

HIGH COURT OF GUJARAT (D.B.)**VISHWAS BHAMBURKAR***Versus***STATE OF GUJARAT AND ORS****Date of Decision:** 03 July 2013**Citation:** 2013 LawSuit(Guj) 1544**Hon'ble Judges:** [Bhaskar Bhattacharya](#), [J B Pardiwala](#)**Case Type:** Writ Petition (PIL)**Case No:** 241 of 2012**Acts Referred:**[All India Services \(Leave\) Rules, 1955 R 17](#)**Final Decision:** Petition dismissed**Advocates:** [Kamal Trivedi](#), [Sangeeta Vishen](#), [Pankaj S Champaneri](#), [Sanjay A Mehta](#), [R C Jani & Associate](#)**Cases Referred in (+):** 3**J.B.Pardiwala, J.**

[1] By this application in the nature of a public interest litigation, the petitioner, claiming to be actively using the Right to Information Act, 2005, has highlighted few illegalities and irregularities allegedly committed by the respondent authority with respect to the appointment of one Dr. Rajiv Kumar Gupta, an I.A.S from 1986 batch, as the Private Secretary to the then Minister of Textiles, Union of India, Shri Shankarsinh Vaghela, for the period between 8th June, 2004 and 3rd December, 2004.

[2] The case made out by the petitioner in his petition may be summarized as under:-

2.1 According to the petitioner, the respondent No.6 Dr. Rajiv Kumar Gupta is an Officer of the rank of I.A.S and at present he is serving as the Principal Secretary of the Department of Climate Change as well as the Principal Secretary (Water Supply), Chairman, Gujarat Water Supply and Sewerage Board and Chairman and Managing Director, Gujarat Water Infrastructure Limited. It is his case that the respondent No.7 Shri Shankarsinh Vaghela was elected in the year 2004, as a

Member of Parliament from the State of Gujarat. Shri. Vaghela, after being elected as the Member of the Parliament was appointed as the Minister of Textiles. Shri Vaghela was desirous of appointing Dr. Rajiv Kumar Gupta as his Private Secretary while in office as Minister of Textiles, Union of India and therefore, on 3rd June, 2004, the Joint Secretary, Ministry of Textiles, New Delhi, addressed a letter to the E.O and Additional Secretary, Department of Personnel and Training, New Delhi, informing that as Shri Vaghela had desired to appoint Dr. Rajiv Kumar Gupta as his Private Secretary, the approval of Appointments Committee of the Cabinet (for short "ACC") to such proposed appointment was necessary, and be obtained at the earliest. In the said letter, it was also informed that they had separately sought no objection from the Government of Gujarat to the proposal of Shri Vaghela.

2.2 It appears that thereafter, a notification was issued dated 5th June, 2004, by the Government of Gujarat, General Administration Department, to the effect that Dr. Rajiv Kumar Gupta, IAR (RR-Guj.1986) Commissioner of Higher Education, Gandhinagar was transferred and his services were placed at the disposal of the Government of India for appointment as the Private Secretary to the Union Minister for Textiles, Shri Shankarsinh Vaghela. Such notification was by order and in the name of the Governor of Gujarat. Thereafter, Dr. Rajiv Kumar Gupta started functioning as Private Secretary to the then Minister for Textiles, Shri Vaghela.

2.3 It appears that the approval which was sought for from the ACC in June, 2004 was not accorded and in anticipation of such approval from the ACC, Dr. Rajiv Kumar Gupta continued functioning as the Private Secretary to the then Union Minister for Textiles Shri Vaghela.

2.4 For the first time on 3rd December, 2004, the Department of Personnel and Training, Government of India, issued an office memorandum, stating that the ACC had not approved the proposal to appoint Dr. Rajiv Kumar Gupta, I.A.S as the Private Secretary to the Minister of Textiles in the Ministry of Textiles. The office memorandum further stated that the Committee had directed that the Minister may be requested to appoint some other officer as his Private Secretary.

2.5 After the issuance of such office memorandum dated 3rd December, 2004, Dr. Rajiv Kumar Gupta preferred an application seeking permission to go on a study leave for a period of one year with effect from 4th December, 2004. On 4th March, 2005, the Department of Personnel and Training, Government of India, issued an office memorandum stating that Dr. Rajiv Kumar Gupta be paid salary from the date of his joining the Minister's office i.e. 8th July, 2004, till the date of rejection of the proposal i.e. 3rd December, 2004, and Dr. Rajiv Kumar Gupta be granted study leave for one year with effect from 4th December, 2004 as recommended by

the Minister of Textiles vide his letter dated 12th January, 2005, and the Minister of Textiles was further advised to direct Dr. Rajiv Kumar Gupta that he should stop coming to his office to assist him as Private Secretary, till the formalities for the appointment of one Shri Jitendra Pandey were completed.

