

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

**BENCH AT AURANGABAD**

**PUBLIC INTEREST LITIGATION NO. 39 OF 2013**

Govind Gulab Deokate .. Petitioner

**Versus**

The State of Maharashtra and others .. Respondents

Shri. N. V. Gavare, Advocate for Petitioner.

Smt. M. A. Deshpande, Addl.G.P. for Respondent Nos. 1 to 3.

Shri. S. T. Shelke, Advocate for Respondent No. 8.

**CORAM : S.V. GANGAPURWALA AND  
R. G. AVACHAT, JJ.**

**DATED : 21<sup>st</sup> November, 2018**

**PER COURT:**

. The present Public Interest Litigation seeks to bring to the notice the illegalities in the fodder depot at village Taradgaon for 13 villages of Karjat Taluka, District - Ahmednagar.

2. In the present Public Interest Litigation the petitioner seeks enquiry regarding the acts of Respondent No. 8. The petitioner also seeks

initiation of Departmental Enquiry against the erring officers who had allowed the illegalities to be committed by Respondent No. 8. The petitioner seeks direction for recovery of the excess amount paid to respondent no. 8 and to lodge criminal prosecution against respondent no. 8. During the pendency of the present Public Interest Litigation amendment was sought by the petitioner. The petitioner assailed the order dated 26.02.2014, directing disbursement of further amount of Rs. 25,00,000/- (Rupees Twenty Five Lakhs) in favour of Respondent No. 8.

3. We have heard Mr. Gaware, learned Advocate for the petitioner. Mrs. Deshpande, learned Addl.G.P. and Mr. Shelke, learned Advocate for Respondent No. 8.

4. It appears that the enquiry was conducted by the authorities with regard to the maintenance of the Fodder Depot by Respondent No. 8. This Court under order dated 10.10.2013 has observed thus;

“2. As per earlier orders, a report dated 20.06.2013 has been submitted by respondent No. 6 Tahsildar Jamkhed and in terms of order of this Court dated 29.07.2013, this Court noted desire of Collector to have 3<sup>rd</sup> round of

inquiry/inspection on the same subject matter. This Court has noted that allegation is of malpractices in a scheme where State Government spent substantial amount for providing fodder to cattles in drought affected area, that State Authorities needed to take serious cognizance and matter should have been dealt with stern hands. Respondent Nos. 1 and 2 were therefore required to look into the matter and call appropriate report from the Collector.

3. Accordingly, the Collector has passed an order on 07.09.2013 of which petitioner seeks full execution.

4. In this litigation, we are not concerned with correctness of the report submitted by Respondent No. 6 or then correctness or order passed by the Collector on 07.09.2013. If any party or person is aggrieved by the said order of Collector or said report, he has to challenge it in accordance with Law before appropriate forum.

5. What we find is respondent No. 3 Collector has noted that out of total amount of Rs. 1,49,46,525/- payable to respondent No. 8, an amount of Rs. 57,38,989/- was already

released and amount of Rs. 92,07,536/- was still outstanding. It is further noted that out of this amount of Rs. 92,07,536/-, amount of mis-appropriation i.e. Rs. 35,30,912/- needed to be deducted. Thus by impugned order, Collector has found respondent No. 8 not entitled to claim amount of Rs. 35,30,912/-. The order further shows that respondent No. 8 has not conducted fodder depot in accordance with terms and conditions and hence amount of Rs. 4,48,396/- payable on account of expenditure is also directed to be deducted.

6. In last para of said order, Collector has also observed that amount of Rs. 92,07,536/- is payable to fodder supplier namely Shantilal Bhimrao Kate. We are not satisfied with this order. This Court had already indicated in its earlier order that matter needed to be viewed with seriousness. We also fail to understand why after noticing necessity of recovering amount of Rs. 35,30,912/-, Collector has not directed filing of any criminal complaint in police station against the guilty persons.

7. Respondent No. 1 and 2 have also not placed any explanation about it on record after last order dated

29.07.2013. Affidavit dated 13.09.2013 does not show that respondent Nos. 1 and 2 have called for any report from the Collector, Ahmednagar and looked into it.

