

GAHC010280402018



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**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : PIL/7/2019**

MOHAN RONGPI  
S/O- SRI TELISH RONGPI, R/O- VILL- RONGKETHE, P.O AND P.S- DIPHU,  
DIST- KARBI ANGLONG, ASSAM, PIN- 782460

VERSUS

THE STATE OF ASSAM AND 12 ORS  
REP. BY SECRETARY TO THE GOVT OF ASSAM, DEPTT OF IRRIGATION,  
SECRETARIAT, DISPUR, ASSAM, PIN- 781006

2:THE COMMISSIONER AND SECRETARY  
TO THE GOVT OF ASSAM  
HILL AREAS DEPTT  
DISPUR  
GUWAHATI  
ASSAM PIN- 781005

3:THE ADDL SECRETARY TO THE GOVT OF ASSAM  
HILL AREAS DEPTT  
DISPUR  
GUWAHATI  
ASSAM PIN- 781005

4:THE JOINT SECRETARY  
TO THE GOVT OF ASSAM  
HILLS AREAS DEPTT  
DISPUR  
GUWAHATI  
ASSAM PIN- 781005

5:THE KARBI ANGLONG AUTONOMOUS COUNCIL  
REP. BY THE PRINCIPAL SECRETARY KAAC  
DIPHU  
KARBI ANGLONG

ASSAM PIN- 782460

6:THE CHIEF EXECUTIVE MEMBER  
KARBI ANGLONG AUTONOMOUS COUNCIL  
DIPHU  
KARBI ANGLONG  
ASSAM PIN- 782460

7:EXECUTIVE MEMBER IN CHARGE  
IRRIGATION DEPTT  
KAAC DIPHU  
KARBI ANGLONG  
ASSAM  
PIN- 782460

8:THE JOINT SECRETARY  
IRRIGATION DEPTT  
KAAC DIPHU  
KARBI ANGLONG  
ASSAM  
PIN- 782460

9:THE ADDL CHIEF ENGINEER (ZONE-IV)  
IRRIGATION  
ASSAM  
DIPHU  
KARBI ANGLONG  
ASSAM PIN- 782460

10:THE SUPERINTENDING ENGINEER  
DIPHU CIRCLE  
ASSAM  
DIPHU  
KARBI ANGLONG  
ASSAM  
PIN- 782460

11:THE DEPUTY CHIEF ENGINEER  
IRRIGATION  
ASSAM  
DIPHU  
KARBI ANGLONG  
ASSAM PIN- 782460

12:THE DEPUTY DIRECTOR  
IRRIGATION  
ASSAM  
DIPHU

KARBI ANGLONG  
ASSAM PIN- 782460

13:THE UNION OF INDIA  
REP. BY SECRETARY TO THE GOVT OF INDIA  
MIN OF WATER RESOURCES  
RIVER DEVELOPMENT AND GANGA REJUVENATION  
627  
SHRAM SHAKTI BHAWAN  
RAFI MARG  
NEW DELHI- 11000

**For the Petitioner :**        **Mr. K.N. Choudhury, Sr. Adv.**

Mr. F. Faridi, Adv.

For the Respondents:        Mr. D. Saikia, AG, Assam.  
Mr. J. Chutia, SC, KAAC.

**BEFORE**

**HON'BLE THE CHIEF JUSTICE  
THE HON'BLE MR. JUSTICE SUMAN SHYAM**

Date of hearing                : 05/08/2024.

Date of judgement            : 08/08/2024.

**JUDGEMENT AND ORDER (CAV)**

**Suman Shyam, J**

**1.**        Heard Mr. K.N. Choudhury, learned senior counsel assisted by Mr. F. Faridi, learned counsel for the petitioner. We have also heard Mr. D. Saikia, learned Advocate General, Assam, assisted by Mr. J. Chutia, learned Standing Counsel, Karbi Anglong Autonomous Council, appearing for the respondents.

