**201IN THE HIGH COURT OF MADRAS**

W.P. No. 28283 of 2010

Decided On: 12.05.2011

Appellants: **Cable Operators Association of Tamizhagam rep. by its President A.P. Muruhkadaasan**
**Vs.**
Respondent: **The Commissioner of Police/Authorized Officer, Kal Cables Private Limited rep. by its Chairman and Sumangali Cable Vision, (A unit of Kal Cables Private Limited)**

**Hon'ble Judges/Coram:**
V. Dhanapalan, J.

**ORDER**

**V. Dhanapalan, J.**

1. This writ petition is filed for a direction to the first Respondent to take appropriate action against the 2nd and 3rd Respondents based on the complaint of the Petitioner, dated 29.03.2010.

2. Facts of the case as put forth in the affidavit would run thus:

(i) The Petitioner Association is a registered Society incorporated in terms of the provisions contained in the Tamil Nadu Societies Registration Act, 1975. It has 25 members as on date and it has been formed to protect the interest and welfare of Cable Operators in the State of Tamil Nadu.

(ii) The Cable Television Networks (Regulation) Act, 1995, hereinafter referred to as "the Act", was enacted to regulate the operation of Cable Television Networks in the country and for matters connected therewith or incidental thereto. By virtue of Cable Television Networks (Regulation) Amendment Act, 2002, Section 4A (Transmission of programmes through addressable system) was inserted to the principal Act. Sub-section (1) of the said Section 4A of the said Act provides that where the Central Government is satisfied that it is necessary in the public interest, it may, by notification in the Official Gazette, make it obligatory for every cable operator to transmit or retransmit programme of any pay channel through an addressable system with effect from such date as may be specified for different States, cities, towns or area, as the case may be. By virtue of the Notification issued by the Government of India in S.O.39(E) dated 14.01.2003, among other Cities, the Chennai Metropolitan Area has been notified as Conditional Access System (CAS) area.

(iii) While so, some of the Cable Operators have raised an issue that 2nd and 3rd Respondents herein have been airing certain pay channels into the basic tier, i.e. free to air signals transmitted without the help of Set Top Boxes in contravention of Section 4(A) of the said Act. Because of such illegal transmission of Pay Channel signals without Set Top Boxes as Free-to-Air Channels, it is difficult for the Operators of Chennai Metropolitan to carry out their Trade in strict adherence to the various provisions of the said Act and the Rules made there under besides sustaining loss. Every Cable Operator is to receive signals from the Multi System Operator(MSO) and supply the same to the houses in their respective areas through Closed Path and that the subscriber would get the signals of channels to their choice.

(iv) There are two kinds of Television Signals commonly known as Pay Channels and Free-To-Air Channels. The Chennai Metropolitan Area is notified under Section 4-A of the said Act. The above said two system of transmission of Television Signals are permissible. As a matter of fact, only one Multi System Operator for the whole of Chennai has been granted with licence and act as sole MSO. The 3rd Respondent is legally obligated to transmit Television signals without overlapping and in conformity with the provisions of the Act. The Cable Operators having been duly registered with the authority, they are empowered to retransmit the Television signals through Cable without any decoding to the customer. It is further submitted that the Cable Operators are authorized to collect the prescribed amount from their respective consumers to whom the Set Top Boxes are provided for viewing the Pay Channels, at the additional rates to that of Free-To-Air Channel-basic tier.

(v) While that being so, it came to light that the 3rd Respondent herein, re-transmitted the signals of Pay Channels through Free-to-Air basic Tier. As a result of which, the Cable Operators sustained loss of income. In these circumstances, the transmission of signals were recorded on 16.03.2010 which revealed that a number of Pay Channel signals were unauthorisedly transmitted in Free-To-Air basic Tier. Hence, the Petitioner Association made a representation dated 29.03.2010 before the 1st Respondent who is competent to take appropriate action in law. Despite that the 1st Respondent herein neglected to act according to law which resulted in causing continuous loss to the Cable Operators, which in turn affects the trade and livelihood of the Cable Operators. Hence, the Petitioner approached this Court.

3. In the counter filed by the 1st Respondent, it is stated that a photo copy of the representation dated 29.03.2010 was received in the office on 15.12.2010 and an endorsement through proper channel was subjected to enquiry by the Inspector of Police, Team X, Copyright Wing of the Central Crime Branch. In the complaint, the complainant had enclosed copies of the affidavits from two persons living in Kattupakkam and Adambakkam area and mentioned that he had enclosed C Ds containing recordings of the telecasted pay channels without set top boxes from the houses of the above two persons. However, no such C Ds were enclosed as mentioned in the complaint. Though the areas mentioned do not belong to the jurisdiction of Chennai Police Comissionerate, necessary enquiry was conducted by the Inspector of Police.

3a. The statements recorded by the Inspector from the above two persons during the course of enquiry did not state anything that could be conclusive of violations of transmission of pay channels without set top boxes. Moreover, enquiry of two other witnesses in the respective areas also did not categorically establish the viewing of pay channels as mentioned in the complaint. Though C Ds were not enclosed in the complaint as claimed by the complainant, the representative of the complainant handed over a CD to the Inspector in person on 11.04.2011 and the complainant also sent C Ds through courier on 19.04.2011. The enquiry officer, Inspector of Police, has reported that the contents of the C Ds could not linked definitely to a specific place and period. Hence, he has reported that he could not conclude telecasting of pay channels without set top boxes in the areas as mentioned in the complaint falling within the CAS (Conditional Access System) notified Chennai Metropolitan Area and the provisions of Section 4(A) and 16 of the Act 1995 could not be invoked.

