained under Rule 4 and 5 of the Jharkhand High Court (Public Interest Litigation) Rules, 2010 and in view of the judgment rendered in ***State of Uttaranchal Vs. Balwant Singh Chaufal (supra)*** in particular paragraph 181.

It has further been alleged that the details about filing of writ petition in nature of Public Interest Litigation have not been disclosed while similar writ petition being W.P. (PIL) No. 4218 of 2013 was already filed, which was dismissed by the Co-ordinate Bench of this Court with exemplary cost of Rs. 50,000/- and appeal preferred before the Hon'ble Supreme Court being S.L.P. No. 4886 of 2014 was dismissed.

It has been submitted that under Jharkhand High Court (Public Interest Litigation) Rules, 2010" provision has been made that only those matters shall be treated as Public Interest Litigation which involves substantial public interest and for this the Bench hearing the matter shall ensure that there is no personal gain, private motive or oblique motive behind filing the Public Interest Litigation and shall first verify the *prima facie* credentials of the Petitioner before entertaining any case as Public Interest Litigation and thereafter, may issue notice to the Advocate General or to any other authority to come to a *prima facie* satisfaction regarding the correctness of the contents of the petition or

information before entertaining the same as Public Interest Litigation.

Learned senior counsel appearing for the concerned respondents has submitted by taking the plea of lack of credentials of the petitioner as he did not disclose that on earlier occasion similar matter was disposed of.

27. This Court, in order to delve into this issue, deems it fit and proper to refer the Relevant provision of the Jharkhand High Court (Public Interest Litigation) Rules, 2010 which reads as under:-

“3. Only those matters shall be treated as Public Interest Litigation which involves substantial public interest aimed at redressal of genuine public harm or public injury and for this the Bench hearing the matter shall ensure that there is no personal gain, private motive or oblique motive behind filing the Public Interest Litigation.

4. The petitioner in a Public Interest Litigation shall state in clear terms of the relief prayed for in paragraph-1 of the petition and grounds in paragraph-2 thereof. In paragraph-3, the petitioner shall give his/her full and complete details so as to reveal his/her interest, credentials and qualifications relevant for the Public Interest Litigation, along with a declaration that he/she has no personal interest, direct or indirect, in the subject matter of Public Interest Litigation. In addition, the petitioner shall set out all relevant facts along with available supporting data, reports etc.

4-A.If a Public Interest Litigation is filed by a person on behalf of a Body of individuals, by whatever name called, whether registered or unregistered and whether incorporated or not, the petitioner must give full details and history of such Body, and must also clearly specify the authority of that person to represent such Body in that litigation so as to make the decision therein binding on all individuals of such Body.

4-B. Every Public Interest Litigation will chronologically mention in detail all such other and earlier efforts with their result, which are within the petitioner's knowledge, and which have been made by the petitioner or others for obtaining the relief sought by the Public Interest Litigation.

5. To encourage only genuine and bona fide Public Interest Litigation and discourage Public Interest Litigation filed for extraneous considerations, the Bench hearing a Public Interest Litigation shall first verify the prima-facie credentials of the petitioner before entertaining any case as Public Interest Litigation. Thereafter, notice may be issued to the Advocate General or to any other authority to enable the Bench hearing the matter to come to a prima facie satisfaction regarding the correctness of the contents of the petition or information before entertaining the same as Public Interest Litigation.

6. xxx xxx xxx xxx

6-A. The above procedure may be relaxed by the concerned Bench, for reasons to be recorded, in cases which call for such urgent intervention by the Court that is not practicable to allow the delay which may be caused in following the above procedure.

9. The procedure in these rules shall be without prejudice to the power of the Court under Article 226 and 227 of the Constitution of India under which the Bench hearing a Public Interest Litigation, may in the interest of justice and to promote public interest, devise special procedure for satisfying itself with the credentials and bona fides for the petitioner and also find out relevant facts deemed necessary for the purpose of the case."

It is, thus, evident that the matters shall be treated as Public Interest Litigation which involves substantial public interest aimed at redressal of genuine public harm or public injury and further to encourage only genuine and *bona fide* Public Interest Litigation and discourage Public Interest Litigation filed for extraneous considerations, the Bench

hearing a Public Interest Litigation shall first verify the *prima-facie* credentials of the petitioner before entertaining any case as Public Interest Litigation. Thereafter, notice may be issued to the Advocate General or to any other authority to enable the Bench hearing the matter to come to a *prima facie* satisfaction regarding the correctness of the contents of the petition or information before entertaining the same as Public Interest Litigation.