**2.**        This writ petition, in the form of a Public Interest Litigation (PIL), has been instituted by Sri Mohan Rongpi, a resident of Karbi Anglong Autonomous Council area, alleging serious irregularities in implementation of various Minor Irrigation schemes and Flow Irrigation schemes, sanctioned under Accelerated Irrigation Benefit Programme (for short **AIBP**), more particularly, those that were implemented during the year 2012-2013, 2014-2014 and 2014-2015, primarily with a prayer to direct the Central Bureau of Investigation

(CBI) to conduct an impartial investigation and to submit enquiry report before this Court and thereafter, pass further orders based on such report.

**3.** In order to substantiate the plea of malfeasance on the part of the public servants serving under the Karbi Anglong Autonomous Council (*for short KAAC*) Administration connected with the implementation of the aforementioned AIBP schemes, the petitioner has pleaded certain facts and particulars in the writ petition. It has also been stated that the petitioner had personally inspected a few sites and found that there were over-lapping with previous irrigation scheme in many sites. The particulars of sites such as (1) Borjan Composite (overlapping scheme); (2) Langparpan (overlapping scheme); (3) Dosbai (overlapping scheme); (4) Dongmepi Bey Gaon (new scheme); (5) Langphanki (new scheme); (6) Wallingdisha (new Scheme) & (7) Youangdisa (overlapping scheme) have been furnished in the writ petition. The basic allegations of the writ petitioner, reduced to their essence, are that new projects of Irrigation Schemes were shown to have been set up in sites which already had previously existing irrigation projects, thereby, causing overlapping projects leading to defrauding of the Exchequer; the projects were awarded to contractors in violation of the guidelines laid down for issuing public tenders and some of the projects have been allotted to the relatives of the then Chief Executive Member (CEM) of KAAC and his close associates; there is stark deviation between the Detail Project Report (DPR) and actual implementation of the projects; funds have been diverted illegally without actually implementing the projects.

**4.** With a view to highlight the aforesaid irregularities, the petitioner had submitted a complaint before the Chief Engineer, Irrigation Department, Chandmari, Guwahati, which was received on 11/06/2015. Six deficiencies in implementing the projects, as highlighted in the aforesaid complaint, are as follows :-

(i) *Notice Inviting Tender for schemes worth less in amount have been found to get media publications while schemes worth in high amount does not got wide publications.*

(ii) *In the financial year 2013-14, the KAAC has received the Govt. sanctioned of 60 new MIS under AIBP whose worth stands at Rs. 43624.45 lakhs (Rupees four hundred thirty six crore twenty four lakhs and forty five thousand) only but these schemes have been in the execution stages though*

*tender was not invited.*

*(iii) It is observed that a few Irrigation schemes under AIBP were executed very poorly and constructed in the premises of Private party's ponds. The schemes in question are Doldoli LIS, whose worth stand at Rs. 389.87 lakhs (Rupees Three Crore Eighty Nine Lakhs Eighty Seven Thousand only) and another is Doldoli IS whose worth at Rs. 408.759 lakhs (Rupees Four Crore Eight Lakhs Seventy Five Thousand Nine Hundred only) and were said to have executed in 2001-12 and 2012-13 respectively.*

*(iv) It is also observed that KAKU Basti, irrigation schemes under NLCPR (2012-13) whose worth stands at Rs. 871.65 Lakhs (Rupees eight crore seventy one lakhs sixty five thousand only) have been constructed disproportionately with the sanctioned amount.*

*(v) Phumen Phangcho Minor irrigation scheme under NLCPR (2011-12) worth at Rs. 609.41 lakhs (Rupees six crore nine lakhs forty one thousand) only have been constructed very poorly and does not match with sanctioned amount. So, is "Phancgho basti irrigation scheme" under NLCPR (2012-13) whose worth is Rs. 952.69 Lakhs (Rupees nine crore fifty two lakhs sixty nine thousand) only. The constructed structure value stand mismatch with the sanctioned amount.*

*(vi) Kolonga Lift Irrigation scheme, under AIBP (2011-12) worth at Rs. 990.348 Lakhs (Rupees nine crore ninety lakhs thirty four thousand eight hundred only) have been declared completed but no sign of Lift Irrigation facilities worth its name is to be found at the site.*