4. Respondents 2 and 3 have filed a counter affidavit, wherein, they have stated that the Petitioner is not the aggrieved person and he does not have any legal right. Further, the address given by the Petitioner is in Kancheepuram area which is a non CAS area and the Petitioner's complaints are about alleged illegal transmission in a CAS area viz. Chennai for which the Petitioner has no connection. It is their further submission that pursuant to the complaint made by the Petitioner on 29.03.2010, the Police authorities enquired the Managers of 2nd and 3rd Respondent Companies regarding the allegations made by the Petitioner.

5. To the above counter affidavits, the Petitioner has filed a rejoinder, wherein, it is stated as follows:

(i) The Petitioner has filed the present writ petition seeking indulgence of this Court to direct the 1st Respondent, who is a statutory authority under the Special Act known as Cable Television Networks (Regulation) Act, 1995, since he has neglected to act according to law. The writ Petitioner Association was confirmed with an avowed object to protect the interest of Cable Operators in the State of Tamil Nadu relating to their trade. The Petitioner being a registered Society has got every right to approach this Court seeking the relief of directing the statutory authority to perform his functions within the four bounds of law. Moreso, in the instant case, the grievance of the Petitioner is that the 1st Respondent has not taken any action on their representation dated 29.03.2010 which discloses commission of cognizable offence and therefore, the 1st Respondent ought to have registered the case and to file final report before the competent criminal Court for violation of Section 4A of the said Act. However, the 1st Respondent did not chose to take any action for the reason of political influence wielded by other Respondents as averred in ground No. C of the affidavit filed in support of the main writ petition. In view of the same, it is submitted that the technical objection raised by Respondents 2 and 3 that the writ petition is not maintainable on the score of locus standi of the Petitioner, etc. does not deserve any merit consideration in the light of the settled principle of law that anybody can set the criminal law into motion and that the concept of aggrieved person is unknown to criminal jurisprudence except as expressly provided in Chapter XIV of Code of Criminal Procedure

(ii) The Petitioner would further submit that the power of this Court under Article 226 of the Constitution of India is so wider enough to reach wherever injustice is occurred and to maintain the rule of law by issuing suitable direction to act the statutory authorities within the four corners of statute and also to do complete justice as has been held in a catena of decisions by the Apex Court and this Court. In that view of the matter, it is submitted that this Court has got every power to issue suitable direction to the 1st Respondent to perform his statutory duty as provided in the aforementioned Act.

(iii) The allegation made by the Respondents with regard to requirement of pre-existence of legal right and the violation thereof as essential criteria for approaching this Court to issue a writ of mandamus is wholly unsustainable besides being opposed to the scope of writ petition. The other allegations that the Association has no connection with CAS area viz. Chennai is concerned, suffice to state that the Writ Petitioner Association being a State Level Body has got every right to redress the grievance of the Cable Operators throughout the State of Tamil Nadu.

(iv) As a matter of fact, the Petitioner has filed affidavit of two individuals which undoubtedly establishes the violation of Section 4A of the said Act and also has a CD substantiating the contents of their affidavit, which is annexed with the complaint dated 29.03.2010. As on date, the complaint of the Petitioner has not been registered in a manner known to law without which no investigation can validly be started. However, the fact remains that the Inspector of Police, Central Crime Branch, Egmore has issued summon under Sections 160 and 90 of Code of Criminal Procedure directing the President and others to appear for examination scheduled to have been held on 22.12.2010 and obtained involuntary statement from them under threat and coercion. Immediately, thereafter, the witnesses who are subjected for duress at the hands of the said Inspector of Police dated 03.01.2011 requested to give necessary protection to them. The Commissioner of Police has not even taken any action upon such representation dated 03.01.2011. The third parties have also filed necessary supporting affidavit signifying their willingness to give evidence before this Court, if it is necessary. Viewing the case in this angle, it may be seen that none of the contentions raised in the counter affidavit filed on behalf of the 2nd and 3rd Respondents are sustainable in law or on facts. At any rate, the complaint of the Petitioner Association cannot be thrown away on the ground that no member of the said Association was having any connection in relation to the area of Chennai. The Cable Operators functioning within the local limits of CAS area have also joined as members of the Petitioner Association subsequently.

6. Learned Counsel for the Petitioner would contend that the Act of unauthorized transmission of Pay Channel signals through Free-To-Air basic Tier constitutes an offence within the meaning of Section 4(A) Act read with Section 16 of the Act. It is his further contention that the 1st Respondent has neglected to discharge his statutory and public duty which warrants interference by this Court. In support of his case, learned Counsel has relied on the following:

(i) a Supreme Court decision reported in AIR 1981 SC 344 in the case of Fertilizer Corporation Kamagar Union (Regd) Sindri and Ors. v. Union of India

38. We have no doubt that in a competition between courts and streets as dispenser of justice, the rule of law must win the aggrieved person for the law court and wean him from the lawless street. In simple terms, locus standi must be liberalised to meet the challenges of the times. Ubi just ibi remedium must be enlarged to embrace all interests of public-minded citizens or organisations with serious concern for conservation of public resources and the direction and correction of public power so as to promote justice in its triune facets. Lord Scarman's warning in his Hamlyn Lectures lend strength to our view: "I shall endeavour to show that there are in the contemporary world challenges, social, political and economic, which, if the system cannot meet them, will destroy it. These challenges are not created by lawyers; they certainly cannot be suppressed by lawyers: they have to be met either by discarding or by adjusting the legal system. Which is to be ?

39. Lest there should be misapprehension, we wish to keep the distinction clear between the fundamental right to enforce fundamental rights and the interest sufficient to claim relief under Article 226 and even under other jurisdictions. The learned Attorney General almost agreed, under pressure of compelling trends in the contemporary law of procedure, that Article226 may probably enable the Petitioner to seek relief if the facts suggested by the court hypothetically existed. Shri A. K. Sen also took up a similar position. I will put aside Article 32 for a moment and scan the right under Article 226. There is nothing in the provision (unlike under Article 32) to define 'person aggrieved', 'standing' or 'interest' that gives access to the court to seek redress.

