

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

PUBLIC INTEREST LITIGATION NO. 135 OF 2016

(Mohammad Vasim Sheikh Anwar & Ors. vs. Maharashtra State AIDS Control Society & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
ARUN D. UPADHYE, JJ.
SEPTEMBER 06, 2017.**

Heard Shri R.M. Bhangde, learned counsel for the petitioners, Shri A.S. Fulzele, learned Acting GP for respondent Nos. 3 & 5 and Shri S.A. Chaudhari, learned counsel for respondent No. 4.

2. The petitioner, a Reporter, has approached this Court in public interest, alleging large scale waste of public money in the Scheme meant for eradication of Acquired Immune Deficiency Syndrome (AIDS) disease by various means, including preventive measures and public awareness.

3. After hearing respective counsel on 05.07.2015, we have passed the following order :

“Before proceeding further to pass any effective orders, we find it appropriate to have on record audited statement of accounts of establishments mentioned at serial nos. 1, 3 & 4 in

chart at page 40 forming part of Annexure No. 5 with Writ Petition. Learned Acting Government Pleader has pointed out that every two years the respondent no. 1 society conducts audits of all such N.G.Os.

We, therefore, direct respondent no. 1 to place on record last audit of above mentioned three N.G.Os. within two weeks.

List the matter on 19.07.2017.

Steno-copy of the order is permitted.”

4. Accordingly, Respondent No. 1 has filed an affidavit vide stamp No. 8635 of 2017. This affidavit is sworn by Shri Bhagwat Eknath Kavhale, on 19.07.2017. The affidavit points out a Target Investigation (TI) – Evaluation Report of one Matrubhumi Multipurpose Foundation. It was prepared in April 2016. In said affidavit, Shri Kavhale has claimed that NGO by name Gajanan Maharaj Gramin Vikas Va Bahuudeshiya Sanstha, has stopped working from 08.10.2016. Asthitva Mahila Bahuudeshiya Sanstha, has also discontinued work from 06.06.2016 from Buldhana district. It is claimed that they have withdrawn from the project from 31.03.2015.

5. Our orders supra directed the respondents to produce for perusal of the Court the last audit of these N.G.Os. T.I. Evaluation Report and Accounts Audit Report of Matrubhoomi Multipurpose Foundation, only has been made available. Audit report or T.I. Evaluation report of

other two N.G.Os. has not been filed.

6. We are not in a position to make any adverse comments against any of these N.G.Os., as they are not parties to this litigation.

7. However, we find substance in the contention of Shri Bhangde, learned counsel that last of such documents in relation to other two N.G.Os. ought to have been in the custody of Respondent No. 1 and they should have been produced along with reply affidavit.

8. We take note of the fact that it has not been so done. Excuse that these two N.G.Os. have withdrawn from the scheme is not a valid excuse for not complying with the courts directions. Moreover, considering the huge funds made available for eradication of the disease, a more rigorous check is warranted. Dependence upon Accounts Audit report prepared by the Chartered Accountant, cannot always be a decisive. Respondent No. 1, therefore, while investigating into accounts, should have carried random checks to find out whether named beneficiaries for whom funds are supplied by N.G.O. and against whom disbursal has been shown, have actually received the amount.

9. In PIL, we find that there is scope for improvement so as to avoid any misappropriation or waste of public money. The amount of aid can be released directly in the bank account of the beneficiary, if it is available or

then some other proof of identity can be insisted upon. If possible, a social worker of some repute can also be associated at the stage of actual disbursal of amount to the beneficiary. However, all these suggestions of the Court are to be ultimately accepted by the State Government, after due consideration and deliberations.

10. As we see scope for improvement and also need therefor, we direct Respondent No. 1 to evolve uniform policy for distribution of such aid through N.G.Os. all over the State and also to provide for proper checks and counter checks.

11. Appropriate policy in this respect shall be framed by respondent No. 1 within six months from today. Till then, N.G.Os. receiving amounts for distribution to beneficiaries shall be called upon to prepare and maintain necessary records to facilitate checks on the lines mentioned supra.

12. With these directions and observations, we dispose of the present Public Interest Litigation. No order as to costs.

JUDGE

JUDGE

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