

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.19 OF 2015

Nivrutti Barase .. Petitioner
Versus
The State of Maharashtra & ors .. Respondents

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Mr.Subhash Gotte for the petitioner.
Mr.Shekhar Jagtap, Special Counsel for the respondent no.1 –
State.

CORAM: DR. MANJULA CHELLUR, CJ.
& N.M. JAMDAR, J.
DATED: 10th AUGUST, 2017

P.C.:-

1 Petitioner is before this Court seeking the
following reliefs :-

(a) The original records may kindly be called
for.

(b) By way of writ of Mandamus or any
other appropriate writ, order or direction in
the like nature, this Hon'ble High Court may
please direct the respondent authorities to
bring all the records pertains to the Jamrung
Dam (Taluka Karjat) and Dongarpada Dam
(Taluka Karjat) before this Hon'ble High
Court.

(c) By way of writ of Mandamus or any
other appropriate writ, order or direction in
the like nature, this Hon'ble High Court may
please direct the respondent authorities to

initiate enquiry in respect of misappropriation in the Minor Irrigation Projects all over the State of Maharashtra since 2010 till today and further direct to submit the action taken report thereof in this Hon'ble High Court.

(d) By way of writ of Mandamus or any other appropriate writ, order or direction in the like nature, this Hon'ble High Court may please direct the respondent authorities to take necessary Civil, Penal and Departmental actions against the officers involved in the scam of Jamrung dam (Taluka Karjat) and Dongarpada Dam (Taluka Karjat) and submit the compliance report before this Hon'ble High Court.

(e) By way of writ of Mandamus or any other appropriate writ, order or direction in the like nature, this Hon'ble High Court may please direct the respondent authorities to take decision on the complaints/representations made by the petitioners regarding the Jamrung Dam (Taluka Karjat)

(f) Any other suitable and equitable relief may kindly be granted in favour of the petitioner, in the interest of justice and facts and circumstances of the case.

2 Though the petitioner's main concentration is with regard to Jamrung dam and also Dongarpada dam in Raigad district, the entire petition consists of allegations pertaining to many other water projects undertaken by the State as well as Central Government alleging that the Officers concerned with

those water projects have misappropriated funds and caused huge loss. According to him, inspite of an enquiry being conducted, no departmental action was taken against the Officers who were involved in the Jamrung dam and Dongarpada dam misuse of funds. Therefore, he is before this Court seeking proper directions to see that the acts of misappropriation are properly dealt with, and the Officers concerned are properly taken care.

3 In response to this, the State has placed on record a detailed affidavit explaining the background of the petitioner as well as his conduct mainly contending that with ulterior motive how he is taking different courses of action for appeasing personal vendetta or other gainful benefits. They have also referred to several complaints lodged against the petitioner, and have annexed several documents how petitioner was removed from one of the organizations of a political party on the ground of extortion and blackmailing.

On perusal of the entire record, what we notice is none of the documents supporting the contentions raised in

the petition have authentication of proper source, though in the petition, the petitioner says the documents were obtained under Right to Information Act (for short “RTI”) by filing a complaint, there is no such proof so far as the documents annexed to the petition indicating that they were all obtained after filing an application under RTI Act. This itself goes to show that petitioner will say one thing on oath, but no supporting documents would substantiate such contention. On the other hand, it is found false. As seen from the averments, he refers to several water projects pertaining to Vidharba region, and he does not say how he came to know these facts.

4 Be that as it may, when he intends to take the cause of the public with regard to misappropriation of funds, first, he must convince the Court that he is a genuine *pro bono publico*. This genuine interest is only to safeguard the public property, public interest and public money. If he were to be a person who was expelled on the allegation of extortion and blackmailing, we fail to understand how one

could appreciate the concern shown by the petitioner in the averments of the petition. Apparently, he has not taken any action against the association who expelled him on the allegation of extortion and blackmailing if those allegations were not correct. He also admits several criminal cases filed against him.

5 According to Government Advocate, a report attached along with reply affidavit indicate that an inquiry is made into the alleged safety so far as the funds of the above two dams was inquired into, and the complaint was found to be false. According to him, petitioner creates obstruction so far as discharge of duties by the public servants, and his main intention is only to create nuisance and show his mighty voice and presence. It is nothing but self boosting but not in the interest of public. That apart, according to learned Government Advocate, the petitioner tries to make use of the position of his wife who is a Sarpanch and tries to secure certain information against certain Officers only with *malafide* intention of blackmailing and threatening them with ulterior motive.

6 According to the petitioner, though such complaints are lodged against him, many of the complaints have ended in his acquittal.

7 In order to appreciate the concern of the petitioner that he is really interested in protecting public money by approaching the Court, minimum safety measure he ought to have taken is to get certified documents of the report of the committee or official communication, involving the officials pertaining to the above dam projects. The very fact that he could give copies of certain documents which are neither certified copies nor copies obtained under RTI Act, we cannot appreciate the intention of the petitioner in approaching the Court under the guise of *pro bono publico*.

8 With these observations, we dispose of the petition.

(N.M. JAMDAR, J)

(CHIEF JUSTICE)