*The above few instances of mismanagement of public money and the manner in which the officials of the Department of Irrigation under KAAC handling the Departmental affairs, in the above matters have prompted the undersigned to cast a strong doubt in all the schemes that have been declared to have completed under AIBP and NLCPR funds between the year 2008-09 and 2013-14."*

**5.** Thereafter, the petitioner had also lodged a complaint dated 01/07/2017 before the

Superintendent of Police, Chief Minister's Vigilance Cell, Guwahati. The grievance of the petitioner is that despite having furnished sufficient information of irregularities in implementing the Minor Irrigation Projects, no action has been taken in the matter by the authorities, as a result of which, he has been compelled to approach this Court by filing this PIL.

**6.** The respondent no. 9 i.e. the Additional Chief Engineer, Zone-IV, Karbi Anglong Division, has filed counter affidavit contesting the averments made in the writ petition. Apart from questioning the *bona fide* of the petitioner in instituting the PIL, it has also been urged that the same issues raised in this PIL, have already been examined by this Court in some earlier proceedings and thereafter, a conclusion was drawn by this Court that there were no irregularities in implementing the 386 Minor Irrigation Schemes including the schemes referred to in the present petition. As such, this PIL is hit by the principles of *res judicata*. The averments made in the counter affidavit filed by the respondent no. 9 in paragraphs 5 to 14 would have significant bearing in the outcome of the present proceeding and, therefore, those are being reproduced herein below for ready reference :-

*"5. That the deponent raised the preliminary objection in respect of maintainability of the present Public Interest Litigation petition in view of the fact that the allegation labeled about non completion of Seven Irrigation Schemes under AIBP are within the 386 Schemes mentioned in the earlier PIL No. 107/2015 which has already been adjudicated by the Hon'ble High Court.*

*6. That the deponent begs to state that earlier a Public Interest Litigation petition being PIL No. 107/2015 was filed before this Hon'ble Court by Dristi Social Welfare Society alleging irregularities in executing the Irrigation Schemes under the jurisdiction of KAAC. In the petition it has been stated that under the scheme of Accelerated Irrigation Benefit Program from the year 1996-97 to 2013-14, total 386 numbers of Irrigation Schemes were marked for Karbi Anglong District for implementation. The copy of the list of projects for Karbi Anglong District were annexed in the petition which includes Six (6) Minor Irrigation Schemes for the year 1999-2000, 35 new MI Schemes (KAAC) of the year 2012-13, 50 new MI schemes (KAAC) of the year 2013-14 and 60 new MI Scheme (KAAC) for the year 2013-14 amongst the others. The petitioner of PIL*

*No. 107/2015 has alleged in the petition that the authorities of the Irrigation Department of Karbi Anglong District has indulged in malpractice and defrauding the people by showing the projects as completed without even completing 10% of the works. In the petition allegations were made that certain projects such as Dilangki Irrigation Scheme, Langsoliet Irrigation Scheme and some other projects though shown as complete but no such work has been carried out by the Irrigation Department of Karbi Anglong Autonomous Council.*

*7. That the Hon'ble High Court has constituted a High Power Technical Committee consisting with five members of impeccable integrity to inspect the Irrigation Schemes. The High Power Technical Committee inspected Dilangki and langsoliet Irrigation Schemes and submitted the report to the Hon'ble High Court. After pursuing the report submitted by the High Power Technical Committee, the Hon'ble High Court finds no justification to proceed further with the petition and the PIL No. 107/2015 was finally disposed of on 24/08/2017.*

*8. That being aggrieved with the order dated 24/08/2017, the petitioner of PIL No. 107/2015 approached the Hon'ble Supreme Court of India by filing a Special Leave Petition, being SLP(C) No. 37105/2018 and the Hon'ble Supreme Court by order dated 29/07/2019 dismissed the Special Leave Petition with a liberty to the petitioner to move the High Court by way of Review. Accordingly, a review petition being Review Petition NO. 116/2019 was filed to review the order dated 24/08/2017 passed in PIL No. 107/2015 and the Hon'ble Court by order dated 25/10/2019 has dismissed the review petition.*