There is no dispute that the aforesaid Rules have been formulated in terms of the proposition laid down by the Hon'ble Apex Court in order to encourage only genuine and *bona fide* Public Interest Litigation.

Rule 3 of the Jharkhand High Court (Public Interest Litigation) Rules, 2010, provides that only those matters shall be treated as Public Interest Litigation which involves substantial public interest at redressal of genuine public harm or public injury. The words 'genuine public harm or public injury' and 'genuine and *bona fide* Public Interest Litigation', have got significance in the facts of the given case.

So far as the provision as contained under Rule 4, 4-A, 4-B and 5 of the Jharkhand High Court (Public Interest Litigation) Rules, 2010 are concerned, this Court, after going across the aforesaid provision, has found therefrom particularly from perusal of provision as contained under Rule 4 that the petitioner in a Public Interest Litigation shall

state in clear terms of the relief prayed for in paragraph-1 of the petition and grounds in paragraph-2 thereof. In paragraph-3, the petitioner shall give his/her full and complete details so as to reveal his/her interest, credentials and qualifications relevant for the Public Interest Litigation, along with a declaration that he/she has no personal interest, direct or indirect, in the subject matter of Public Interest Litigation. In addition, the petitioner shall set out all relevant facts along with available supporting data, reports etc. 4-A of Rules, 2010 regarding a Public Interest Litigation is filed by a person on behalf of a Body of Individuals which is not a case here, thus, it is not being discussed.

The provision under Rule 4-B of the Rules, 2010 suggests that Every Public Interest Litigation will chronologically mention in detail all such other and earlier efforts with their result, which are within the petitioner's knowledge, and which have been made by the petitioner or others for obtaining the relief sought by the Public Interest Litigation.

Rule 5 speaks about encouraging only genuine and bona fide Public Interest Litigation and discourage Public Interest Litigation filed for extraneous considerations, the Bench hearing a Public Interest Litigation shall first verify the prima facie credentials of the Petitioner before entertaining any case as Public Interest Litigation. Thereafter, notice may

be issued to the Advocate General or to any other authority to enable the Bench hearing the matter to come to a prima facie satisfaction regarding the correctness of the contents of the petition or information before entertaining the same as Public Interest Litigation.

It is only thereafter Public Interest Litigation shall be listed with appropriate office notices under the heading “For Orders” before the appropriate Bench.

28. This Court, in order to answer the issue of credentials of the petitioner, has gone across the affidavit and supplementary affidavits filed by the writ petitioner in the writ petitions in order to scrutinize as to whether such credentials have been given or not. From its perusal, it is evident that the petitioner has disclosed that the petitioner is tax payer and engaged in business for his livelihood. The petitioner has no personal interest either direct or indirect in the subject matter of instant Public Interest Litigations. The petitioner obtained information through R.T.I Act and he filed several Public Interest Petitions before this Court, details of which, have been given in preceding paragraphs. It further appears from the supplementary affidavit dated 21.04.2022, in paragraph 3 that prior to him one Late Diwan Indranil Sinha had sent representations with all the details of the companies and documents before the Director, C.B.I as also to other constitutional bodies. However, the C.B.I. responded the

same and vide letter no. 376 dated 05.11.2014 has stated that “....*if so desire, approach the competent Court...*”.

It is, thus, evident that so far as requirement under Rule 4, 4-B or 5 of the Rules, 2010 is concerned, the petitioner fulfils the same as he has given the required declaration in the affidavit/supplementary affidavit filed by him.

It is relevant to note here that the concerned respondents have not filed any reply to the supplementary affidavit filed on behalf of petitioner on 21.04.2022.

29. However, the question is as to whether, merely on the ground of non-compliance of technicality for filing the Public Interest Litigation, should the Public Interest Litigation be thrown out by the High Court even if incriminating materials have surfaced. Reference in this regard may be made to Rule 3 of the Rules, 2010 wherein it has been stated that only those matter shall be treated as Public Interest Litigation, which involves substantial public interest at redressal of genuine public harm or public injury and for this the Bench hearing the matter shall ensure that there is no personal gain, private motive or oblique motive behind filing the Public Interest Litigation.