2.6 According to the petitioner, the appointment of Dr. Rajiv Kumar Gupta as Private Secretary to the then Minister of Textiles was under mysterious circumstances and there is no material to show that Dr. Gupta worked as a Private Secretary from June, 2004 to December, 2004. According to the petitioner, in such circumstances, the respondents should make their stance clear as to where Dr. Gupta was during the interregnum period and if Dr. Gupta was not accorded approval to work as a Private Secretary to the then Minister of Textiles, then why the salary was paid from the date of his joining the Minister's office i.e. 8th June, 2004, till the date of rejection of the proposal i.e. 3rd December, 2004.

2.7 According to the petitioner, if Dr. Gupta was granted study leave for one year with effect from 4th December, 2004, on the recommendation of the then Minister for Textiles, then how come Dr. Gupta continued to work as the Private Secretary for more than three months thereafter. It is the case of the petitioner that there are Rules and Regulations governing the grant of study leave and such study leave could not have been granted ex-post facto, and such aspect deserves to be investigated.

2.8 According to the petitioner, it is necessary to probe the activities of Dr. Gupta between 8th June, 2004 and 3rd December, 2004. It is alleged that although he was relieved by the Government of Gujarat on deputation to the Central Government and was not appointed anywhere else, and yet was paid the salary.

In such circumstances, the petitioner has prayed for the following reliefs:-

"(A) Be pleased to admit this Writ Petition (PIL) in the interest of Justice.

(B) Be pleased to take on record the irregularities that have taken place and the criminal culpability arising out of the irregularities.

(C) Be pleased to direct the Central Bureau of Investigation or nay other such investigative agency or to from a Special Investigation Team with the wherewithal to probe both, the State machinery as well as the Union Government machinery and to report directly to the Hon'ble Gujarat High Court in a time-bound, impartial and unbiased manner.

(D) Be pleased to issue necessary directions to keep respondents numbers 6 and 7 away from positions of power and authority u as the petitioner fears they might misuse the power and authority vested in them to prevent the investigative agencies from carrying out the probe, fairly, impartially and promptly.

(E) Be pleased to grant such other and further relief as may be deemed fit and proper in the facts and circumstances of the case."

[3] Stance of the respondent No.6:

3.1 According to the respondent No.6, this petition in the nature of a public interest litigation is frivolous and deserves to be rejected as the petitioner has a personal score to settle, and the petition is lacking in bonafides. It is the case of the respondent No.6 that the present petition is nothing, but a counter-blast to the criminal complaint filed by the respondent No.6 against Messrs Bennet Coleman & Company Ltd., way back in the year 2010-11 for some defamatory publications in the Times of India, Ahmedabad and Gandhinagar editions. The petitioner is nothing but a name lender. It is the case of the respondent No.6 that such defamatory articles were published based on the information provided by the petitioner. According to the respondent No.6, his services were placed at the disposal of the Government of India for appointment as the Private Secretary to the then Union Minister for Textiles Shri Vaghela on 5th June, 2004, by General Administration Order No. AIS/35/2004/22/G, and the destruction of the files in the concerned Ministry on 9th February 2009 had nothing to do with him and such decision was taken keeping in mind the Rules and the Procedure of the concerned Ministry. In the year 2009, the respondent No.6 was serving as Secretary, Women & Child Welfare Department, Government of Gujarat.

3.2 According to the respondent No.6, he joined the office of the Minister for Textiles on 8th June, 2004, in anticipation of the approval by the ACC, but the ACC took almost six months time before it informed that they had disapproved the appointment. However, according to the respondent No.6, he worked as Private Secretary to the then Minister of Textiles in the hope that ex-post facto approval would be granted, which is otherwise also permissible according to the Rules and the Regulations. It is his case that the ACC accorded approval for payment of salary vide order dated 4th March, 2005 for the period from 8th June, 2004 to 3rd December, 2004 and was also granted study leave for one year from 4th December, 2004. According to the respondent No.6, thereafter, he no longer worked as the Private Secretary to the then Union Minister and the process for appointment of another person named Shri Jitendra Pandey as Private Secretary was initiated.