(ii) yet another Supreme Court decision reported in   : AIR 1985 SC 1147 in the case of Ram and Shyam Company v. State of Haryana and others

10. Before we deal with the larger issue, let me put out of the way the contention that found favour with the High Court in rejecting the writ petition. The learned Single Judge as well as the Division Bench recalling the observations of this Court in Assistant Collector of Central Excise v. Jainson Hosiery Industries   : (1979) 4 SCC 22 : AIR 1979 SC 1889 rejected the writ petition observing that 'the Petitioner who invokes the extraordinary jurisdiction of the court under Article 226 of the Constitution must have exhausted the normal statutory remedies available to him'. We remain unimpressed. Ordinarily it is true that the court has imposed a restraint in its own wisdom on its exercise of jurisdiction under Article 226 where the party invoking the jurisdiction has an effective, adequate alternative remedy. More often, it has been expressly stated that the rule which requires the exhaustion of alternative remedies is a rule of convenience and discretion rather than rule of law. At any rate it does not oust the jurisdiction of the Court. In fact in the very decision relied upon by the High Court in The State of Uttar Pradesh v. Mohammad Nooh it is observed that there is no rule, with regard to certiorari as there is with mandamus, that it will lie only where there is no other equally effective remedy. It should be made specifically clear that where the order complained against is alleged to be illegal or invalid as being contrary to law, a petition at the in stance of person adversely affected by it, would lie to the High Court under Article 226 and such a petition cannot be rejected on the ground that an appeal lies to the higher officer or the State Government. An appeal in all cases cannot be said to provide in all situations an alternative effective remedy keeping aside the nice distinction between jurisdiction and merits. Look at the fact situation in this case. Power was exercised formally by the authority set up under the Rules to grant contract but effectively and for all practical purposes by the Chief Minister of the State. To whom do you appeal in a State administration against the decision of the Chief Minister ? The clutch of appeal from Ceasar to Ceasar wife can only be bettered by appeal from one's own order to oneself. Therefore this is a case in which the High Court was not at all justified in throwing out the petition on the untenable ground that the Appellant had an effective alternative remedy. The High Court did not pose to itself the question, who would grant relief when the impugned order is passed at the instance of the Chief Minister of the State. To whom did the High Court want the appeal to be filed over the decision of the Chief Minister. There was no answer and that by itself without anything more would be sufficient to set aside the judgment of the High Court.

(iii) a judgment of the Allahabad High Court reported in AIR 1984 Allahabad 46 in the case of Umesh Chand Vinod Kumar and Ors. v. Krishi Utpadan Mandi Samiti, Bharthana and another

20. To summarise, the position appears to be that an association of persons, registered or unregistered, can file a petition under Article 226 for enforcement of the rights of its members as distinguished from the enforcement at its own rights-

(1) In case members of such an association are themselves unable to approach the court by reason of poverty, disability or socially or economically disadvantaged position "little Indians".

(2) In case of a public injury leading to public interest litigation provided the association has some concern deeper than that of a way-farer or a busybody i.e. it has a special interest in the subject-matter.

(3) Where the rules or regulations of the association specifically authorise it to take legal proceedings on behalf of its members, so that any order passed by the court in such proceedings will be binding on the members.

45. Our answer to the referred questions is as follows:

Q. 1 Whether an association of persons, registered or unregistered, can maintain a petition under Article 226 of the Constitution for the enforcement of the rights of its members as distinguished from the enforcement of its own rights?

A. 1 The position appears to be that an association of persons, registered or unregistered, can file a petition under Article 226 for enforcement of the rights of its members as distinguished from the enforcement of its own rights

(1) In case members of such an association are themselves unable to approach the court by reason of poverty, disability or socially or economically disadvantaged position (Title Indians").

(2) In case of a public injury leading to public interest litigation; provided the association has some concern deeper than that of a wayfarer or a busybody, i.e., it has a special interest in the subject-matter.

(3) Where the rules or regulations of the association specifically authorise it to take legal proceedings on behalf of its members, so that any order passed by the court in such proceedings will be binding on the members

(iv) a judgment of the Calcutta High Court made in AIR 1983 Calcutta 448 in the case of W.B. Head Masters' Association and Anr. v. Union of India and others

16. The second objection is directed against the locus standi of the Appellants --West Bengal Head Masters' Association and the West Bengal Guardians' Association. The Appellant No. 1 is an Association registered under the Societies Registration Act. It is contended on behalf of the Board that these two Associations are not affected by the impugned revised syllabus, and that they cannot have any legal right. It is difficult to accept such a contention. Both these Associations are interested in the education of the boys and girls of the Stale and, if according to them, the syllabus has not been properly prepared they have, in our opinion, locus standi to file a writ petition. In our view, any person interested in education may come to the High Court complaining about any irregularity or illegality committed by a statutory body entrusted with the education of children and seeking relief against such irregularity or illegality. There is, therefore, no substance in the contention of the Respondents and it is rejected.

(v) a Supreme court decision made in   : 2010 8 SCC 582 in the case of State of Maharashtra v. Farrok Mohammed Kasim Mapkar and Ors.

29. About the direction by the High Court, in exercise of its jurisdiction under Article 226, requesting the CBI to investigate a cognizable offence within the territory of a State without its consent was considered recently by a Constitution Bench in a decision reported in State of West Bengal and Ors. v. Committee for Protection of Democratic Rights, West Bengal and Ors.   : (2010) 3 SCC 571 which reads as follows:

69. In the final analysis, our answer to the question referred is that a direction by the High Court, in exercise of its jurisdiction under Article 226 of the Constitution, to CBI to investigate a cognizable offence alleged to have been committed within the territory of a State without the consent of that State will neither impinge upon the federal structure of the Constitution nor violate the doctrine of separation of power and shall be valid in law. Being the protectors of civil liberties of the citizens, this Court and the High Courts have not only the power and jurisdiction but also an obligation to protect the fundamental rights, guaranteed by Part III in general and under Article 21 of the Constitution in particular, zealously and vigilantly.