Therefore, prima facie consideration for furnishing such detail, the genuineness of public harm or public injury as

also issue of personal gain or oblique motive is required to be seen.

30. There is no dispute about the settled position of law that procedure ought not be allowed to be given preference over genuine Public Interest Litigation on ground of technicalities. But certainly that principle will be applicable if the Court finds that the Public Interest Litigation is filed for mischievous consideration.

It is also not disputed that the responsibility of the Court is to decide controversies that have been brought before it irrespective of the parties or the persons before it. Reference in this regard be made to dictum rendered in ***Cropper V. Smith, (1884) 26Ch D 700***, wherein it has been stated that “..*The Object of courts is to decide the rights of parties and not to punish them for mistakes which they make in the conduct of their cases by deciding otherwise than in accordance with their rights...Courts do not exist for the sake of discipline, but for the sake of deciding matters in controversy.*”

31. This Court, therefore, is of the view that even if there is criteria under rule 4 or 5 of the Rules, 2010, and the same has not strictly been followed but if there is *prima facie* material available indicating genuine public interest, the writ petitions should not and cannot be thrown away. The petitioner can be ousted but not be genuine issues raising the public cause. Doing that will frustrate the cause of justice.

In this context, it also requires to refer that, as to whether procedural law which has been framed under High Court of Jharkhand Rules, 2001 as Appendix 20 laying down certain conditions under Rule, 4, 4-A, 4-B and 5 of the Rules, 2010 should be considered to be directory or mandatory. It has been argued by learned senior counsel for the concerned respondents, these provisions are mandatory to be followed since it has been inserted in exercise of powers conferred by Section 29 of the Bihar Reorganization Act, 2000.

It also requires to refer herein the judgment rendered in the case of ***Salem Advocate Bar Association, T.N. Vs. Union of India [(2005)6 SCC 344]***, wherein at paragraph 20 it has been held as under:

“20. The use of the word “shall” in Order 8 Rule 1 by itself is not conclusive to determine whether the provision is mandatory or directory. We have to ascertain the object which is required to be served by this provision and its design and context in which it is enacted. The use of the word “shall” is ordinarily indicative of mandatory nature of the provision but having regard to the context in which it is used or having regard to the intention of the legislation, the same can be construed as directory. The rule in question has to advance the cause of justice and not to defeat it. The rules of procedure are made to advance the cause of justice and not to defeat it. Construction of the rule or procedure which promotes justice and prevents miscarriage has to be preferred. The rules of procedure are the handmaid of justice and not its mistress. In the present context, the strict interpretation would defeat justice.”

It is, thus, evident that the use of word ‘Shall’ in Order 8 Rule 1 by itself is not conclusive to determine whether the

provision is mandatory or directory. The use of word 'Shall' is ordinarily indicative of mandatory nature but having regard to the context in which it is used or having regard to the intention of the legislation, the same can be construed as directory. The rules of procedure are made to advance the cause of justice and not to defeat it. Construction of the rule or procedure which promotes justice and prevents miscarriage has to be preferred. The rules of procedure are the handmaid for justice. In the present context, the strict interpretation would defeat justice.

Further, in the case of ***Chinnammal & Ors Vs. P. Arumugham & Anr. [(1990)1 SCC 513]***, it has been held at paragraph 16 as under:

“16.This is also the principle underlying Section 144 of the Code of Civil Procedure. It is the duty of all the courts as observed by the Privy Council “as aggregate of those tribunals” to take care that no act of the court in the course of the whole of the proceedings does an injury to the suitors in the court. The above passage was quoted in the majority judgment of this Court in A.R. Antulay v. R.S. Nayak [(1988) 2 SCC 602, 672 : 1988 SCC (Cri) 372] . Mukharji, J., as he then was, after referring to the said observation of Lord Cairns, said: (SCC p. 672, para 83)

“No man should suffer because of the mistake of the court. No man should suffer a wrong by technical procedure of irregularities. Rules or procedures are the handmaids of justice and not the mistress of the justice. Ex debito justitiae, we must do justice to him. If a man has been wronged so long as it lies

within the human machinery of administration of justice that wrong must be remedied.”

It is evident that from the said judgment that no man should suffer because of the mistake of the court. No man should suffer a wrong by technical procedure of irregularities. Rules or procedures are the handmaids of justice and not the mistress of the justice.