3.3 According to the respondent No.6, the allegations of impersonation, cover-ups, fabrication of records etc. are false, fictitious and nothing but a figment of distorted imagination of the petitioner. All the appointment orders, transfer orders, study leave orders etc. were duly approved by the competent authority both in the Government of India and the Government of Gujarat.

In such circumstances, it has been prayed that there being no merit in this application, the same may be rejected with costs.

[4] Stance of the respondents Nos. 2 and 3: On behalf of the respondents No. 2 and 3, an affidavit has been affirmed by one Inderjit Singh Ujgar Singh, Director, Ministry of Textiles, Government of India. In the affidavit-inreply, it has been stated that the Department of Personnel and Training (Office of the Establishment officer) vide office memorandum dated 03.12.2004 had conveyed that the ACC (Appointment Committee of Cabinet) had not approved the proposal to appoint Dr. Rajiv Kumar Gupta as Personal Secretary to Minister of Textiles. The ACC had directed that the Minister may be requested to appoint some other officer as his Personal Secretary. So far as letter dated 12th January, 2005 from the office of the Minister of Textiles is concerned, the Department of Personnel and Training (O/o E/O) had conveyed the approval of ACC with the following Proposal.

- i. Dr. Rajiv Gupta be paid salary from the date of his joining the Minister's office i.e. 8th June, 2004.
- ii. Dr. Gupta be granted study leave for one year w.e.f. 4.12.2004 as recommended by the Minister of Textiles.
- ii. Minister of Textiles be advised to direct Dr. Gupta not to come to office, and avail the services of any officer of Dy. Secretary/Director level in the Ministry of assist him as P.S. till the formalities for the appointment of Shri Jitendra Pandey are completed.

Accordingly, Shri Gupta had been paid salary. It has been further stated that a Cabinet Minister has a privilege to select officer(s) of his choice as personal staff and there is nothing illegal, if the then Minister of Textiles desired to have a specific officer of his choice. The Minister and the Ministry had written to DOP & T seeking ACC approval for appointment of the officer as the Private Secretary to the Minister and the petitioner appeared to have no knowledge about the Government Rules and the Regulations. The ACC had not approved the appointment of Dr. Rajiv Kumar Gupta as the Private Secretary to the office of Minister of Textiles, and the petitioner himself admits that Dr. Rajiv Kumar Gupta was never engaged in any official work. The suspicion, however strong it may be, cannot take the place of

evidence. According to the respondents No.2 and 3, there are no records to indicate that Dr. Rajiv Kumar Gupta was involved with the working of Ministry of Textiles. Dr. Rajiv Kumar Gupta was not granted study leave by the Ministry of Textiles. Dr. Rajiv Kumar Gupta was not appointed in the Ministry, and hence, no Identify Card was issued. There are no records to indicate that Dr. Rajiv Gupta stayed at specific place(s) in New Delhi.

[5] Stance of the respondents No. 1 and 5:

On behalf of the respondents No. 1 and 5, an affidavit-in-reply has been affirmed by one Shri Dhananjay Dwivedi, Additional Secretary (Services), General Administration Department, State of Gujarat. In the reply, it has been stated that the Government of Gujarat passed an order dated 5th June, 2004 transferring and placing the services of the respondent no.6 at the disposal of the Government of India for making appointment as the Private Secretary to the Hon'ble Union Minister for Textiles, i.e. the respondent no.7 herein, and pursuant to the said order, the respondent no.6 herein was relieved by the State Government on 7th June, 2004. Thereafter, the State Government received a copy of the Office memorandum issued by Government of India, Department of Personnel & Training, (Officer of the Establishment Officer), dated 3rd December, 2004, informing that Appointments Committee of the Cabinet did not approve the proposal to appoint Rajiv Gupta, the respondent no.6 herein, in the Ministry of Textiles. Thereupon, the State Government in its General Administration Department, issued a Notification No.AIS/35.2005/1/G dated 1.1.2005 placing the services of the respondent no.6 at the disposal of Industries & Mines Department for appointment as Managing Director, Tourism Corporation of Gujarat Ltd. and ex-officio Commissioner of Tourism, Gandhinagar, on his reporting back to the State cadre. However, the respondent No.6, vide letter dated 5th January, 2005 informed the General Administration Department, Gujarat, inter-alia pointing out that the Government of India had already initiated the process of appointing a successor to his office and that he had been advised to move after a decision was taken by the Government of India regarding his replacement. On 13th May, 2005, the Ministry of Textiles, Government of India passed an order placing the services of the respondent no.6 at the disposal of the State Government. Pursuant to such intimation from Government of India, the State Government vide Notification No.AIS/35.2005/16/G dated 20th May, 2005 appointed the respondent no.6 as the Commissioner of Higher Education, Gandhinagar, on his return from the Central Deputation. With regard to the case of the petitioner that upon recommendations of the Gujarat Vigilance Commission inquiries in fourteen cases were initiated against the respondent, it has been clarified in the reply that in 13 out of 14 cases, inquiry