8. Respondent Nos. 1 and 2 are therefore given one chance to make amends in the matter. The Secretary, Revenue and Forest Department as also Relief and Rehabilitation Ministry shall look into the entire matter as per orders of this Court dated 29.07.2013, take necessary decision and file their personal affidavits on the next date. We also direct respondent No. 3/Collector to freely and fairly apply his mind to entire controversy and take necessary decision on the question of filing of a criminal complaint. Collector shall also file his personal affidavit in this respect by the next date.”

5. Pursuant to the order dated 10.10.2013 passed by this Court the Secretary, Revenue and Forest Department has filed affidavit in reply. It has been stated in the affidavit by the Secretary that the Collector Ahmednagar was directed to implement the Court's order. The report is received from the Collector, Ahmednagar. The affidavit states that an amount Rs. 35,30,912/- and an amount Rs. 4,48,396/- have been asked to

be deducted from the payment and to pursue the First Investigation Report filed in the matter. The Secretary has further averred in the affidavit that the State has also issued the order to blacklist the person / society involved in the fodder supply scheme.

6. Subsequently in October- 2018, the affidavit has been filed by the Tahsildar, Karjat. The affidavit states that the District Deputy Registrar, Cooperative Ahmednagar has given direction to blacklist respondent no. 8 and not to allot any Government work further. The affidavit further states that the disciplinary action has also been initiated against the concerned Talathi and the Revenue Circle Officer for negligence in duty and subsequently they have been suspended. The FIR has been lodged against the Chairman of Respondent No. 8. The amount Rs. 25,00,000/- (Rupees Twenty Five Lakhs) has been paid to Respondent No. 8 after taking into consideration the proposal dated 05.02.2014 and the Respondent No. 3 under letter dated 26.02.2014 granted approval to the disbursement of amount Rs. 25,00,000/- (Rupees Twenty Five Lakhs). It further appears that the said amount was directed to be recovered from Respondent No. 8 and paid to the supplier Mr. Kate.

7. It appears that subsequently the Chairman of Respondent No. 8 has

been acquitted in the criminal case filed against him. The reason was the Tahsildar / complainant had not appeared in the matter. It was certainly laxity on the part of the Government officer in not attending the matter and adducing the evidence. The concerned Government officer was required to be diligent in prosecuting the matter. It is expected of the Collector to take necessary steps against the erring officers.

8. The petitioner has placed on record communication dated 04.11.2016 issued by the Collector to Tahsildar, Karjat wherein in it is observed by the Collector that an amount Rs. 10,95,483/- has been paid in excess. The same was based on the report of the Sub Divisional Officer. As per the said communication, Respondent No. 8 was entitled for amount Rs. 1,14,15,613/-. The different affidavits filed on record do not synchronise with the exact amount payable to Respondent No. 8. The figures are different in different affidavits and / or reports.

9. It is submitted that Respondent No. 8 has also not accepted the order dated 07.09.2013 passed by the Collector, Ahmednagar (Page No. 90), however, the order does not appear to have been set aside. Further in the year 2016, a fresh communication has been issued by the Collector, Ahmednagar dated 04.11.2016 (Page No. 203) about the excess amount

paid to Respondent No. 8. The respondents - authorities have to be clear as to the exact amount payable to Respondent No. 8 and if according to the respondents some excess amount is paid, then the steps should be initiated to recover the excess amount paid. Of course, Respondent No. 8 has right to agitate the orders that would be adverse to him in accordance with law. However, if the adverse orders against Respondent No. 8 are not assailed, then it is for the authorities to implement the said orders in its true letters and spirit.

10.. As far as the prayers of the petitioner for making an enquiry is concerned the same stands redressed as the enquiry has been conducted. Thrice the enquiry has been conducted. The FIR was also lodged. The departmental enquiry also seems to have been initiated against some officers.

11. In the light of above, the respondents - authorities shall take steps pursuant to its order dated 07.09.2013 (Page No. 90) and further communication dated 04.11.2016 (Page No. 203), in case the said orders still hold the field. If the said orders still hold the field, then the respondents - authorities shall act on the basis of the said orders after a period of four weeks from today. Respondent No. 8 is at liberty to assail

the orders adverse to it in accordance with law. The Public Interest Litigation is disposed of. No costs.

**[ R. G. AVACHAT, J. ]**

**[ S. V. GANGAPURWALA, J. ]**

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