Likewise, in the judgment rendered by Hon’ble Supreme Court in ***Jai Jai Ram Manohar Lal vs. National Building Material Supply, Gurgaon*** [(1969) 1 SCC 869], it *has been held at paragraph 5 as under:*

“5. The order passed by the High Court cannot be sustained. Rules of procedure are intended to be a handmaid to the administration of justice. A party cannot be refused just relief merely because of some mistake, negligence, inadvertance or even infraction of the Rules of procedure. The Court always gives leave to amend the pleading of a party, unless it is satisfied that the party applying was acting mala fide, or that by his blunder, he had caused injury to his opponent which may not be compensated for by an order of costs. However negligent or careless may have been the first omission, and, however late the proposed amendment, the amendment may be allowed if it can be made without injustice to the other side. In Amulakchand Mewaram v. Babulal Kanlal Taliwala [35 Bom LR 569] , Beaumont, C.J., in delivering the judgment of the Bombay High Court set out the principles applicable to cases like the present and observed:

“... the question whether there should be an amendment or not really turns upon whether the name in which the suit is brought in the name of a non-existent person or whether it is merely a misdescription of existing persons. If the former is the case, the suit is a nullity and no amendment can cure it. If the latter is the case, prima facie, there ought to be an amendment because the

general rule, subject no doubt to certain exceptions, is that the Court should always allow an amendment where any loss to the opposing party can be compensated for by costs.”

It is, thus, evident that Rules of procedure are intended to be a handmaid to the administration of justice. A party cannot be refused just relief merely because of some mistake, negligence, inadvertence or even infraction of the Rules of procedure.

The provisions contained in the Rules 6-A and 9 goes to show that it has been carved out as exception to the earlier part of the Rules, i.e., notwithstanding to the provisions contained in Rule, 3, 4, 4-A, 4-B. Thus, the provisions under Rule 3, 4, 4-A and 4-B etc. have to be treated to be directory as it cannot come in the way of exercise of power under Article 226 as per Rule 9.

In the judgment rendered by Hon'ble Apex Court in ***State of Punjab & Anr. Vs. Shamlal Murari & Anr.*** **[(1976) 1 SCC 719]**, wherein at paragraph 8 it has been held that procedure is not a tyrant but a servant. The relevant paragraph 8 of the judgment is quoted hereunder as:

“8. It is obvious that even taking a stern view, every minor detail in Rule 3 cannot carry a compulsory or imperative import. After all, what is required for the Judges to dispose of the appeal is the memorandum of appeal plus the judgment and the paper-book. Three copies would certainly be a great advantage, but what is the core of the matter is not the number but the presence, and the overemphasis laid by the court on three copies is, we think, mistaken. Perhaps, the rule

*requires three copies and failure to comply therewith may be an irregularity. Had no copy been furnished of any one of the three items, the result might have been different. In the present case, copies of all the three documents prescribed, have been furnished but not three copies of each. This omission or default is only a breach which can be characterised as an irregularity to be corrected by condonation on application by the party fulfilling the condition within a time allowed by the court. We must always remember that **processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice.** Where the non-compliance, tho' procedural, will thwart fair hearing or prejudice doing of justice to parties, the rule is mandatory. But, grammar apart, if the breach can be corrected without injury to a just disposal of the case, we should not enthrone a regulatory requirement into a dominant desideratum. After all, courts are to do justice, not to wreck this end product on technicalities. Viewed in this perspective, even what is regarded as mandatory traditionally may, perhaps, have to be moderated into wholesome directions to be complied with in time or in extended time. Be that as it may, and ignoring for a moment the exploration of the true office of procedural conditions, we have no doubt that what is of the essence of Rule 3 is not that three copies should be furnished, but that copies of all the three important documents referred to in that suit shall be produced. We further feel that the court should, if it thinks it necessitous, exercise its discretion and grant further time for formal compliance with the rule if the copies fall short of the requisite number. In this view and to the extent indicated, we overrule the decision in *Bikram Dass case*. ”*

Emphasis supplied

The aforesaid judgment reflects that on the ground of procedural defect the litigation cannot be thrown out. It is not in dispute that Jharkhand High Court (Public Interest Litigation) Rules, 2010 has been formulated in exercise of

powers conferred by Section 29 of the Bihar Reorganization Act, 2000 by way of procedural law for filing or entertaining Public Interest Litigation.

Therefore, the issue fell for consideration before this Court is for deciding the issue of maintainability due to not observing strictly the provisions of Jharkhand High Court (Public Interest Litigation) Rules, 2010, it has been held by Hon'ble Supreme Court, procedural law will not come in the way of substantive justice. The substantive justice is required to be seen from the pleadings of the rival parties and if the Court of law *prima facie* finds that there is some substance in the materials produced before it then certainly rejection on such procedural law will lead to social injustice where the public interest at large is involved. The requirement as per the provision of Rule 4, 4-B and 5 of the Jharkhand High Court (Public Interest Litigation) Rules, 2010 may not have been followed in its entirety but as would appear on the basis of affidavits filed on behalf of parties as also after going through the submission made by the Enforcement Directorate in the affidavit dated 19.05.2022 in W.P. (PIL) No. 727 of 2022, as would appear from paragraphs 6, 7 & 8, as referred and quoted above, it would be very difficult for this Court to throw away the writ petitions on that ground.

This Court *prima facie* is of the view that in such circumstances, it will not be just and proper to go into

technicality holding the writ petitions to be not maintainable rather for the ends of justice and public interest at large, these writ petitions would have to be held maintainable.

32. Issue of suppression of W.P. (PIL) No. 4218 of 2013 has also been raised by the respondents.

Learned counsel for the petitioner has submitted that the aforesaid fact is not required to be stated in the writ petition reason being that the aforesaid writ petition was filed by one Diwan Indranil Sinha and not the present writ petitioner, however, he submits that he was the counsel in the said writ petition also but the same cannot be said to be a ground to dismiss the writ petition on the ground of suppression of fact. According to him, the aforesaid writ petition was dismissed by the Co-ordinate Bench of this Court vide order dated 22.11.2013, against which, SLP being Special Leave to Appeal (Civil) No. 4886 of 2014 was preferred wherein the Hon'ble Supreme Court has dismissed the said SLP vide order dated 28.02.2014. He again preferred a writ petition, however, it is stated that during pendency of the same, said Diwan Indranil Sinha died due to cancer.

He further submits that the aforesaid aspect of the matter cannot be said to be suppression of fact on behalf of petitioner since he has got no relation with said Diwan Indranil Sinha. Therefore, argument which has been

advanced to dismiss the writ petition on the aforesaid ground is not sustainable in the eye of law.

33. We have considered the aforesaid aspect of the matter and gone through the order passed by this Court W.P. (PIL) No. 4218 of 2013 as also order passed by Hon'ble Apex Court in Special Leave to Appeal (C) No. 4886 of 2014 and found that writ petition was filed by one Diwan Indranil Sinha and to that effect specific affidavit was filed by the petitioner but no rebuttal or reply has been filed by contesting respondents.

34. This Court, after considering the aforesaid aspect of the matter and taking into consideration the fact that the issue which is the subject matter of writ petition since involve issue of siphoning of huge public money, having the public interest at large, therefore, this Court deems it fit and proper not to throw the writ petition on that ground.

35. This Court, on the basis of discussions made herein above, is of the considered view that merely because the some of the requirement as per Rule 4, 4-B and 5 of the Jharkhand High Court (Public Interest Litigation) Rules, 2010 have not been followed, the instant writ petitions cannot be held to be not maintainable.

36. Accordingly, **Objection Nos. I and II regarding maintainability of the writ petitions are answered against the respondent-State of Jharkhand and respondent no. 6**

in W.P. (PIL) NO. 4290 of 2021, who happens to be respondent no. in W.P. (PIL) No. 727 of 2022.

37. Objection No. III: The writ petitions have been filed with *mala fide* intention since father of the writ petitioner was the witness in a criminal case instituted against father of respondent no. 6, namely, Mr. Sibbu Soren, in which he was convicted, however, the judgment of conviction and the order of sentence passed by the trial Court were reversed by the High Court, which was finally affirmed by the Hon'ble Supreme Court.

38. It has been argued by learned counsel appearing for the concerned respondents that writ petitions are fit to be dismissed on the ground that father of the writ petitioner in W.P. (PIL) No. 4290 of 2021 and W.P. (PIL) No. 727 of 2022 was a witness in a criminal case instituted against the father of respondent no. 6 in W.P. (PIL) NO. 4290 of 2021, who happens to be respondent no. 7 in W.P. (PIL) No. 727 of 2022, in which, father of respondent no. 6 was convicted, however, the judgment of conviction and the order of sentence passed by the trial Court were reversed by the High Court, which was finally affirmed by the Hon'ble Supreme Court.

39. Mr. Rajeev Kumar, learned counsel for the petitioner has submitted that this cannot be said to be a proper ground for dismissing the writ petition on the issue of maintainability reason being that even accepting that father of writ petitioner

was witness in the said criminal case that does not mean that the writ petitioner will be debarred from approaching the Court of law or he will be debarred from his fundamental right conferred by the Constitution of India merely on the ground that his father was a witness in a criminal case instituted against father of respondent no. 6 in W.P. (PIL) NO. 4290 of 2021, who happens to be respondent no.7 in W.P. (PIL) No. 727 of 2022.

In support of his argument, he has relied upon the judgment rendered in ***Vishwanath Chaturvedi (3) Vs. Union of India & Ors*** [(2007) 4 SCC 380]; ***Raju Ramsing Vasave Vs. Mahesh Deorao & Ors*** [(2008) 9 SCC 54]; ***State of Uttaranchal Vs. Balwant Singh Chaufal & Ors*** [(2010) 3 SCC 402] and ***T.N. Godavarman Thirumulpad Vs. Union of India*** (2006) 5 SCC 28].

40. This Court before answering the issue deems it fit and proper to discuss the judgment, upon which reliance has been placed on behalf of concerned respondents.

Firstly, reliance has been placed upon the judgment rendered in ***Jaipur Shahar Hindi Vikas Samiti (supra)***, wherein at paragraph 49, it has been laid down as under:

49. The concept of public interest litigation is a phenomenon which is evolved to bring justice to the reach of people who are handicapped by ignorance, indigence, illiteracy and other downtrodden people. Through the public interest litigation, the cause of several people who are not able to approach the court is espoused. In the guise of public interest litigation, we are coming across several cases where it is exploited for the benefit of certain

individuals. The courts have to be very cautious and careful while entertaining public interest litigation. The judiciary should deal with the misuse of public interest litigation with iron hand. If the public interest litigation is permitted to be misused the very purpose for which it is conceived, namely, to come to the rescue of the poor and downtrodden will be defeated. The courts should discourage the unjustified litigants at the initial stage itself and the person who misuses the forum should be made accountable for it. In the realm of public interest litigation, the courts while protecting the larger public interest involved, should at the same time have to look at the effective way in which the relief can be granted to the people whose rights are adversely affected or are at stake. When their interest can be protected and the controversy or the dispute can be adjudicated by a mechanism created under a particular statute, the parties should be relegated to the appropriate forum instead of entertaining the writ petition filed as public interest litigation.”

It is evident from the proposition laid down in the above judgment that the courts should very cautious and careful while entertaining public interest litigation. The judiciary should deal with the misuse of public interest litigation with iron hand. If the public interest litigation is permitted to be misused the very purpose for which it is conceived, namely, to come to the rescue of the poor and downtrodden will be defeated. The courts should discourage the unjustified litigants at the initial stage itself and the person who misuses the forum should be made accountable for it.

41. Mr. Sibal, learned senior counsel for the respondents has further relied upon the judgment rendered in **K. R. Srinivas v. R.M. Premchand and Others (supra)** in partiucular paragraph 7, wherein it has been held that it

cannot be forgotten that 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 must further come with a clean heart, clean mind and a clean objective.

Further reliance has been placed upon the judgment rendered in ***T.N. Godavarman Thirumulpad Vs. Union of India (supra)***, wherein it has been held that howsoever genuine a cause brought before a court by a public interest litigant may be, the court has to decline its examination at the behest of a person who, in fact, is not a public interest litigant and whose bona fides and credentials are in doubt.

Further reliance has been placed on the judgment rendered in ***Dataraj Nathuji Thaware Vs. State of Maharashtra & Ors*** [(2005) 1 SCC 590], it has been submitted that 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 armoury of law for delivering social justice to citizens. The relevant paragraph 12 and 13 is reproduced as under:

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*

armoury 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 be publicity-oriented or founded on personal vendetta. As indicated above, court must be careful to see that a body of persons or 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 considerations. The court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives, and try to bargain for a good deal as well as to enrich themselves. 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.