process had been taken to a logical conclusion after following due procedure. In the 14th case, the complaint had been made on 18th October, 2010. In the said complaint, one Smt. Uma Bhambhurkar had made allegations which were very similar to the allegations made in the present petition. Since the said complaint pertains to the events of 2004 and 2005, the period during which Shri Rajiv Gupta, respondent no.6 herein, was serving on deputation to Government of India, it had been left for the Government of India to clarify the position.

[6] We have heard Mr. Vishwas Bhamburkar appearing as party-in-person, Mr. Kamal B. Trivedi, the learned Advocate General appearing for the State Government, Mr. Sanjay Mehta, the learned Advocate appearing for the respondent No.6, Mr. Pankaj Champaneri, the learned Advocate appearing for the respondents No. 2 and 3 and Mr. R.C. Jani, the learned Advocate appearing for the respondent No.7.

[7] Having heard the learned counsel for the parties and having gone through the materials on record, the only question that arises for our consideration in this writ-application is whether there is any substance in the allegations levelled by the petitioner warranting any enquiry into the same.

[8] Ordinarily, the court would allow litigation in public interest if it is found :

(i) That the impugned action is violative of any of the rights enshrined in Part III of the Constitution of India or any other legal right and relief is sought for its enforcement;

(ii) That the action complained of is palpably illegal or mala fide and affects the group of persons who are not in a position to protect their own interest on account of poverty, incapacity or ignorance;

(iii) That the person or a group of persons were approaching the Court in public interest for redressal of public injury arising from the breach of public duty or from violation of some provision of the Constitutional law;

(iv) That such person or group of persons is not a busy body or a meddlesome inter-loper and have not approached with mala fide intention of vindicating their personal vengeance or grievance;

(v) That the process of public interest litigation was not being abused by politicians or other busy bodies for political or unrelated objective. Every default on the part of the State or Public Authority being not justiciable in such litigation;

(vi) That the litigation initiated in public interest was such that if not remedied or prevented would weaken the faith of the common man in the institution of the

judiciary and the democratic set up of the country;

(vii) That the State action was being tried to be covered under the carpet and intended to be thrown out on technicalities;

(viii) Public interest litigation may be initiated either upon a petition filed or on the basis of a letter or other information received but upon satisfaction that the information laid before the Court was of such a nature which required examination;

(ix) That the person approaching the Court has come with clean hands, clean heart and clean objectives;

[9] That before taking any action in public interest the Court must be satisfied that its forum was not being misused by any unscrupulous litigant, politicians, busy body or persons or groups with mala fide objective of either for vindication of their personal grievance or by resorting to black-mailing or considerations extraneous to public interest.

[10] In the case of [Shri Sachidanand Pandey Vs. State of West Bengal](#), 1987 AIR(SC) 1109 the Supreme Court observed as follows :-

"Today public spirited litigants rush to file cases in profusion under this attractive name. They must inspire confidence in Courts and among the public. They must be above suspicion. Public Interest Litigation has now come to stay. But one is led to think that it poses a threat to Courts and public alike. Such cases are now filed without any rhyme or reason. It is therefore necessary to lay down, clear guidelines and to outline the correct parameters for entertainment of such petitions. If Courts do not restrict the free flow of such cases in the name of Public Interest Litigation, the traditional litigation will suffer and the Courts of law, instead of dispensing justice, will have to take upon themselves Administrative and executive functions. This does not mean that traditional litigation should stay out. They have to be tackled by other effective methods, like decentralizing the judicial system and entrusting majority of traditional litigation to Village Courts and Lok Adalats without the usual populist stance and by a complete restructuring of the procedural law which is the villain in delaying disposal of cases....

