

1 The petitioners contend that, the ombudsman does not have authority to issue instructions to recover the amount from the erring officials or to issue direction for lodging criminal prosecution directly. The report of the ombudsman is in the nature

of recommendations to the authorities invested with the jurisdiction under the provisions of MGNREG Act.

2 Reliance is placed on the circular issued by the State Government on 25.5.2015, wherein there is reference to the directives issued by the Central Government on 16.1.2015. Paragraphs Nos.13.1, 13.7 and 13.9 of the circular issued by the Central Government read thus:

“13.1 The award shall be a speaking order consisting of the following components:

- (i) Details of the parties of the case.
- (ii) Brief facts of the case.
- (iii) Issues for consideration.
- (iv) Findings in favour or against issues along with reasons.
- (v) Direction to the concerned MGNREGA authority regarding performance of its obligations under the MGNREG Act and recommendation regarding expediting delayed matters, taking of disciplinary and punitive action against erring persons etc. except imposition of penalties under the MGNREG

Act.

(v) Costs, if any.

13.7 In any proceeding before the Ombudsman, if the facts reveal a case of illegal gratification, bribery or misappropriation and the Ombudsman is satisfied that the case is fit for further investigation by an appropriate Court of law, the same shall be referred by the Ombudsman to the authority competent to sanction criminal prosecution of the persons involved in the case who shall take action in accordance with prescribed procedures.

13.9 The awards of Ombudsman would be strictly within the purview and confines of the MGNREG Act, the rules and the Scheme formulated there under and the operational guidelines issued by the Government of India from time to time. "

2 In view of the Circular issued by the State Government relying upon circular issued by the Central Government on 16.1.2015, the directions issued by the ombudsman on 8.1.2016 in respect of recovery of the amount and lodging of criminal prosecution is not enforceable.

3       Considering the arguments advanced at the bar and looking to the circular issued by the State Government, we direct that, the report of the ombudsman shall be considered as recommendatory in nature and no action shall be initiated directly on the basis of the said report. It would be open for the competent authority, authorized under the provisions of MGNREG Act to take appropriate steps on perusal of the report of the ombudsman. It would be obligatory on the part of the authority invested with jurisdiction to take appropriate action under the aforesaid Act and the said authority shall be at liberty to act in accordance with provisions of law, including taking appropriate steps on scrutiny of the recommendations made by the ombudsman.

4       With clarification as above, the writ petitions stand disposed of.

(K.K. SONAWANE, J)

(R.M.BORDE, J)