13. *The Council for Public Interest Law set up by the Ford Foundation in USA defined “public interest litigation” in its Report of Public Interest Law, USA, 1976 as follows:*

“Public interest law is the name that has recently been given to efforts to provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in the recognition that ordinary marketplace for legal services fails to provide such services to significant segments of the population and to significant interests. Such groups and interests include the proper environmentalists, consumers, racial and ethnic minorities and others.”

42. This Court after going through the aforesaid judgment is of the view that there is no dispute about the legal proposition that the Public Interest Litigation is to be entertained with utmost care and circumspection and is required to be decided by the Court of law taking into consideration the factual aspects pertaining to nature of allegation as to whether same is causing any harm to the

social justice or there is involvement of public interest at large.

This Court, therefore, is of the considered view that the allegation of *mala fide* merely because father of writ petitioner was a witness in a criminal case in which he was convicted, however, the judgment of conviction and the order of sentence passed by the trial Court were reversed by the High Court, which was finally affirmed by the Hon'ble Supreme Court, is not sustainable. Herein, allegation as per the pleadings available on record is serious in nature, i.e. investment of ill-gotten money through various sources, which is allowed to be laundered at the cost of society jeopardizing interest of the people at large.

So far as this objection being raised by Mr. Mukul Rohatagi, learned senior counsel in W.P. (PIL) No. 727 of 2022 is concerned, the allegation of obtaining mining lease by the respondent concerned being Chief Minister and Minister-in-Charge of Mining Department, has been admitted by him in his counter affidavit. It is a different thing that he may have now surrendered the lease. Such being the admitted position, the *mala fide* point or the issue of biased approach by the writ petitioner would not be acceptable at all. The allegation cannot be said to be a farce. What ultimately would be the fate of the writ petition lies in the womb of morrow but how such petition could be thrown away at the threshold?

43. Accordingly, objection no. III is decided against the concerned respondents.

44. Objection No. (IV). The writ petitioner has directly rushed to this Court without exhausting the remedy available under the Code of Criminal Procedure.

45. Learned counsel for the respondent has submitted that the writ petitioner has rushed to this Court by filing the instant writ petition without exhausting the alternative remedy available under the Code of Criminal Procedure to put the police into motion by instituting the complain before the police under Section 154 and 156(3) of the Code of Criminal Procedure.

In support of his argument, he has placed reliance upon the judgments rendered by Hon'ble Supreme Court in **K. R. Srinivas v. R.M. Premchand and Others** [(1994) 6 SCC 620]; **Sakiri Vasu Vs. State of Uttar Pradesh & Ors.**, (2008) 2 SCC 409; **M. Subramaniam and Anr. Vs. S. Janaki and Anr** [(2020) 16 SCC 728]; **Sudhir Bhaskarrao Tambe Vs. Heman Yaswant Dhage and others** [(2016) 6 SCC 277]; **Kunga Nima Lepcha and Ors. Vs. State of Sikkim and Ors.**, (2010) 4 SCC 513 and **Jaipur Shahar Hindu Vikas Samiti (supra)**.

Much emphasis has been given on the judgment rendered in **Sakiri Vasu Vs. State of Uttar Pradesh & Ors (supra)**, from perusal of which we found that in case of F.I.R.

not being instituted by the concerned Police Station then the provision as contained under Section 154(3) of the Code of Criminal Procedure is required to be resorted to i.e., by filing complaint before the Superintendent of Police of the concerned district. Even thereafter, if the F.I.R. is not being instituted the remedy is available under Code of Criminal Procedure by approaching the Magistrate concerned under Section 156(3) of Code.

46. However, in the case in hand, prayer is for proper investigation by C.B.I. of the matter since it is a matter of money laundering and siphoning of public money by investing it through SHELL companies. It is settled position of law that such direction cannot be given under Section 156(3) of the Code of Criminal Procedure, as has been held by Hon'ble Supreme Court in ***Central Bureau of Investigation Vs. State of Rajasthan & Anr [(2001) 3 SCC 333]***. It has been laid down in the aforesaid decision, while answering the question as to whether a Magistrate can direct CBI to conduct investigation in exercise of powers under Section 156(3) of Code of Criminal Procedure or not, was restricted to the question whether a Magistrate can direct CBI to conduct investigation in exercise of his powers under Section 156(3) of the Code. It was held by the Hon'ble Apex Court as under:

“ ...we, therefore, reiterate that the magisterial power cannot be stretched under the said sub-section beyond directing the officer in charge of a police station to conduct the investigation.