*9. That the deponent begs to state and submit that res judicata is a doctrine based on the larger public interest and is founded that public policy that there ought to be an end to the similar litigation. The main purpose of the doctrine is that once a matter has been determined in a former proceeding, it should not be open to parties to re-agitate the matter again and again. The principle forbids a court from trying an issue recognizing both "cause of action estoppel" and "issue estoppel". In a PIL, the petitioner is not agitating his individual right but represent the public at large. As long as the litigation is*

*bona fide, a judgement in a previous PIL would be judgement in rem. It binds the public at large and bars any member of the public from coming forward before the court and raising any connected issue or an issue which had been raised should have been raised in earlier occasion. The matter were "directly and substantially in issue" in the previous proceeding will castigate res judicata in the subsequent proceeding.*

10. *That the deponent begs to state that the issue of implementation of the minor irrigation scheme of 2012-13 and 2013-14 were "directly and substantially in issue" of PIL 107/2015. The prayer is for directing an enquiry by the CBI in the matter and to prosecute the offender. Secondly, the cause of action in both PIL NO. 107/2015 and PIL No. 37/2019 alleged the irregularities in completing the irrigation scheme executed in the year 2013-14 and also prior to that. The cause of action, the issue raised, the prayer made and the relief sought for in PIL No. 107/2015 and the present PIL are substantially the same. Moreover, the works were carried out in the year 2014-2016 and after a lapse of more than five years the issue of implementation of each of the project cannot be raised by filing PIL one after another.*

11. *That the deponent begs to state that Code of Criminal procedure 1973 prescribes the procedure to investigate the cognizable offence. Chapter XII prescribes the procedure "Information to the Police and their powers to investigate the cognizable offence. When information is laid with the police but no action is taken, the complainant has the option under section 190 read with section 200 of the code to lay the complaint before the Magistrate having jurisdiction to take cognizance of the offence and the Magistrate is required to enquire into the complaint. In this case, the petitioner has not adopted either of the procedure provided under the Code. As a consequence, without availing of the procedure stipulated in the Code, the petitioner is not entitled to approach the Hon'ble Court by filing writ petition seeking a direction to conduct an investigation by the CBI.*

12. *That at the outset the deponent begs to state that in the garb of the public interest litigation petition, the petitioner wants to espouse his personal*

*grievances against the irrigation department of Karbi Anglong Autonomous Council. The petitioner Mr. Mohan Rongpi was a registered contractor of the Irrigation Department of Karbi Anglong Autonomous Council, Diphu. His personal interest are obviously entwined with the Irrigation Department of Karbi Anglong. Further, as per available records the petitioner had executed different works of the Irrigation Schemes under the Irrigation Department. Out of all the Irrigation Schemes recorded in the name of the petitioner in the records of the department none of his works were satisfactory and as such he was not allotted any work since then. The petitioner concealed the material fact before the Hon'ble Court that the petitioner had executed different works of Irrigation Schemes under the Irrigation Department of KAAC. The Schemes were funded under AIBP/NEC/State Plan etc. In the financial year 2013-2014 the petitioner demanded to make the payment of Rs. 21,42,740/- against the work executed by him. The departments then inspected the work in the field and found that he did not execute some of the works and the works were not completed, but the petitioner threatened the site officers to prepare the bills for which the bills were prepared.*

*13. That the petitioner begs to state that Thekerajan Irrigation Scheme was sanctioned during the year 2005-2006 for Rs. 85.62 lakhs and the petitioner was allotted the work of construction of head work and other appurtenant works vide work order ACEI (Zone IV) tech/13/05-06/Pt-I/24 dated 16/05/2006. The site of the scheme is situated in a remote corner surrounded by hillock at a distance of 15 km from Longnit Bazar of Lambojang Development Block. But the petitioner had failed to execute the work as per approved drawing and due to the poor quality of the work, the scheme has not been functioning. The farmers are not benefited for the failure of the petitioner to execute the scheme as per the specification though the petitioner received an amount of Rs. 39,60,000/-. The petitioner has demanded the payment of the balance amount but due to non-payment of the balance amount, the petitioner filed the present petition for his own interest.*