In view of the above pronouncement, we hold that in order to protect civil liberties, fundamental rights and more particularly Article 21, this Court and High Courts can very well exercise the power, no doubt, must be sparingly, cautiously and in exceptional situations as observed in para 70 of the said judgment.

(vi) another Supreme court decision made in   : 2010 3 SCC 571 in the case of State of West Bengal and Ors. v. Committee for protection of Democratic Rights, West Benagl and others

69. In the final analysis, our answer to the question referred is that a direction by the High Court, in exercise of its jurisdiction under Article 226of the Constitution, to the CBI to investigate a cognizable offence alleged to have been committed within the territory of a State without the consent of that State will neither impinge upon the federal structure of the Constitution nor violate the doctrine of separation of power and shall be valid in law. Being the protectors of civil liberties of the citizens, this Court and the High Courts have not only the power and jurisdiction but also an obligation to protect the fundamental rights, guaranteed by Part III in general and under Article 21 of the Constitution in particular, zealously and vigilantly.

(vii) a judgment of Hon'ble Supreme court made in   : AIR 1970 SC 786, S.N. Sharma v. Bipen Kumar Tiwari and others in para 7 it is held as follows:

7. Counsel appearing on behalf of the Appellant urged that such an interpretation is likely to be very prejudicial particularly to Officers of the judiciary who have to deal with cases brought up by the police and frequently give decisions which the police dislike. In such cases, the police may engineer a false, report of a cognizable offence against the Judicial Officer and may then harass him by carrying on a prolonged investigation of the offence made out by the report. It appears to us that, though the Code of Criminal Procedure gives to the police unfettered power to investigate all case's where they suspect that a cognizable offence has been committed, in appropriate cases an aggrieved person can always seek a remedy by invoking the power of the High Court under Article 226of the Constitution under which, if the High Court could be convinced that the power of investigation has been exercised by a police officer mala fide, the High Court can always issue a writ of mandamus restraining the police officer from misusing his legal powers. The fact that the Code does not contain any other provision giving power to a Magistrate to stop investigation by the police cannot be a ground for holding that such a power must be read in Section 159 of the Code.

(viii) a judgment of Supreme court made in (2007) 13 SCC 207, Union of India and Anr. v. Adani Exports Ltd and another

4. Questioning correctness of the adjudication order, appeals were preferred before the Tribunal. Along with the appeals, application for dispensation of deposit of penalty amount was filed. The same was rejected as noted above by order dated 4.1.2006.

5. The Tribunal was of the view that neither any prima facie case was made out nor the financial stringency established to warrant dispensation of pre-deposit. A writ petition was filed before the Gujarat High Court primarily questioning the said order and also incidentally questioning legality of the proceedings. The High Court not only dealt with the impugned order before it relating pre-deposit aspect but also the merits of adjudication. It elaborately discussed the merits of the adjudication proceedings, though it itself noted that the Special Civil Applications were filed questioning correctness of the order relating to pre-deposit. Not only the High Court held that the order directing deposit was unsustainable but also held that the order of adjudication was unsustainable, overlooking the fact that the appeals were pending before the Tribunal. The High Court set aside the order passed by the adjudicating authority and remitted the matter to the adjudicating authority i.e. the Additional Director General.

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8. It is not in dispute that the Respondents have filed appeals before the Tribunal. As noted by the High Court, primary challenge in the writ petitions was to the order relating to pre-deposit. While dealing with that the High Court was not justified in going into the merits and expressing its views and thereafter remitting the matter to the Tribunal. Such a course was not available to be adopted.

(ix) yet another Supreme court decision made in   : (2009) 9 SCC 610 in the case of Babubhai Jamnadas patel v. State of Gujarat and others

46. The Courts, and in particular the High Courts and the Supreme Court, are the sentinels of justice and have been vested with extraordinary powers of judicial review and supervision to ensure that the rights of the citizens are duly protected. The Courts have to maintain a constant vigil against the inaction of the authorities in discharging their duties and obligations in the interest of the citizens for whom they exist. This Court, as also the High Courts, have had to issue appropriate writs and directions from time to time to ensure that the authorities performed at least such duties as they were required to perform under the various statutes and orders passed by the administration.

(x) a judgment of this Court made in 2007 (1) CTC 273 in the case of S. Radha Mony v. The Home Secretary, Government of Tamil Nadu and others

8. We are of the considered view that the aforesaid reply given in the counter affidavit would not be a proper and satisfactory reply, for the aforesaid vital suspicious circumstance. In the final report, filed by the third Respondent, before the Tahsildar, there is no reply for the scene of occurrence having been found locked outside, before the mysterious death was noticed.

13. It is seen in the final report, that there is no detail available about the investigation done in the suicide note. Similarly, in the counter affidavit, it has been further stated that there was no clear evidence that the deceased was using cell phone and the number of cell phone was also not disclosed, even by the Petitioner and that it would be probed further.

27. In the decision Secretary, Minor Irrigation & Rural Engineering Services, U.P. v. Sahngoo Ram Arya   : 2002 (5) SCC 521 : 2002 (2) CTC 610 the Honourable Supreme Court has held that the High Court has power under Article 226 to direct an enquiry by CBI, and a decision to direct an enquiry by CBI. against a person can only be done if the High Court after considering the material on record comes to a conclusion that such material does disclose a prima facie case calling for an investigation by CBI or any other similar agency.

28. In the light of the decisions referred above, we are satisfied that the materials available on record in this case do not disclose a prima facie case, calling for investigation by CBI. But, on the other hand, we are of the considered view, as discussed earlier that the case has been investigated leisurely and in an irresponsible manner by the investigating agency, as held by the Apex Court in the decision reported in Indra Singh v. State of Punjab 1994 SCC 1653 in spite of various representations and reminders sent by the Petitioner to the Respondents and other authorities, raising serious suspicious circumstances, on the mysterious death of her son and daughter-in-law and the case has been abruptly closed in a casual manner. Therefore, on the facts and circumstances of the case on hand, we are of the considered view that to meet the ends of justice, prima facie materials are available for ordering further investigation by CBCID of the State.

