

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD

CRIMINAL WRIT PETITION NO. 147 OF 2016

Madhukar s/o Bhaskar More

...Petitioner

VERSUS

The State of Maharashtra & ors.

...Respondents

.....
Shri S.S.Thombare, advocate for petitioner
Shri K.S.Patil, A.P.P. for respondent/State
.....

CORAM : A.V.NIRGUDE

AND

INDIRA K.JAIN, JJ.

DATED : 8th February, 2016

ORDER :

1] On perusal of the papers and upon preliminary discussion, we suggested the learned counsel for the petitioner not to press this petition, but he insisted that we must hear him on merits. On his insistence we heard him in detail.

2] The petitioner was Executive Engineer, P.W.D. till 31st July, 2014 when he reached the age of superannuation. As Executive Engineer the petitioner worked in Aurangabad District for last two years of his service. Earlier he worked at so many other places. He learnt recently that on 2.11.2011 one Kothari of Buldhana had lodged a complaint to Lokayukta alleging that officers and contractors of P.W.D. misappropriated huge funds in the road

construction work of Buldhana-Ajantha road.

3] The learned Lokayukta then sought report of vigilance squad of the Department and on 22.8.2012 report came before Lokayukta. Several allegations against several persons are made in the report. The Lokayukta received this report, but did not take further action for quite some time. Recently Lokayukta initiated action calling for further papers and documents from the Department. On receipt of such papers and documents and on perusal thereof, learned Lokayukta came to a conclusion that the Department is unnecessarily delaying further action in the matter. Learned Lokayukta therefore, directed to lodge complaints against the persons who are found responsible. This order was passed on 20.1.2016.

4] The petitioner got scared because according to his information he is likely to be one of the accused in such case, which is likely to be filed against various persons.

5] The petitioner, therefore, wants us to set aside the order of the learned Lokayukta and to restrain the State of Maharashtra from registering offence against him. We asked the learned counsel as to under what provision of law he could challenge the correctness of the impugned order passed by the learned Lokayukta. His answer came that we can do this by exercising powers under Article 226 of the Constitution of India. We also asked him as to how he could get an order of injunction against State of Maharashtra from registering an offence against his client. To this also his answer was to rely on

our powers under Article 226 of the Constitution of India. The learned counsel for the petitioner also urged us to go through the report and form an independent opinion as to whether any action can be taken against his client.

6] In our view, the entire exercise on the part of the petitioner is an abuse of process. We find no locus for the petitioner to start any legal action against the proposed F.I.R. If at all any F.I.R. is registered the petitioner would have ample opportunities to protect himself. We repeatedly told the learned counsel for the petitioner not to press this application. We expressed our view that this is rather premature action he insisted that we must hear him fully.

7] We are inclined not to exercise our powers under Article 226 of the Constitution of India in stopping the action which is likely to be initiated by the order of the learned Lokayukta. We also refuse to grant any order in favour of the petitioner stopping registration of offence, etc. We express our strong displeasure in respect of the manner in which this petition is drafted and is presented and is argued also.

8] We therefore direct not only dismissal of the petition, but we also direct the petitioner to deposit Rs.50,000/- as costs within one week from today.

[INDIRA K.JAIN, J.]

[A.V.NIRGUDE, J.]