It is only when Courts are apprised of gross violation of fundamental rights by a group or a class action or when basic human rights are invaded or when there are complaints of such acts as shock the judicial conscience that the Courts, especially the Supreme court, should leave aside procedural shackles and hear such petitions and extend its jurisdiction under all available provisions for remedying the

hardships and miseries of the needy, the underdog and the neglected. It is necessary to have some self-imposed restraint on Public Interest Litigants."

[11] In a recent pronouncement of the Hon'ble Supreme Court in the case of [State of Uttaranchal Vs. Balwant Singh Chauhal and Ors.](#), 2010 3 SCC 402, in paragraphs 178, 179, 180 and 181, the Supreme Court laid down the following guidelines relating to Public Interest Litigation:-

"178. We must abundantly make it clear that we are not discouraging the Public Interest Litigation in any manner, what we are trying to curb is its misuse and abuse. According to us, this is a very important branch and, in a large number of PIL petitions, significant directions have been given by the Courts for improving ecology and environment, and the directions helped in preservation of forests, wildlife, marine life etc. It is the bounden duty and obligation of the Courts to encourage genuine bonafide PIL petitions and pass directions and orders in the public interest which are in consonance with the Constitution and the laws.

179. The Public Interest Litigation, which has been in existence in our country for more than four decades, has a glorious record. This Court and the High Courts by their judicial creativity and craftsmanship have passed a number of directions in the larger public interest in consonance with the inherent spirits of the Constitution. The conditions of marginalized and vulnerable section of society have significantly improved on account of Court's directions in PIL.

180. We have carefully considered the facts of the present case. We have also examined the law declared by this Court and other Courts in a number of judgments. In order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions:

(1) The Court must encourage genuine and bonafide PIL and effectively discourage and curb the PIL filed for extraneous consideration.

(2) 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 formulates 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 the Secretary General of this Court immediately thereafter.

(3) The Courts should prima-facie verify the credentials of the petitioner before entertaining a PIL.

(4) The Courts should be prima-facie satisfied regarding the correctness of the contents of the petition before entertaining petition.

(5) The Courts should be fully satisfied that substantial public interest is involved before entertaining the petition.

(6) The Court should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.

(7) 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.

(8) The Courts 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."

[12] In a much recent pronouncement of the Hon'ble Supreme Court in the case of [P.Seshadri Vs. S.Mangati Gopal Reddy and Ors.](#), 2011 5 SCC 484, it has observed that :-

"Public Interest Litigation can only be entertained at the instance of bonafide litigants. It cannot be permitted to be used by unscrupulous litigants to disguise personal or individual grievances as Public Interest Litigations. The Supreme Court does not approve of an approach that would encourage petitions filed for achieving oblique motives on the basis of wild and reckless allegations made by individuals i.e. busybodies, having little or not interest in the proceedings. The credentials, the motive and the objective of the petitioner have to be apparently and patently aboveboard. Otherwise the petition is liable to be dismissed at threshold."

[13] From the materials on record, it appears that on 5th June, 2004, the State Government in its General Administration Department issued a Notification No.AIS/35-2004/22/G, transferring the services of Dr. Rajiv Kumar Gupta, IAS, the respondent No.6 herein, by placing his services at the disposal of Government of India for appointment as Private Secretary to Hon'ble Union Minister for Textiles.

[14] Thereafter, on 8th June, 2004, one Shri Sudhir Bhargava, the Joint Secretary, Ministry of Textiles, Government of India, addressed a letter to the Establishment Officer & Additional Secretary, Department of Personnel and Training, New Delhi, requesting to obtain the approval of ACC to the proposal of appointment of Dr. Rajiv

Kuamr Gupta, IAS, the respondent no.6, as a Private Secretary to the Minister of Textiles, with effect from 8th June, 2004.