*14. That it appears from the record that the petitioner received an amount of*

*rs. 3,33,03,793/- (Three Crore Thirty Three lakhs Three Thousand Seven Hundred and Ninety Three Rupees) till 2010 for execution of different schemes under AIBP, NLCPR, NEC, State Plan etc. and it is found that the petitioner had failed to complete the work as per the specification and for that reason no work was allotted to him since the year 2010-11. The petitioner on the garb of RTI activist indulged in antisocial activities for which an FIR was lodged against the petitioner on 22/07/2016 by the Principal Secretary, Karbi Anglong Autonomous Council in Diphu Police Station which was registered as Diphu PS case No. 55/2016 u/s. 120(B)/387/419/506/34 IPC. The Investigating Officer after investigation had filed the charge-sheet against the petitioner. The petitioner filed a criminal petition before the Hon'ble High Court being Crl. Pet NJo. 945 of 2016 for quashing the charge sheet and the Hon'ble Court by order dated 12/12/2017 dismissed the Crl. Pet. No. 945/2016."*

**7.** In order to substantiate the plea that the minor irrigation projects have been properly implemented, the respondents have also brought on record evidence in the form of photographs of various installed projects to show that the allegations made in the writ petition are wholly unfounded.

**8.** The respondent no. 9 has also filed an additional affidavit bringing on record various orders passed by this Court from time to time in PIL No. 37/2019, PIL No. 55/2019 and in PIL No. 74/2021, to submit that similar complaints, earlier made by other petitioners, have been duly enquired into by this Court and those allegations have been found to be baseless.

**9.** In the rejoinder affidavit filed by the writ petitioner, it has been stated that the High Power Technical Committee appointed by this Court had verified the allegations pertaining to implementation of schemes during the year 1996 to 2014 and not the 64 schemes implemented during the year 2014-15. Therefore, this writ petition is not hit by the principle of *res-judicata*. The writ petitioner has admitted that he had executed certain works in respect of which Work Completion Certificates had been issued. He has, however, denied the other allegations brought against him in the counter affidavit filed by the respondent no. 9, as noted herein above.

**10.** Since there is a pleaded impeachment of this writ petition questioning the

maintainability of the same on the ground that the petition is barred by the principles of *res judicata*, we propose to deal with the said objection first in point of time. It appears from the materials brought on record that an organization called *Dristi Social Welfare Society*, which has its office in the district of Karbi Anglong, had earlier instituted PIL No. 107/2015 alleging serious irregularities in the matter of sanctioning and implementation of as many as 386 irrigation projects for Karbi Anglong District *inter-alia* contending that the KAAC authorities had resorted to corrupt practices and in the process, had siphoned out the entire fund allocated for the projects without properly implementing the same.

**11.** It appears that with a view to verify the allegations brought in PIL NO. 107/2015, this Court had constituted a High Power Technical Committee. This Committee, after examining the records and on visiting the sites, had submitted its report on 21/06/2017. After going through the materials available on record and on taking note of the findings recorded in the report dated 21/06/2017 submitted by the High Power Technical Committee appointed by this Court, the PIL No. 107/2015 was closed by the order dated 24/08/2017. The operative part of the order dated 24/08/2017 is quoted herein below for ready reference :-

*“In the present Public Interest Litigation, it is alleged that Water Resources Department, Government of India had launched the Accelerated Irrigation Benefits Programme (AIBP) Scheme during the 12th Five-Year Plan to facilitate irrigation of agriculture fields throughout the country. And an amount of Rs.717.6495 crore was sanctioned against 386 Irrigation Projects for Karbi Anglong District. But the authorities of Karbi Anglong Autonomous Council by resorting to corrupt practice have siphoned off the entire fund illegally showing the projects as completed without actually completing the same. A number of First Information Reports were also lodged but not in one case investigation has been completed to a logical end.*