(xi) a Supreme court decision made in   : 2010 CRI. L.J. 2249 in the case of Babubhai Jamnadas Patel v. State of Gujarat and Ors.

35. In cases where it has been brought to the notice of the Courts that investigation into an offence was not being carried on in the manner in which it should have been carried on, directions have been given by the Courts to the investigating agencies to conduct the investigation according to certain guidelines, as otherwise the very purpose of the investigation could become fruitless. The decisions cited by Mr. Nariman do not militate against the concept of the Court's power, where necessary, to direct the authorities to conduct themselves in a particular way. Once it is proved that there are no other circumstances except those which were projected, the need for such monitoring diminished. However, there is nothing in the decisions cited by Mr. Nariman to even remotely suggest that if the investigation was being stalled, for whatever reason, the Courts were powerless to pass appropriate orders to ensure that the investigation was proceeded with and justice was done to the parties.

37. The Courts, and in particular the High Courts and the Supreme Court, are the sentinels of justice and have been vested with extraordinary powers of judicial review and supervision to ensure that the rights of the citizens are duly protected. The Courts have to maintain a constant vigil against the inaction of the authorities in discharging their duties and obligations in the interest of the citizens for whom they exist. This Court, as also the High Courts, have had to issue appropriate writs and directions from time to time to ensure that the authorities performed at least such duties as they were required to perform under the various statutes and orders passed by the administration. As for example, in the instant case, the High Court had to repeatedly intervene and pass orders to ensure that the investigation was being conducted diligently. Periodical status reports were required in that regard. In fact, the High Court had to direct the Additional Public Prosecutor to ask the Investigating Officer to incorporate the details of the action taken by him from the date of receipt of the letter dated 5th December, 2008. There is little doubt that only after the High Court began monitoring the progress of the investigation that the Investigating Authorities began to deal with the matter with some amount of seriousness.

40. There is, therefore, no doubt that in appropriate cases, the Courts may monitor an investigation into an offence when it is satisfied that either the investigation is not being proceeded with or is being influenced by interested persons.

(xii) yet another Supreme court decision made in   : 2011 Cri L.J 89 in the case of State of Maharashtra and Ors. v. Arun Gulab Gawali and Ors.

12. The power of quashing criminal proceedings has to be exercised very sparingly and with circumspection and that too in the rarest of rare cases and the Court cannot be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of allegations made in the F.I.R./Complaint, unless the allegations are so patently absurd and inherently improbable so that no prudent person can ever reach such a conclusion. The extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice. However, the Court, under its inherent powers, can neither intervene at an uncalled for stage nor it can 'soft-pedal the course of justice' at a crucial stage of investigation/proceedings. The provisions of Articles 226, 227 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973 (hereinafter called as 'Cr.P.C.') are a device to advance justice and not to frustrate it. The power of judicial review is discretionary, however, it must be exercised to prevent the miscarriage of justice and for correcting some grave errors and to ensure that stream of administration of justice remains clean and pure. However, there are no limits of power of the Court, but the more the power, the more due care and caution is to be exercised in invoking these powers.

(xiii) a judgment of the Orissa High Court reported in   : 2009 Cri L.J 2585 in the case of Padma Charana Behara v. State of Orissa and Ors.

23. Thus, it is evident that in case there is sufficient evidence against the accused, which may establish the charge against him, even if the bias/mala fide is established, the proceedings cannot be quashed.

7. Per contra, learned Counsel for the Petitioner would contend that the Petitioner is not the aggrieved person and hence he does not have any legal right to file the Writ Petition. The learned Counsel would also contend that pursuant to the complaint made by the Petitioner on 29.03.2010, the Police authorities have enquired the Managers of second and third Respondent companies and found that the allegations made by the Petitioner are vague. Accordingly, he prayed for dismissal of the writ petition. In support of his case, the learned Counsel has relied upon the following Supreme Court decisions, relevant paragraphs of which are extracted as under:

(i)   : (1977) 1 SCC 486 (Mani Subrat Jain and Ors. v. State of Haryana and Others)

9. The High Court rightly dismissed the petitions. It is elementary though it is to be restated that no one can ask for a mandamus without a legal right. There must be a judicially enforceable right as well as a legally protected right before one suffering a legal grievance can ask for a mandamus. A person can be said to be aggrieved only when a person is denied a legal right by some one who has a legal duty to do something .

(ii)   : (1977) 2 SCC 148 (D. Nagaraj and Ors. v. State of Karnataka and Others)

7. The sole question that requires to be determined in these appeals is whether the Appellants could maintain that aforesaid writ petitions. It is well settled that though Article 226 of the Constitution in terms does not describe the classes of persons entitled to apply there under, the existence of the right is implicit for the exercise of the extraordinary jurisdiction by the High Court under the said Article. It is also well established that a person who is not aggrieved by the discrimination complained of cannot maintain a writ petition. The constitutional validity of the Abolition Act abolishing all hereditary village offices including the office of the Shambogue or Village Accountant having been upheld by this Court in B.R. Shankanarayana and Ors. v. State of Mysore (supra), and the first preference in the matter of appointment of Village Accountants having been given by Rule 4 of the 1970 Rules to all persons. belonging to the category and class of the Appellants who had served as Village Officers, the Appellants who did not apply for appointment as Village Accountants in response to the afore-said notification issued by the Recruitment Committee and did not possess the prescribed qualification, could not complain of the unconstitutionality of the 1970 Rules or of the infringement of, Articles 4 and 16 of the Constitution which merely forbid improper or invidious distinctions by conferring rights or privileges upon a class of persons arbitrarily selected from out of a larger group who. are similarly circumstanced but do not exclude the laying down of selective tests nor prevent the Government from laying general educational qualifications for the post in question. The High Court was, therefore, right in holding that the Appellants have no right to maintain the aforesaid writ petitions. The appeals accordingly fail and are dismissed but without any order as to costs.

