

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

29 PUBLIC INTEREST LITIGATION NO. 114 OF 2015

VITTHAL ANNARAO HAJGUDE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Biradar R.D.

Mr. Rohit Deo, Advocate General with Shri AB Girase, Govt.

Pleader for Resp.Nos. 1 to 4 and 6 to 9;

Mr. Nagode D.G. For R/11.

**CORAM : R.M.BORDE &
P.R.BORA, JJ.**

DATE : 21st MARCH, 2017.

PER COURT

1) Heard. The prime allegation of the petitioners in the Public Interest Litigation relates to breach of policy directives, prescribing the disbursement of amount in respect of the works carried out under the Water Shed Management Scheme (for short, the Scheme).

2) The State Government has issued certain policy directives thereby instructing the officials, cast with the responsibility to

supervise the works under the aforesaid Scheme, to disburse the amount to the contractors for the works carried out by them, by way of cheque or deposit of the amount in their bank accounts instead of cash disbursement.

3) Revised directives / instructions, as referred to above, were issued in the year 2008. It is alleged that contrary to the said directives issued by the Government in respect of disbursement of the amount, the officers of the Agriculture Department, who were entrusted with the responsibility to supervise the works under the Scheme, have disbursed the amount in cash. The petitioners, therefore, express a reasonable apprehension that the amount must have been misappropriated and embezzled.

4) The petitioners in order to substantiate their claim have quoted two instances. It is alleged that the officers of the Agriculture Department, viz. Shri Tukaram Bhise and Gopal

Jadhav, withdrew the amount themselves instead of making the payment thereof to the contractors and thereby committed misappropriation. The petitioners have expressed apprehension that such irregularity in respect of payment of amount in cash, might have committed at different places in the State, and as such, there is every room of doubt to draw inference that the amount, which is expected to be utilized for the works in implementation of the Scheme, might have been embezzled by the employees/officers entrusted with supervision of the works to be carried out under the Scheme.

5) The petitioners, earlier, did approach this Court by presenting Writ Petition No. 4744/2014 raising the identical allegations. Apart from the allegations in respect of disbursement of the funds/amount, contrary to the directives of the State Government, the petitioners had raised an issue in respect of award of contract for amount above Rs.3,00,000/-

by adopting E-tendering process in view of the Government Resolution issued by the State on 26.11.2014. The challenge raised to the Government decision for allotting the works by adopting methodology of E-tendering process, has been turned down by this Court. So far as the grievance raised by the petitioners in respect of non-observance of the instructions relating to disbursement of the amount to be utilized under the Scheme is concerned, this court issued directives to the State to enquire into the irregularities. Liberty was granted to the petitioners to tender appropriate representation/complaint to Respondent No.6 therein and it was further directed to the concerned respondent to take appropriate measures for redressal of the grievances of the petitioners.

6) After dismissal of the petition, it does appear that the petitioners in Writ Petition No.4744/2014, some of whom are also the

petitioners in the instant PIL, approached this Court by presenting Contempt Petition No.459/2015, wherein it was contended that the directives issued by this Court in the writ petition decided earlier, in respect of holding of an enquiry against the officials, who were responsible for making cash payment, contrary to the policy of the State Government, have not been adhered to.

. After considering the affidavit in reply tendered on behalf of the respondents, the Contempt Petition came to be disposed of. A statement was made on behalf of the respondents in the Contempt Petition that departmental enquiry has been initiated against 14 employees and some of the employees/officers are also placed under suspension. This Court, noticing the compliance of the directives issued by it while disposing of the aforesaid writ petition, proceeded to dispose of the contempt petition.

7) The petitioners in the instant PIL, some

of whom were also the parties to the earlier petition bearing WP No.4744/2014, are making the identical grievances. The petitioners contend that the Respondent/State has not conducted a proper enquiry in respect of disbursement of large amount of funds, which was expected to be utilized for implementation of the Scheme, has been spent contrary to the directives of the State Government. It is also contended that the officials, who were responsible for disbursement of the amount in cash contrary to the policy directives of the State, have not been dealt with departmentally and no action, whatsoever, has been taken against them. The petitioners have made the allegations that in fact huge amount is spent for implementation of the Scheme, actually the work has not been executed in respect of the quantities in proportion with the amount that has been spent. The allegation made in the PIL is not supported by specific pleadings nor any material has been placed on record. Mere allegation made in the PIL, that too without

there being any support to substantiate the allegation, does not deserve to be accepted.

8) The learned Advocate General appearing for the State, has pointed out that in pursuance to the directives issued by this Court in Writ Petition No.4744/2014, an enquiry has been conducted in respect of violation of the directives issued by the State relating to disbursement of the amount in cash by the officials of the Agriculture Department who were entrusted with the responsibility of supervising the work under the Scheme. It was noticed, after due enquiry, that there is violation in respect of the directives issued by the State Government and an amount to the tune of Rs.92,00,00,000/- (ninety two crores) has been disbursed in cash by the officials of the Agriculture Department to the contractors. The total disbursement made contrary to the directives and in irregular manner is to the extent of about 1.79% of the total disbursement of the amount under the

Scheme.

9) The learned Advocate General, on instructions, makes a statement that appropriate enquiry in respect of violations relating to disbursement of the amount, would be conducted and those, who would be found responsible and guilty for misappropriation of public funds, would be dealt with appropriately. It is further assured that any official of the Agriculture Department or any other Government employees if found involved in commission of misappropriation of the public funds or any other offence relating to public funds, would be prosecuted and appropriate steps would be taken against them within a period of six months from today.

. It has also been pointed out that prima facie 14 officials of the Agriculture department are found responsible for violating the directives of the State Government in respect of utilization/disbursement of the funds. The names of the officers are mentioned in the affidavit in

reply presented on behalf of the State Government.

10) The learned Advocate General, on instructions, further makes a statement that departmental enquiry proceedings have already been initiated against those 14 officials of the Agriculture department and the same would be concluded within six months from today. The statements made on behalf of the State by the learned Advocate General are accepted.

. It is further pointed out that appropriate departmental proceedings was initiated against two officials named in the PIL and considering the outcome of the departmental proceedings, punishment has been imposed against them.

11) Considering the steps taken on behalf of the State Government against the erring officials and in view of the assurance given by the learned Advocate General on behalf of the State

Government, as recorded above, we are of the view that the grievances raised by the petitioners in the instant PIL stand substantially redressed.

12) The PIL, as such, stands disposed of.

(P.R.BORA)
JUDGE

(R.M.BORDE)
JUDGE

bdv/