*One such First Information Report was lodged by Sri Rajbir Singh on 3.6.2011 at Police Station Borlangfer and the same has been registered as Case No.17/2011 for offences under Sections 447/409/420/427 of the Indian Penal Code. In the First Information Report huge financial irregularity is alleged in the execution of two Minor Irrigation Schemes, namely Dilangki I/S and Langsoliet during the year 2009-2010. The case is under investigation and the Superintendent of Police, Karbi Anglong, Diphu is supervising the investigation. In order to assess expenditure incurred in the execution*

*of these Schemes opinion of Technical Committee comprising of local officers was sought. The Technical Committee in its report has opined that no financial irregularity was committed in the execution of Schemes. The Superintendent of Police in his status report however mentioned that the Members of the Technical Committee are actually working under the authorities of Karbi Anglong Autonomous Council.*

*Therefore, in the fact situation of the case, we were of the considered view that an opinion of Independent High Power Technical Committee is necessary. The State also fairly agreed to nominate five officers of impeccable integrity for the Independent High Power Technical Committee. Even the learned counsel for the petitioner readily agreed for an independent opinion of such High Power Technical Committee comprising of the officers nominated by the State Government.*

*The Committee, after visiting the site and examining the records available, in its report dated 21.6.2017, has given a finding that the Irrigation Projects were, in fact, executed and local public have been substantially benefited. This being the situation, we, having regard to the report of the High Power Technical Committee, find no justification to proceed further with the petition.*

*The petition stands finally disposed of.”*

**12.** The writ petitioner had preferred Special Leave Petition before the Hon'ble Supreme Court of India against the order dated 24/08/2017 but the same was withdrawn by order dated 29/07/2019 passed by the Supreme court with liberty to file a review petition before this High Court. Consequently, the writ petitioner *Dristi Social Welfare Society* had preferred Review Petition No. 116/2019 before this Court, which was also dismissed by the order dated 25/10/2019 whereby, the Division Bench had expressed an opinion that as per the High Power Technical Committee report, the irrigation projects have been properly executed and the local public had also been substantially benefited from the same. The writ petitioner in PIL No. 107/2015 has not assailed the order dated 25/10/2019. In such view of the matter, the order dated 24/08/2017 passed by the Division Bench in PIL No. 107/2015 has attained finality in the eyes of law.

**13.** We also find from the record that PIL 37/2019 was instituted before this Court by one Long Kumar Bey making similar allegations regarding irregularities in implementation of

the irrigation schemes, also praying for similar nature of reliefs. The aforesaid PIL was disposed of by order dated 08/03/2022 by taking note of the stand of the KAAC authorities that the projects have been duly completed. Liberty was, however, granted to the writ petitioner to approach the Principal Secretary, KAAC, if any fresh evidence becomes available to suggest that the projects had not been completed.

**14.** It would be pertinent to mention herein that in PIL 37/2019, the allegations were pertaining to 22 projects. However, in another PIL bearing No. 55/2019 instituted by the same person, viz. Long Kumar Bey, allegations pertaining to another 54 projects were made. PIL No. 55/2019 was, however, not disposed of by the order dated 08/03/2022. As such, by the order dated 25/05/2022 passed by this Court in IA(C) No. 961/2022 arising out of PIL 37/2019, it was clarified that the order dated 08/03/2022 will also cover the 54 projects as mentioned in PIL 55/2019.

**15.** Sri Semsonsing Bey and 2 others had instituted another PIL No. 74/2021 before this Court with similar allegations pertaining to implementation of these minor irrigation projects. However, by taking note of the order dated 08/03/2022 passed in PIL No. 37/2019, the Division Bench of this Court had held that the issues raised in the PIL did not survive for further consideration. As such, by the order dated 16/03/2023 passed in PIL No. 74/2021, the said proceeding was also disposed of by granting liberty to the petitioners in the line of the order dated 08/03/2022 passed in PIL No. 37/2019.

**16.** During the course of hearing, the learned counsel for the writ petitioner has fairly submitted that the projects covered under the present PIL were also part of the 386 projects which were the subject matter of PIL 107/2015. However, Mr. Choudhury, learned senior counsel appearing for the writ petitioner, by relying on a decision of the Supreme Court rendered in the case of ***National Confederation of Officers Association of Central Public Sector Enterprises and others Vs. Union of India and others*** reported in **(2022) 4 SCC 764** has submitted that the principles of *res judicata* would not be attracted in this case since PIL 107/2015 was not decided on merit by addressing the substantive issues.

