

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (PIL) No. 66 of 2017**

- Dubraj Pradhan S/o Ravishankar Pradhan, Aged About 38 Years R/o House No. 41, Ward No. 12, Chhibarra, Chhibarra, Toresingha, Mahasamund, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Panchayat Of Rural, Mahanadi Bhawan, Mantralaya, Naya Raipur, Tahsil & District Raipur, Chhattisgarh, P I N 492002.
2. Chief Executive Officer, Chhattisgarh Rural Road Development Agency, Vikas Bhawan Civil Line Raipur, Chhattisgarh.
3. Chief Engineer, Chhattisgarh Rural Road Development Agency, Vikas Bhawan Civil Line Raipur, Chhattisgarh.
4. Ratna Khaniz Udyog, Through Its Proprietor, Sunil Agrawal, Bazarpara Basna, District Mahasamund, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Sushobhit Singh, Advocate
For State	: Shri Y.S. Thakur, Additional Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Sharad Kumar Gupta, Judge****Order On Board****Per Thottathil B. Radhakrishnan, Chief Justice****04.07.2017**

1. This is a Public Interest Litigation in which the Petitioner seeks direction to the official respondents to initiate action against the officials as also the fourth Respondent on the allegation that the contract work has been carried out against public interest and causing loss to the exchequer.

2. Hearing the learned Counsel for the Petitioner and the learned Additional Advocate General in the light of the pleadings in the Writ Petition and return filed on behalf of Respondents No. 1 to 3, we see that as of now the works have been carried forward, effecting appropriate rectification and also by ensuring that the contractor was forced to discharge his contractual obligations. Steps have been taken to initiate disciplinary proceedings against the supervisory officers. To that extent the relief sought for by the Petitioner could be treated as satisfied.

3. Assessing the totality of the facts and circumstances, we cannot but make an observation that at least in the first quarter of 21st century we cannot fall back on theories which led the administrations of the mid 20th century to say that the penalty of erring supervisory officers could be confined to disciplinary proceedings. In cases of critical importance where failure of due supervision amounts to callous neglect and negligence of duties, it has to be examined as to whether criminal neglect and criminal negligence could be read into, found in the commissions and omissions of the erring officers. If that were seen, it is high time that the State machineries think about prosecuting such officers of the Government as well, in such matters as may be referable to Sections 34 and 120B of the Indian Penal Code. We say this very cautiously, though we are sure that no contractor will be able to dupe the Government without active connivance and concurrence of the supervising officers. Obviously therefore, hatching of the criminal conspiracy as between the contractor and government officials is something that should be treated as a matter reckonable to common sense for the State Government to pursue in such cases. It will also not be out of place to state, in terms of the inclusive definitions and presumptive provisions in the penal laws relating to prevention of corruption, that such situations would necessarily attract

culpability in terms of those provisions as well. This is because if one were to be enriched at the cost of the State Exchequer, on account of lack of prudent supervision in accordance with the statutory and public duties and responsibilities, the supervising government officials and the contracting authorities on behalf of the Government could be treated as having acted in such a way where the State may consider, in accordance with law, initiating proceedings for offences punishable under the provisions of the Prevention of Corruption Act as well.

4. Reverting to the facts of the case in hand it can be seen that the inquiry conducted by the Government officials itself shows that there was clear deflection of statutory and public duties and dereliction of official duties by certain government servants, thereby aiding the contractor to breach the contractual obligations. This would have, obviously, led to loss to the exchequer and delay in people enjoying fruits of the construction of roads. Yet we think that having regard to the steps taken by the Government no further specific directions are called for in this Writ Petition, though it is open to the Government to pursue any action as may be called for.
5. For the aforesaid reasons, this Writ Petition is ordered directing that the steps already taken by the official respondents in furtherance of inquiry report shall be carried forward and concluded, without fail, within an outer limits of six months from the date of receipt of copy of this order.
6. This Writ Petition is ordered accordingly.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge