

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
DEPARTMENT OF LEGAL AFFAIRS

LOK SABHA

UNSTARRED QUESTION NO. 2160

TO BE ANSWERED ON FRIDAY, THE 15th DECEMBER, 2023

Recovery of Litigation Expenses on Filing False Cases

2160. SHRIMATI POONAM MAHAJAN:

Will the Minister of **LAW AND JUSTICE** be pleased to state:

- (a) whether the Government proposes to adopt strict measures like recovery of litigation expenses and doubling the fine/punishment against the persons who file false cases repeatedly in order to bring transparency in the judicial system of the country;
- (b) if so, the details thereof;
- (c) whether the Government proposes to make provision for imprisonment/punishment in case of non-payment of fine by such persons; and
- (d) if so, the time by which the decision in this regard is likely to be finalised?

ANSWER

**MINISTER OF STATE (INDEPENDANT CHARGE) OF THE MINISTRY OF LAW AND JUSTICE; MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS; AND MINISTER OF STATE IN THE MINISTRY OF CULTURE
(SHRI ARJUN RAM MEGHWAL)**

(a) to (d): No, Sir. Legal and Constitutional remedies are guaranteed under the provisions of the Constitution. Approaching courts for redressal is a right of all citizens and especially the marginalised, who are fighting to get justice.

As per the contentions of the parties in a case, it is for the Court to decide whether the case/petition/suit is maintainable or not and

what relief is admissible or otherwise depending on the facts and circumstances of the case. Further, there are certain laws to deal with the frivolous litigations by errant litigants. Under the Code of Civil Procedure 1908, section 35A provides for payment of costs by way of compensation in respect of false or vexatious claims or defences. Also, under section 250 of the Code of Criminal Procedure 1973, the court is empowered to direct payment of compensation to the accused, if the court considers that there is no reasonable ground for making the accusation. Further, as per section 209 of the Indian Penal Code, 1860, whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, is liable to be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine. The Hon'ble Supreme Court and High Courts have also issued certain directions from time to time through their orders/judgements to keep a check on frivolous litigation/false claims. The courts are also concerned that its process are not abused by any persons, organisations and institutions by filing frivolous petitions in the name of PILs. Further, Public-interest litigation is a rule of declared law by the courts of record. However, the person (or entity) filing the petition must prove to the satisfaction of the court that the petition serves the public interest and is not a frivolous lawsuit brought for monetary gain.

The Supreme Court, in the case of State of Uttaranchal vs. Balwant Singh Chauhan and Ors. (2010) 3 SCC 402, had held that in order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions:-

- (a) The courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.
- (b) Instead of every individual judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy of the Rules prepared by

the High Court is sent to the Secretary General of this court immediately thereafter.

- (c) The courts should prima facie verify the credentials of the petitioner before entertaining a PIL.
- (d) The court should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.
- (e) The court should be fully satisfied that substantial public interest is involved before entertaining the petition.
- (f) The court should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.
- (g) The courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation.
- (h) The court should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations.

The Hon'ble Supreme Court in *Subrata Roy Sahara vs. Union of India &Ors.*(2014) 8 SCC 470, has held that "The Indian judicial system is grossly afflicted, with frivolous litigation. Ways and means need to be evolved, to deter litigants from their compulsive obsession, towards senseless and ill-considered claims. One needs to keep in mind that in the process of litigation, there is an innocent sufferer on the other side, of every irresponsible and senseless claim. He suffers long drawn anxious periods of nervousness and restlessness, whilst the litigation is pending, without any fault on his part."

Recently, the Supreme Court, in *Charu Kishor Mehta vs. Prakash Patel &Ors.*, SLP(C) No. 11030 /2022 vide order dated 22.06.2022 confirmed the Order dated 13.06.2022 of the Bombay High Court, and

held that filing frivolous cases in a court of law is an abuse of process of law. The Court also upheld the order of Bombay High Court imposing the cost of Rs. 5 lakhs on the petitioner and dismissed the Special Leave Petition.

The Hon'ble Delhi High Court in the case H. S. Bedi vs. NHAI (MANU/DE/0154/2016) has issued a set of guidelines to the lower courts for initiating prosecution under Section 209 of the Indian Penal Code in appropriate cases. The High Court said that the reluctance of courts to take action encourages litigants to make false averments. As stated above, section 209 of the IPC provides for imprisonment upto two years' and fine for the offence of fraudulently or dishonestly making a false claim in the court with the intent to injure or annoy any person.

Since Hon'ble Supreme Court and High Courts have been issuing guidelines from time to time to put a check on the false and frivolous litigation, no further actions at the level of the Central Government is contemplated at this stage.