**17.** From a careful examination of the decision of the Supreme Court rendered in the case of ***National Confederation of Officers Association of Central Public Sector Enterprises (Supra)***, we find that the Apex Court had held that while determining the

applicability of the principles of *res judicata* in exercise of writ jurisdiction, the Courts must be conscious that grave issues of public interest are not lost merely because a petition was initially filed and dismissed without substantial adjudication on merit. However, in the present case, we find that the order dated 24/08/2017 was passed by this Court after taking note of the findings of the High Power Technical Committee, which had opined that the irrigation projects had been properly implemented. The High Power Technical Committee was appointed based on a consent order of both the parties and consisted of persons of impeccable integrity. The report of the High Power Committee is not under challenge. Moreover, it is the admitted position of fact that all the 386 projects including those involved in the present PIL, were the subject matter of enquiry in PIL No. 107/2015. As such, it cannot be said that the substantive issues raised in PIL No. 107/2015 were not addressed by the order dated 24/08/2017 passed by this Court.

Under the circumstances, we are of the unhesitant opinion that the grievance raised in PIL 107/2015 was substantially adjudicated by this Court by order dated 24/08/2017 wherein, the same issues were involved. If that be so, the ratio laid down in the case of ***National Confederation of Officers Association of Central Public Sector Enterprises (Supra)***, in our view, would not be attracted in the facts of the present case. Rather, we are of the considered view that the instant PIL is hit by the principles of constructive *res judicata* and, therefore, is liable to be dismissed on such count alone.

**18.** Coming to the question of *bone fide* of the petitioner in instituting this PIL, here also, it is the admitted position of fact that the petitioner himself is a contractor who had executed a number of contractual works under the AIBP projects during the financial year 2013-14. There are some allegations made against the petitioner as regards proper implementation of the irrigation projects, as a result of which, he was apparently not awarded any work subsequently. Not only that, there are also pending disputes between the petitioner and the Department regarding certain outstanding bills. The above facts have come to light from the counter affidavit filed by the respondent no. 9. However, there is not even a whisper about these facts in the writ petition. Such omission on the part of the petitioner, in our opinion, would lead to the irrefutable conclusion that the writ petitioner has not approached this Court with clean hands. Further, the fact that the petitioner has failed to mention about the existing disputes between him and the Department with regard to execution of works

connected with various irrigation schemes, some of which are the subject matter of controversy in the present writ petition, would undoubtedly raise a strong suspicion as regards the *bona fide* of the petitioner. The petitioner has failed to dispel such suspicion by placing cogent materials before the Court to show his *bona fide* in instituting this PIL purely in public interest.

**19.** In so far as the plea raised by the petitioner on merit is concerned, as noted herein above, the High Power Technical Committee, which was a fact finding committee appointed by this Court, had verified the relevant facts, visited the sites and found that the allegations were baseless. There is nothing on record for this Court to take a contrary view in the matter. Although, by referring to the enquiry report dated 21/06/2017 submitted by the High Power Committee, Mr. Choudhury has made an attempt to convince this Court that some of the findings and observations of the Committee calls for further scrutiny, such submission of Mr. Choudhury are based on questions of facts, which are seriously disputed and, therefore, cannot be gone into in a writ petition.

**20.** In so far as the complaints lodged by the petitioner before the Chief Minister's Vigilance Cell and the alleged inaction of the authorities in respect thereof is concerned, remedy was available to the petitioner under the Code of Criminal Procedure. As such, grievance of the petitioner, if any, in respect thereof, could have been suitably redressed by taking recourse to the procedure prescribed under the law. The writ petitioner has, however, failed to avail such alternative legal remedy before approaching this Court by filing the present PIL.

**21.** For the reasons stated herein above, we are of the view that there is no merit in this PIL. The same is accordingly dismissed.

There will be no order as to costs.

**JUDGE**

**CHIEF JUSTICE**

*Sukhamay*

**Comparing Assistant**