



2026:AHC:14531

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 40757 of 2025

Jitendra

.....Petitioner(s)

Versus

State Of Up And 7 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Sitaram Yadav
Counsel for Respondent(s)	:	C.S.C.

Court No. - 6

HON'BLE PRAKASH PADIA, J.

1. The petitioner has preferred the present petition with the following prayer:-

i. A writ order or direction in the nature of Mandamus directing the respondent no.3 and 4 to remove the illegal possession as accordance of law of Gata No.549 reserve for fertilizer pit (खाद का गड्ढा) of the Gram Sabha.

2. A preliminary objection has been raised by Sri Sudhir Bharti, learned counsel for the respondent no.9/Gram Sabha as well as Sri Vijay Shankar Prasad, learned Additional Chief Standing Counsel for the respondent-State that petitioner is only a complainant and he does not fall within the definition of aggrieved person.This fact is also admitted by learned counsel for the petitioner.

3. The existence of a right in favour of an aggrieved party furnishes the locus standi to maintain a writ petition as held in ***Vinoy Kumar Vs. State of U.P. and others reported in (2001) 4 SCC 734*** thus:

"2. Generally speaking, a person shall have no locus standi to file a writ petition if he is not personally affected by the impugned order or his fundamental rights have neither been directly or substantially invaded nor is there any imminent danger of such rights being invaded or his acquired interests have been violated ignoring the applicable rules. The relief under Article 226 of the constitution is based on the existence

of a right in favour of the person invoking the jurisdiction. The exception to the general rule is only in cases where the writ applied for is a writ of habeas -corpus or quo warranto or filed in public interest. It is a matter of prudence, that the court confines the exercise of writ jurisdiction to cases where legal wrong or legal injuries caused to a particular person or his fundamental rights are violated, and not to entertain cases of individual wrong or injury at the instance of third party where there is an effective legal aid organisation which can take care of such cases. Even in cases filed in public interest, the court can exercise the writ jurisdiction at the instance of a third party only when it is shown that the legal wrong or legal injury or illegal burden is threatened and such person or determined class of persons is, by reason or poverty, helplessness or disability or socially or economically disadvantages position, unable to approach the court for relief."

4. Similarly in ***Ayaubkhan Noorkhan Pathan Vs. State of Maharashtra and others reported in (2013) 4 SCC 465***, the Supreme Court emphasized that existence of enforceable rights of aggrieved parties form the precondition to invoke the extraordinary jurisdiction under Article 226 of the Constitution of India vested in this Court:

"9. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the authority/court, that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order, etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can, of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such

person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that the relief prayed for must be one to enforce a legal right. In fact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. [Vide State of Orissa v. Madan Gopal Rungta [AIR 1952 SC 12] , Saghir Ahmad v. State of U.P. [AIR 1954 SC 728] , Calcutta Gas Co. (Proprietary) Ltd. v. State of W.B. [AIR 1962 SC 1044] , Rajendra Singh v. State of M.P. [(1996) 5 SCC 460 : AIR 1996 SC 2736] and Tamilnad Mercantile Bank Shareholders Welfare Assn. (2) v. S.C. Sekar [(2009) 2 SCC 784].]

10. A "legal right", means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must, therefore, necessarily be one whose right or interest has been adversely affected or jeopardised. (Vide Shanti Kumar R. Canji v. Home Insurance Co. of New York [(1974) 2 SCC 387 : AIR 1974 SC 1719] and State of Rajasthan v. Union of India [(1977) 3 SCC 592 : AIR 1977 SC 1361] .)

11. In Anand Sharadchandra Oka v. University of Mumbai [(2008) 5 SCC 217 : AIR 2008 SC 1289] , a similar view was taken by this Court, observing that, if a person claiming relief is not eligible as per requirement, then he cannot be said to be a person aggrieved regarding the election or the selection of other persons."

5. The Hon'ble Supreme Court in case of **Jasbhai Motibhai Desai Vs.**

Roshan Kumar, Haji Bashir Ahmed reported in 1976 (1) SCC 671 held that a stranger who is not an aggrieved person cannot maintain a Writ for either Certiorari or Mandamus. The relevant paragraph of the aforesaid judgment is reproduced hereunder:-

"50. While a Procrustean approach should be avoided, as a rule, the Court should not interfere at the instance of a "stranger" unless there are exceptional circumstances involving a grave miscarriage of justice having an adverse impact on public interests. Assuming that the appellant is a "stranger", and not a busybody, then also there are no exceptional circumstances in the present case which would justify the issue of a writ of certiorari at his instance. On the contrary, the result of the exercise of these discretionary powers, in his favour, will, on balance, be against public policy. It will eliminate healthy competition in this business which is so essential to raise commercial morality; it will tend to perpetuate the appellant's monopoly of cinema business in the town; and above all, it will in effect, seriously injure the fundamental rights of Respondents Nos. 1 and 2, which they have under Article 19(1)(g) of the Constitution, to carry on trade or business subject "reasonable restrictions imposed by law".

6. In the case of ***Pyare Lal and others Vs. The Deputy Director of Consolidation Mainpuri and others reported in 2005 ALL L. J. 1966*** it has been held in paragraph-7 that :-

"Dictionary meaning of word aggrieved is "having suffered loss or injury. "According to the Black's Law Dictionary aggrieved party/person is "one whose legal right is invaded by an act complained of, or whose pecuniary interest is directly affected by a decree or judgment. The word aggrieved refers to a substantial grievance, a denial of some personal or property right, or the imposition upon a party of a burden or obligation". According to Corpus Juris Secundum volume IV 356 (1st edition) a party or a person can be said to be aggrieved by a decision only when it operates directly and injuriously upon his

personal, pecuniary or proprietary rights."

7. In view of aforesaid, the Court is of the prima facie opinion that the petitioners are only a stranger or a busybody. Nothing has been stated in the entire writ petition that how the petitioners are aggrieved party.

8. In this view of the matter, the Court is of the opinion that petitioners does not have any locus standi to maintain the present writ petition, hence the same is liable to be dismissed and the same is hereby dismissed.

(Prakash Padia,J.)

January 20, 2026

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