[15] Further, it appears that on 22nd June, 2004, the Minister of Textiles, Government of India, vide D.O. letter No.36/HMOT/2004 informed the Minister of State, Personnel & Parliamentary Affairs, inter-alia to the effect that undue delay had been causing owing to the procedural reasons in issuing the formal appointment of the respondent No.6, and further requested to formalize the appointment of the respondent No.6 immediately. It further appears that on 3rd December, 2004, the Office of the Establishment Officer, Department of Personnel and Training, Government of India, issued the Office Memorandum with copies thereof to various authorities including the Chief Secretary, Government of Gujarat, informing inter-alia that the ACC had not approved the proposal to appoint Dr. Rajiv Kumar Gupta, IAS, as a Private Secretary to the Minister of Textiles. The record further reveals that on 22nd December, 2004, the Under Secretary to the Government of India, Department of Personnel & Training addressed a letter to the Chief Secretary, Government of Gujarat, forwarding therewith an application of Dr. Rajiv Kumar Gupta, IAS, for grant of study leave in India for a period of one year. It appears that on 5th January, 2005 Dr. Rajiv Kumar Gupta addressed a letter to the Deputy Secretary (Services), General Administration Department, Government of Gujarat, inter-alia requesting to defer the date of his joining as the Managing Director, Tourism Corporation, in view of the advice given to him to move after the decision was taken by the Central Government about the appointment of his successor. It further appears that on 4th March, 2005, the Office of the Establishment Officer, Department of Personnel & Training, Government of India, issued Office Memorandum with copies thereof to various authorities including the Chief Secretary, Government of Gujarat stating inter-alia that Dr. Rajiv Kumar Gupta, be paid salary for the period from 8th June, 2004 i.e. date of his joining the Minister's office till the date of rejection of the proposal, i.e. 3rd December, 2004 and that Dr. Rajiv Kumar Gupta be granted study leave for one year with effect from 4th December, 2004. The record further reveals that on 25th April, 2005, Dr. Rajiv Kumar Gupta, the respondent no.6 wrote a letter to the Establishment Officer, Department of Personnel & Training, Government of India, stating inter-alia that he did not wish to avail of the remaining study leave and would like to join his duties with Government of Gujarat by curtailing his study leave and accordingly, considering the request of the respondent No.6, on 13th May, 2005, the Government of India passed an order curtailing study leave w.e.f. 1st May, 2005. It appears that thereafter, the State Government in its General Administration Department issued a Notification No. AIS/35.2005/16/G appointing Dr. Rajiv Kumar Gupta, as the Commissioner of Higher Education, Gandhinagar.

[16] The chronology of events would suggest that nothing is found suspicious as regards the appointment of Dr. Gupta as Private Secretary to the then Minister for Textiles between June, 2004 and December, 2004. One aspect which the petitioner tried to highlight very vociferously was that Dr. Gupta could not have worked as the Private Secretary to the then Minister for Textiles without the prior approval of the ACC and such being the position, no salary could have been paid to Dr. Gupta for such period. Our attention has been drawn to an office memorandum dated 19th August, 2010, issued by the Government of India, Department of Personnel and Training, clarifying that while considering the proposal for ex-post facto appointment of an Officer as OSD to a Minister at the Deputy Secretary level, the ACC had observed that many Ministries and Departments were forwarding proposals requesting for ex-post facto approval of the Competent Authority for appointments in the personal staff of the Ministers. The ACC clarified that prior approval of the ACC was required for all appointments in the personal staff of the Ministers (other than Private Secretaries) at the level of Deputy Secretaries and above. Thus, there is no substance in the allegation levelled by the petitioner that the functioning of Dr. Gupta as Private Secretary from June, 2004 to December, 2004 was unauthorised and illegal in the absence of any prior approval from the ACC.

[17] Our attention has also been drawn to two such notifications issued by the Government of India, granting ex-post facto approval, one in the case of Shri Ram Subhag Singh, I.A.S as Private Secretary to Raksha Utpadan Rajya Mantri on 1st February, 2006 and Shri. Madhup Vyas, I.A.S as Private Secretary to the Minister of State for Information and Broadcasting, with effect from 3rd August, 2009.

[18] Our attention has also been drawn to the All India Services (Leave) Rules, 1955, which provides for study leave. Rule 17 thereof reads as under:-

"17 (1) Study Leave may be granted to a member of the Service of such terms as may be prescribed in the regulations made in this behalf by the Central Government in consultation with the State Governments concerned to enable him to undergo, in India or out of India a special course of study or instructions approved by the government in public interest. " The above referred Rule makes it clear that an I.A.S Officer, even if he is working with the State Government, may be granted study leave by the Central Government in consultation with the State Government. Taking into consideration Rule 17 of the Rules, the allegations of the petitioner so far as grant of study leave to the respondent No.6 is concerned, also appears to be without any substance.

[19] In the overall view of the matter, we are not at all convinced with the case set up by the petitioner in this petition, and we hold that this petition deserves to be rejected.

[20] In the result, this petition fails and is hereby rejected. However, in the facts and circumstances of the case, there shall be no order as to costs.