(iii)   : (2001) 4 SCC 734 ( Vinoy Kumar v. State of U.P and Others)

2. Generally speaking, a person shall have no locus standi to file a writ petition if he's 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 disadvantaged position, unable to approach the court for relief.

3. In the instant case the Petitioner had not filed the petition in public interest and did not disclose the circumstances which prevented the affected persons from approaching the court. In the discharge of his professional obligations, the Petitioner-advocate is not obliged to file the writ petition on behalf of his clients. No circumstance was mentioned in the petition which allegedly incapacitated the affected persons from filing the writ petition. Section 30 of the Advocates Act, only entitles an advocate to practise the profession of law and not to substitute himself for his client. The filing of the writ petition in his own name, being not a part of the professional obligation of the advocate, the High Court was justified in dismissing the writ petition holding that the Petitioner had no locus standi.

(iv)   : (2008) 2 SCC 280 (Oriental Bank of Commerce v. Sunder Lal Jain and another)

12. These very principles have been adopted in our country. In Bihar Eastern Gangetic Fishermen Cooperative Society Ltd. v. Sipahi Singh and others, (  : AIR 1977 SC 2149), after referring to the earlier decisions in Lekhraj Satramdas Lalvani v. Deputy Custodian-cum-Managing Officer,   : AIR 1966 SC 334; Dr. Rai Shivendra Bahadur v. The Governing Body of the Nalanda College,  : AIR 1962 SC 1210 and Dr. Umakant Saran v. State of Bihar,   : AIR 1973 SC 964, this Court observed as follows in paragraph 15 of the reports:

15... There is abundant authority in favour of the proposition that a writ of mandamus can be granted only in a case where there is a statutory duty imposed upon the officer concerned and there is a failure on the part of the officer to discharge the statutory obligation. The chief function of a writ is to compel performance of public duties prescribed by statute and to keep subordinate Tribunals and officers exercising public functions within the limit of their jurisdiction. It follows, therefore, that in order that mandamus may issue to compel the authorities to do something, it must be shown that there is a statute which imposes a legal duty and the aggrieved party has a legal right under the statute to enforce its performance. ......... In the instant case, it has not been shown by Respondent No. 1 that there is any statute or rule having the force of law which casts a duty on Respondents 2 to 4 which they failed to perform. All that is sought to be enforced is an obligation flowing from a contract which, as already indicated, is also not binding and enforceable. Accordingly, we are clearly of the opinion that Respondent No. 1 was not entitled to apply for grant of a writ of mandamus under Article 226 of the Constitution and the High Court was not competent to issue the same.

Therefore, in order that a writ of mandamus may be issued, there must be a legal right with the party asking for the writ to compel the performance of some statutory duty cast upon the authorities. The Respondents have not been able to show that there is any statute or rule having the force of law which casts a duty on the Appellant bank to declare their account as NPA from 31st March, 2000 and apply R.B.I. guidelines to their case.

The learned Counsel has also relied upon the following judgments of this Court:

(v) 2005 Writ L.R.389 (Tamilaga Asiriyar Koottani rep. by the General Secretary v. Annamalai No. 52, Nallathambi Street, Triplicane, Chennai-5)

8. In Vinoy Kumar v. State of U.P.,   the Supreme Court observed (vide paragraph-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 organization 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 disadvantaged position, unable to approach the Court for relief .

9. In State of Orissa v. Ram Chandra Dev and Anr.,   : AIR 1964 SC 685, the Supreme Court observed (vide paragraph - 8):

But though the jurisdiction of the High Court under Article226 is wide in that sense, the concluding words of the article clearly indicate that before a writ or an appropriate order can be issued in favour of a party, it must be established that the party has a right and the said right is illegally invaded or threatened. The existence of a right is thus the foundation of a petition under Article 226.

10. Similarly, in Gadde Venkateswara Rao v. Government of Andhra Pradesh,   : AIR 1966 SC 828 (vide paragraph -8) the Supreme Court observed:

The right that can be enforced under Article 226 also shall ordinarily be the personal or individual right of the Petitioner himself , though in the case of some of the writs like habeas corpus or quo warranto this rule may have to be relaxed or modified.

11. In Sand Carrier's Owners' Union and Ors. v. Board of Trustees for the Port of Calcutta,   : AIR 1990 Cal 176 it was observed by the Calcutta High Court that

a Public Interest Litigation can be moved, where persons concerned for whose benefit it is moved are socially and educationally backward, and Public Interest Litigation is also maintainable in cases such as environmental pollution, etc.

However, it was also observed:

The members of such association may be affected by a common order and may have common grievance, but for the purpose of enforcing the rights of the members, writ petition at the instance of such association is not maintainable.

Accordingly, the Calcutta High Court dismissed the writ petition filed by the Owners' Union.

12. A similar view has been taken in Government Press Employees' Association, Bangalore v. Government of Mysore AIR 1962 Mys. 25.

13. In Dr. Duryodhan Sahu v. Jitendra Kumar Mishra,   : (1998) 7 SCC 273 the Supreme Court observed that in service matters PI Ls should not be entertained.

14. Subsequently, in Ashok Kumar Pandey v. State of W.B.,  : (2004) 3 SCC 349 (vide paragraph-16) the Supreme Court observed:

Though in Dr. Duryodhan Sahu v. Jitendra Kumar Mishra  : (1998) 7 SCC 273 this Court held that in service matters PI Ls should not be entertained, the inflow of so-called PI Ls involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision.

