

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

PUBLIC INTEREST LITIGATION No.29 OF 2014

ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

The petitioners have come up with the present Public Interest Litigation seeking issuance of a writ of *mandamus* to direct the respondents 1 and 3 to take action against the respondents 4 to 6 for certain alleged irregularities committed by them.

Heard Mrs. B. Rachana, learned counsel appearing for the petitioners, learned Government Pleader appearing on behalf of the learned Advocate General for the State of A.P., Mr. G. Bala Rangaiah, learned counsel appearing for the 3rd respondent, and Mr. G. Vidya Sagar, learned senior counsel appearing for the respondents 4 and 5.

In a report dated 28.09.2012, the Director General (Vigilance and Enforcement), pointed out certain irregularities against the respondents 4 and 5. The abstract of the recommendations, made by the Director General, shown in his report is as follows:

"4. ABSTRACT RECOMMENDATIONS:

Sl.No.	Name & Designation of the officer	Nature of irregularity	Action proposed
1.	Sri M.Vijaya Bhaskar, the then Dy. Executive Engineer, APVVP, Ongole. Presently working as Executive Engineer APMSIDC, Eluru.	i. Violated guidelines laid down in GO Ms. No.94, I&CAD Dept., Dt:01-07-2003 in invitation of tenders without giving wide publicity in daily news papers thereby fair competition is not invited between Contractors and the Department is deprived of competitive prices which is a loss to Government exchequer, collected insufficient EMD and given	Stringent disciplinary action.

		insufficient time to Contractors for submission of tender documents. ii. Without opening the sealed tender cover, tenders were finalized for the work "Leaky roof repairs and special repairs to Nurse quarters and Class-IV quarters in DSR Head Quarters Hospital". This shows that the work was awarded to the Contractor of his choice by managing the other Contractors. iii. Issued tender notice on date of opening tender for the work "Raising of Compound wall at CHC Repalle, Guntur District". This shows his malafide intention of the charged officer to award the works to the chosen Contractor. iv. Collected signed empty Contractor's letter heads and kept in the files for the reasons best known to him.	
2.	Sri L. Ajay Babu, the then Executive Engineer, APVVP, Hyderabad. (At present under suspension)	Accepted & finalized the tenders invited by Sri M. Vijaya Bhaskar, the then Dy.EE., APVVP though the tenders were invited without following the procedures laid down in GO Ms No.94, I&CAD Dept., Dt:01-07-2013.	Departmental action.

5. RECOMMENDATIONS:

The Principal Secretary to Government Health Medical & Family Welfare Department, A.P. Secretariat, Hyderabad is requested to take action as per table supra.

Encl: Annexures – A1 to A10.

Statements – S1 to S3.

Action taken may be intimated at the earliest.”

The grievance of the petitioners, the first of whom is also an employee of the very same institution, which fact he has carefully omitted to take a mention, is that the report of the Director General has been put

into the cold storage without any action being taken to recover public money.

The official respondents have filed a counter-affidavit to the effect that, on the basis of the report of the Director General, charges were framed, enquiries were conducted, the enquiry officer submitted a report holding all but two charges fully proved and one charge partly proved against the 5th respondent and the only charge framed against the 4th respondent fully proved. The copies of the enquiry report have been furnished to the respondents 4 and 5 and their explanations obtained. Now the opinion of the Commissioner (Vigilance) is awaited before passing final orders.

Therefore, the purpose of the petitioners approaching this Court stands satisfied. Though the learned counsel for the petitioners wanted much more in the form of directions to the respondents to indicate what kind of penalties to be imposed, we do not think that we can overstep our jurisdiction by proposing any penalty. We are conscious of the fact that major penalty proceedings have been initiated and they will be dealt with accordingly. Hence, the Public Interest Litigation is closed, as no further orders are necessary. But, we make it clear that the official respondents should pass final orders on the enquiry proceedings without forcing any other person to come up with such a direction.

As a sequel, pending miscellaneous petitions, if any, shall stand closed as infructuous. No order as to costs.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

Date: 29-11-2016.
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(Order of the Division Bench delivered by
Hon'ble Sri Justice V. Ramasubramanian)

Date. 29-11-2016

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