

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

PUBLIC INTEREST LITIGATION NO. 04 OF 2010

Venkatrao Malharrao Kakade .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Santosh S. Jadhavar, Advocate for the Petitioner.

Mrs. M. A. Deshpande, Addl.G.P. for Respondent Nos. 1 to 5.

Shri N. B. Khandare, Advocate for the Respondent No. 6 –
absent.

Shri Javed Abdul H. Deshmukh, Advocate for the Respondent
Nos. 7 to 10 – absent.

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

DATE : 25TH OCTOBER, 2018.

FINAL ORDER :

. Heard Mr. Jadhavar, the learned counsel for the petitioner. Mr. Jadhavar, the learned counsel submits that, large scale illegalities were committed by respondent Nos. 6 to 11 in the execution/construction of irrigation projects at five villages in Jintur taluka. A committee of three members was constituted to enquire into the allegations by the Legislative Assembly. The enquiry committee found misappropriation of public funds in execution of these projects. Large scale irregularities and illegalities were observed by the Committee in the enquiry

report. The Committee recommended action against respondent Nos. 6 to 10. Another committee was again appointed to enquire into execution/construction of five irrigation projects, which were constructed under supervision of respondent Nos. 6 to 10. The said committee submitted its report giving finding that there was misappropriation of more than Rs. 34 lacs, apart from irregularities and illegalities. The said committee also recommended action against respondent Nos. 6 to 10. No action was taken by respondent No. 4, pursuant to the recommendations of two enquiry committees. The petitioner also made representation to respondent Nos. 3 to 5 to take action as per the report of enquiry committee, but no action was taken. This Court under order dated February 14, 2013 also directed respondent Nos. 1 and 2 to take appropriate decision in accordance with law, so also respondent Nos. 2 and 3 were directed to consider filing of criminal case. The learned counsel further submits that, criminal case is not filed against the guilty, nor the enquiry report is implemented. Only show is made of taking action, however, no action has been taken.

2. The learned Additional Government Pleader submits that, the office of the Commissioner under letter dated 18.12.2010 has recommended to suspend the respondent No. 10, in view of reports of the District Collector Parbhani dated 11.05.2010 and 06.10.2010. In order to start departmental enquiry against

respondent Nos. 6 to 10 detailed joint measurement of work was proposed to be carried out. The Superintending Engineer, Minor Irrigation (Local Section) Aurangabad was requested by the District Collector to carry out the joint measurement and fix the amount of misappropriation. The respondent No. 5 has submitted his report in respect of works excluding one work mentioned in the report submitted by the District Collector.

3. It is further submitted that, the Disciplinary Proceedings were initiated against respondent Nos. 6 to 10. The District Collector has filed charge sheet against respondent Nos. 6 to 10 on 06.09.2011 and the charge sheet is forwarded to the State Government. The suspension order is passed against respondent Nos. 6 to 10 by Deputy Commissioner Employment Guarantee Scheme. It is further submitted that, the respondent No. 8, 9 and 10 have retired from service. Respondent No. 6/ R. G. Yadav is no more. The respondent No. 1 has taken a decision not to file a criminal case, however, steps are taken to initiate departmental proceedings against the respondent No. 10. Show cause notice is issued to the respondent No. 10 with regard to penalty. Steps are taken to conduct enquiry after retirement. The works mentioned in para clause D have not been done under the E. G. S. scheme.

4. We have considered the submissions canvassed by learned

counsel for respective parties.

5. Basically the contention of the petitioner is that, the authorities are not taking any steps, although the report submitted by the enquiry committee indicts respondent Nos. 6 to 10. The affidavits filed on record from time to time suggest that steps were taken, departmental enquiries were proposed. The respondent Nos. 6 to 10 were suspended and some recovery orders were also passed under Government Resolution dated 10th September, 2018. The respondent No. 6 is already dead. Further disciplinary action is taken against respondent Nos. 7, 8 and 9.

6. In the light of the above, the Public Interest Litigation has served its purpose. The criminal law can be set in motion, if so required by any aggrieved person.

7. Considering the above, public interest litigation stands disposed of. The respondents/State shall proceed further as contended by them with regard to the departmental action against the concerned. No costs.

[R. G. AVACHAT, J.]

[S. V. GANGAPURWALA, J.]