(vi) (2006) 4 MLJ 385 (Nadar Mahajana Sangam, Madurai rep. by its General Secretary (for and on behalf of shareholders of Tamil Nadu Mercantile Bank Ltd v. Reserve Bank of India, Central Office, Department of Banking Operations Development Centre-I, Bombay and Others)

9. In Vinoy Kumar v. State of Uttar Pradesh   : AIR 2001 SC 1739: 2001 (4) SCC 734, the Supreme Court observed (videpara-2):

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 organization 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 of poverty, helplessness or disability or socially or economically disadvantaged position,, unable to approach the Court for relief.

10. In Stats of Orissa v. Ram Chandra Dev and Anr.   : AIR 1964 SC 685, the Supreme Court observed (videpara;8)

8. But though the jurisdiction of the High Court under Article226 is wide in that sense, the concluding words of the article clearly indicate that before a writ or an appropriate order can be issued in favour of a party, it must be established that the party has a right and the said right is legally invaded or threatened. The existence of a right is thus the foundation of a petition under Article 226.

11. Similarly, in Gadde Venkateswara Rao v. Government of Andhra Pradesh   : AIR 1966 SC 828 : (1966) 2 MLJ (SC) 87 : 1966 (2) An.W.R. (SC) 87 (vide para 8) the Supreme Court observed:

The right that can be enforced under Article 226 also shall ordinarily be the personal or individual right of the Petitioner himself though in the case of some of the writs like habeas corpus or quo warranto this rule may have to be relaxed or modified.

10. The writ petition filed by the Appellant cannot have any personal grievance in the matter and at best, only its members can have any grievance. It is well settled that ordinarily a writ petition can only be filed by someone who is personally aggrieved. The powers under Article 226 of the Constitution of India should be sparingly used and only in those clear cases where the rights of a person have been seriously infringed and he has no other adequate and specific remedy available to him. The relief under Article 226 of the Constitution of India is based on the existence of a right in favour of a person invoking the writ jurisdiction. The exception to the General Rule is only in cases where the writ applied for is Writ of Habeas Corpus or Quo warranto or filed in public interest. Even assuming the members of the Appellant's association is affected by an act of the second Respondent, but for the purpose of enforcing the rights of the members, writ petition at the instance of the association is not maintainable. Ordinarily, the personal or individual right of the Petitioner himself be enforced under Article 226 of the Constitution of India. Merely because the first Respondent/Reserve Bank of India has been arrayed as a party, the Court does not get jurisdiction to hear the writ petition since the main writ petition is against the second Respondent, which is a private bank.

8. I have heard the learned Counsel for the parties and also gone through the records as well as the authorities cited by the counsel.

9. I am inclined to deal with this Writ Petition on two aspects viz., (i) maintainability and (ii) merits. To examine these points, it is worthwhile to refer to the following provisions of the Act:

2 (a) "authorised officer" means, within his local limits of jurisdiction -

(i)a District Magistrate, or

(ii)a Sub-divisional Magistrate, or

(iii)a Commissioner of Police, and includes any other officer notified in the Official Gazette, by the Central Government or the State Government, to be an authorised officer for such local limits of jurisdiction as may be determined by that Government.

4-A. Transmission of programmes through addressable system, etc.

(1) Where the Central Government is satisfied that it is necessary in the public interest to do so, it may, by notification in the Official Gazette, make it obligatory for every cable operator to transmit or re-transmit programme of any pay channel through an addressable system with effect from such date as may be specified in the notification and different dates may be specified for different States, cities, towns or areas as the case may be.

(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, specify one or more free-to-air channels to be included in the package of channels forming basic service tier and any or more such channels may be specified, in the notification, genre-wise for providing a programme mix of entertainment, information, education and such other programmes.

(3) The Central Government may specify in the notification referred to in Sub-section (2) , the number of free-to-air channels to be included in the package of channels forming basic service tier for the purpose of that Sub-section and different numbers may be specified for different States, cities, towns or areas, as the case may be.

(4) If the Central Government is satisfied that it is necessary in the public interest to do so, it may, by notification in the Official Gazette, specify the maximum amount which a cable operator may demand from the subscriber for receiving the programmes transmitted in the basis service tier provided by such cable operator.

(5) Notwithstanding anything contained in Sub-section (4), the Central Government may, for the purposes of that Sub-section, specify in the notification referred to in that Sub-section different maximum amounts for different States, cities, towns or areas, as the case may be.

(6) Notwithstanding anything contained in this section, programmes of basic service tier shall be receivable by any subscriber on the receiver set of a type existing immediately before the commencement of the Cable Television Networks (Regulation) Amendment Act, 2002 without any addressable system attached with such receiver set in any manner.

(7) Every cable operator shall publicise, in the prescribed manner, to the subscribers the subscription rates and the periodic intervals at which such subscriptions are payable for receiving each pay channel provided by such cable operator.

(8) The cable operator shall not require any subscriber to have a receiver set of a particular type to receive signals of cable television network:

provided that the subscriber shall use an addressable system to be attached to his receiver set for receiving programmes transmitted on pay channel.

16. Punishment for contravention of provisions of this Act.-(1) Whoever contravenes any of the provisions of this Act shall be punishable.-

(a) for the first offence, with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both;

(b) for every subsequent offence, with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees.

(2) Notwithstanding anything contained in the Code of Criminal Procedure,1973 (2 of 1974), the contravention of Section 4-A shall be a cognizable offence under this section.