47. This Court, after considering the proposition laid down in the above case, is of the view that since in the present case a direction has been sought to conduct CBI enquiry, which the magistrate in exercise of power conferred under Section 156(3) cannot exercise, therefore what has been laid down in the case of ***Sakiri Vasu Vs. State of Uttar Pradesh & Ors (supra)*** will not be applicable in the case in hand.

48. Likewise, much emphasis has been given to the judgment rendered in ***Jaipur Shahar Hindu Vikas Samiti (supra)*** submitting that the High Court as well as Hon'ble Apex Court dismissed the writ petition on the ground that alternative remedy was available for redressal of grievance.

We have gone across the judgment passed in ***Jaipur Shahar Hindu Vikas Samiti (supra)*** and found therefrom that civil suit was filed by the petitioner which was pending before the Commissioner, as such the Hon'ble Apex Court taking into consideration the fact that the appellant-petitioner has availed the statutory remedy, dismissed the SLP preferred by the petitioner holding the same to be not maintainable. However, in the case in hand the fact is otherwise, since there is allegation of siphoning of huge public money jeopardizing

the public interest and siphoning the national wealth as such the judgment rendered in ***Jaipur Shahar Hindu Vikas Samiti (supra)*** would not be applicable in the facts of the present case.

So far the judgment rendered in ***Sudhir Bhaskarrao Tambe Vs. Heman Yaswant Dhage and others*** [(2016) 6 SCC 277] is concerned, law is well settled that in case of non-registration of FIR or improper investigation by the police remedy in the matter is available under the Code of Criminal Procedure by approaching before the Magistrate under Section 156(3) and the Magistrate on prima facie being satisfied can issue direction for registration of FIR; if FIR has already been registered, issue a direction for proper investigation and monitor the investigation.

However, at the cost of reiteration, it is noted that power to handover the investigation to CBI is admittedly not there with the Magistrate.

This Court has also considered other judgments cited on behalf of concerned respondents and after going through the factual aspect and propositions of law laid down in the judicial pronouncements of Hon'ble Supreme Court, and found therefrom that the judgments are on the issue of entertaining the Public Interest Litigations with utmost care and circumspect. There cannot be any quarrel with that proposition at all but after careful consideration we could not

be persuaded by the respondents to throw way the writ petitions at the threshold on technical ground in the given facts and circumstances.

49. This Court, in view of the discussions made hereinabove, is of the considered view that the issue of approaching this Court without exhausting the remedy available under Section 154, 154(3) and 156(3) of the Code of Criminal Procedure is not available in facts and circumstances of the present case reason being that in this case direction has been sought for investigation of siphoning of public money through independent agency, like CBI, ED and Income Tax Department and such orders cannot be passed under the aforesaid provisions.

In view thereof the **issue pertaining to approaching this Court without exhausting the remedy available under the Code of Criminal Procedure is not worth to be considered. Accordingly, rejected.** This issue is answered against the concerned respondents.

50. It has been urged by Mr. Mukul Rohatagi, learned senior counsel appearing for respondent no. 6 in W.P. (PIL) No. 4290 of 2021 and respondent no. 7 in W.P. (PIL) No. 727 of 2022 that even if it is admitted that the lease has been granted in favour of the Chief Minister who is having mining department, the same having been surrendered already by

him, there would be no occasion for continuance of this proceeding.

However, in our considered view what we will do on merit lies in the womb of the morrow. On that count we cannot hold the writ petitions non-maintainable.

51. Conclusion:

This Court, after having answered the issue, as framed by this Court, and on the basis of discussions made hereinabove, is summing up its view and is of the considered opinion that the writ petitions cannot be thrown away on the ground of maintainability.

Accordingly, we will proceed to hear the matters on merit finding both the writ petitions maintainable for the reasons explained hereinabove.

Place these matters on 10th June, 2022 at the top of the list.

(Dr. Ravi Ranjan, C.J.)

(Sujit Narayan Prasad, J.)

Alankar/-
A.F.R.