18. Cognizance of offences.-No Court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by any authorised officer.

10. On the ground of maintainability, it is to be stated that The Cable Television Networks (Regulation) Act,1995, was amended to provide for compulsory transmission of Doordarshan channels, stipulating inter alia that cable operators in all States and Union territories of India shall also re-transmit DD-Lok Sabha Channel and DD-Rajya Sabha Channel in non-prime band on their cable network. The scheme, which is contemplated under the Act by various amendments, empowers the Government to mandate through notification, in a phased manner, installation of addressable systems for viewing pay channels; free-to-air channels in the areas thus notified, to continue to be received by the subscribers in the existing receiver sets without having to go through the addressable systems; a provision that the subscriber would not be required to change the receiving set irrespective of the channels that he wishes to receive and to provide that he would be free to view the channels from amongst those offered by the cable service providers; the flexibility for adoption of technological advancements and up-gradation in the addressable systems and to provide that the technical standards and performance parameters of the system would be laid down by the Bureau of Indian Standards, from time to time; the Government to prescribe, from time to time, the maximum amount to be paid by the subscriber to the cable service provider for the "basic service tier" consisting of the bouquet of notified "free-to-air" channels and to determine the number of channels to be included in this "tier" and the maximum cost for the same in different States/cities/areas of the country, from time to time; and effective enforcement of the amendments, violations of which would constitute a cognizable offence. The Act also defines "authorised officer" for local limits under Section 2(a). Section 4-Aprovides for transmission of programmes through addressable system. Section 16 contemplates that notwithstanding anything contained in the Code of Criminal Procedure,1973, the contravention of Section 4-Ashall be a cognizable offence. Further, Section 18 defines what is cognizance of offence, which states that no Court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by any authorised officer.

11. The above legal provisions would make it clear that when there is a contravention of Section 4-A and when there is a cognizable offence, such offence shall be taken cognizance of by a Court, only upon a complaint in writing made by an authorised officer, and not otherwise. In other words, the authorised officer, after scrutinizing the entire complaint, if made, and upon perusal of the entire materials placed before him and on subjective satisfaction only, has to make a complaint in writing, whereupon the same shall be taken cognizance of by a Court. Therefore, the scheme of the Act clearly indicates that there must be a complaint by the aggrieved person and the authorised officer for a cognizable offence to be proceeded with.

12. A person shall have no locus standi to file a writ petition if he is not personally affected by the impugned act 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.

13. 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 organization 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 of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the Court for relief. There must be a judicially enforceable right as well as a legally protected right before one suffering a legal grievance can ask for a mandamus. A person can be said to be aggrieved only when a person is denied a legal right by someone who has a legal duty to do something .

14. The right that can be enforced under Article 226 also shall ordinarily be the personal or individual right of the Petitioner himself though in the case of some of the writs like habeas corpus or quo warranto this rule may have to be relaxed or modified.

15. It is well settled that ordinarily a writ petition can only be filed by someone who is personally aggrieved. The powers under Article 226 of the Constitution of India should be sparingly used and only in those clear cases where the rights of a person have been seriously infringed and he has no other adequate and specific remedy available to him. This is the law laid down by the Supreme Court in the cases of Vinoy Kumar and Gadde Venkateswara Rao, cited above.

16. The Petitioner association who filed this Writ Petition cannot have any personal grievance in the matter and, at best, only its members can have any grievance. Also, the Petitioner has not filed the petition in public interest and disclosed the circumstances which prevented the affected persons from approaching the court. Assuming that the members of the Petitioner's association are affected by an act of the Respondents 2 and 3, for the purpose of enforcing the rights of the members, writ petition at the instance of the association is not maintainable. Even countenancing that the writ petition filed by the association is maintainable as contended by the learned Counsel for the Petitioner, the necessary ingredient that the members of the association are unable to approach the court by reason of poverty, disability or socially or economically disadvantaged position has not been established by the Petitioner. It is also not the case of the Petitioner that he has filed this Writ Petition in Public Interest.

17. In the instant case, a perusal of the entire materials would reveal that no member of the Petitioner association has made any complaint, except a representation by the Petitioner association for a general grievance and it is always a person aggrieved and affected by the act committed by the cable service operator that has to make a complaint and only thereafter the same shall be dealt with. In the absence of any such complaint, it is vivid that no case is made out by the Petitioner association for entertaining this Writ Petition. Therefore, this Writ Petition is not maintainable.

18. Adverting to merits, it is the case of the Petitioner that he has submitted a representation dated 29.03.2010 to the first Respondent for taking action against Respondents 2 and 3 for their alleged violation of the Act and the Rules. In this regard, the stand of the first Respondent is that a photo copy of the said representation was received in the office only on 15.12.2010 and the same was subjected to enquiry by the Inspector of Police, Team X, Copyright Wing of the Central Crime Branch. During the enquiry, the Inspector of Police recorded the statements of two individuals living in Kattupakkam and Adambakkam areas, which did not state anything that could be conclusive of violations of transmission of pay channels without set top boxes. Moreover, enquiry of two other witnesses in the respective areas also did not categorically establish the viewing of pay channels as mentioned in the complaint. Though C Ds were not enclosed to the complaint as claimed by the Petitioner, the representative of the Petitioner handed over a CD to the Inspector in person on 11.04.2011 and the Petitioner also sent C Ds through courier on 19.04.2011. On examination of the said C Ds, the enquiry officer, namely, Inspector of Police, has reported that the contents of the C Ds could not be linked definitely to a specific place and period. Hence, he has reported that he could not conclude telecasting of pay channels without set top boxes in the areas as mentioned in the complaint falling within the CAS (Conditional Access System) notified Chennai Metropolitan Area and that the provisions of Section 4(A) and 16 of the Act could not be invoked. Pursuant to the complaint made by the Petitioner, the Police authorities also enquired the Managers of second and third Respondents companies and found that the allegations made in the complaint are shadowy. Hence, this Writ Petition is devoid of merit as well. The judgments relied upon by the learned Counsel for the Petitioner are of no avail to the case of the Petitioner, as the facts and circumstances therein are different from the one in hand.

19. To conclude, writ of mandamus can be issued only when there is a legal right accrued to the Petitioner and when the authority failed to perform the statutory duty. In this case, as discussed above, none of the said factors has been established by the Petitioner. Therefore, this Writ Petition is dismissed on both the grounds of maintainability and merits. No costs.