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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6088/2018

KULDEEP SINGH

..... Petitioner

Through: Mr. Ritesh Khatri & Mr. Vijay  
Kumar, Advs.

versus

STATE OF (NCT OF) DELHI AND ORS.

..... Respondents

Through: Mr. Devesh Singh, ASC (Civil)  
GNCTD with Ms. Sukriti Ghai &  
Ms. Urvashi Tripathi, Advs. for R-1.  
Mr. Mukesh Gupta, Standing Counsel  
with Mr. Sanjay Baniwal, Adv. for  
SDMC.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**ORDER**

**07.12.2018**

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1. This petition in public interest has been filed seeking an investigation and enquiry by the Central Bureau of Investigation (CBI) and the prayer made in the writ petition reads as under:

*“A. Issue an appropriate Writ, Order or Direction, for an investigation by constituting, a multidisciplinary SIT for such suitable action against the wrongdoers, responsible persons and accountable employees, or Court monitored investigation consisting of Delhi Police, headed by CBI in the matter of the work orders those are claimed to have been performed by the Respondent No. 5 under the works contracts as mentioned herein the present Petition, for respective Respondent No.2, 3*

*and 6 to 8;so as to see the ground reality happened in the case above and to uncover the irregularities, malpractices and misuse of public money by the wrongdoers;*

*B. In the alternative to prayer 'A' above, call for a time bound CBI enquiry and investigation;*

*C. Pass appropriate directions for the registration of the FIR against such accountable, responsible and guilty persons under appropriate provisions of Indian Penal Code; and for inter alia black listing of the contracting agency i.e. Respondent No. 5 in future contracts;*

*D. Issue appropriate directions in the interest of public welfare related to the present case particularly considering the worst condition of the roads as mentioned in the petition;*

*E. Dispense with filing of prior notice to the private Respondents."*

2. It is the case of the petitioner that work for construction/repairing of the roads in Village Madanpur Khadar, New Delhi-110076 where exist six mohallas dominated by Gurjar community has not been constructed properly. Various illegalities have been committed in execution of various work orders, more than nine in number, and as the work has not been properly executed and the money to be utilized for the work is not properly accounted for, enquiry be conducted by the CBI.

3. Respondents have filed counter affidavit and a status report. With regard to each of the work in question, the following information has been furnished in a tabular form:-

| S.No. | Name of work                                                                                                                     | Work Order No.<br>Date | Date      | Contractual Amount | Amount of Bill Passed (Gross) | Date of Passing | Area of Executed Work (Sqm.) |
|-------|----------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------|--------------------|-------------------------------|-----------------|------------------------------|
| 1     | Pdg drainage system and RMC from Suhag Beauty Parlour to MCD School in Village Madanpur Khadar W.No-207 CNZ.                     | 258 dt.<br>1/12/2014   | 1/12/2014 | 721225             | 2,36,070/-                    | 30/11/16        | 419.13                       |
| 2     | Pdg drainage system and RMC from Charanjeet Kasyap House to Lohar Shops near Agra Canal in Village Madanpur Khadar W.No-207 CNZ. | 259 dt.<br>1/12/2014   | 1/12/2014 | 721035             | 5,09,521/-                    | 30/9/15         | 635.44                       |
| 3     | Pdg drainage system and RMC in Dhiwar Basti near Agra Canal Bridge in Village Madanpur Khadar W.No-207 CNZ.                      | 260 dt.<br>1/12/2014   | 1/12/2014 | 723795             | 5,32,430/-                    | 30/9/15         | 665.41                       |
| 4     | Pdg drainage system and RMC from Koshal Jeweller shop to Shahid Jaints parlour in Village Madanpur Khadar W.No-207 CNZ.          | 263 dt.<br>1/12/2014   | 1/12/2014 | 719510             | 1,34,096/-                    | 30/11/16        | 389.26                       |
| 5     | Pdg drainage system and RMC from Khacheru Chauhan house to Holi chowk in Village Madanpur Khadar W.No-207 CNZ.                   | 264 dt.<br>1/12/2014   | 1/12/2014 | 716367             | 4,85,122/-                    | 30/9/15         | 613.69                       |
| 6     | Pdg drainage system and RMC from Saini Watch Shop to Vishal Dental Clinic in Village Madanpur Khadar W.No-207 CNZ.               | 255 dt.<br>1/12/2014   | 1/12/2014 | 715991             | Not Executed                  | Not Executed    | -                            |
| 7     | Pdg drainage system and RMC from Satyam Saree Store to Nanda House in                                                            | 256 dt.<br>1/12/2014   | 1/12/2014 | 715991             | Not Executed                  | Not Executed    | -                            |

|   |                                                                                                                     |                      |           |        |              |              |   |
|---|---------------------------------------------------------------------------------------------------------------------|----------------------|-----------|--------|--------------|--------------|---|
|   | Village Madanpur Khadar<br>W.No-207 CNZ.                                                                            |                      |           |        |              |              |   |
| 8 | Pdg drainage system and RMC from Ishika Garment to S D Bidhuri house in Village Madanpur Khadar<br>W.No-207 CNZ.    | 257 dt.<br>1/12/2014 | 1/12/2014 | 719510 | Not Executed | Not Executed | - |
| 9 | Pdg drainage system and RMC from Jaildar house to Narender Bidhuri House in Village Madanpur Khadar<br>W.No-207 CNZ | 262 dt.<br>1/12/2014 | 1/12/2014 | 719510 | Not Executed | Not Executed | - |

4. From the aforesaid, it would be seen that for works from Item 1 to 5, the contractual amount is indicated. The quantity of work executed is taken note of and the amount of bill proportionate to the quantity of work has been paid. As far as work from Item 6 to 9 are concerned, even though the work order was issued but they were never executed and no payments have been made. Records further reveal that on the basis of the complaint filed, the matter was enquired into by the Public Grievance Commission (PGC) as is evident from “Annexure P13” at Page 149. The report of the Commission dated 23.08.2017 onwards upto the final order dated 07.02.2018 “Annexure P15” is available on record and the report clearly indicates in Para 4 as under:

**“4. Directions to the PGC**

*The Commission does not find any wrong in view of the report of the Vigilance Department. However, the complainant is not satisfied and alleged that the photographs shown does not pertain to the area / work orders mentioned in the complaint. The complainant is hereby directed to go through the copy of the status report submitted by the Vigilance Department and in*

*case of any clarification / doubts they may approach the Addl. DOV for clarification about the enquiry / findings. DOV may please issue necessary directions to the concerned and if any request is received from the complainant the same should be considered sympathetically for clarification. The report of the AE (Building), MCD has already been submitted. The matter is closed at the level of this Commission.”*

5. That being the position, once the Commission and the Vigilance Department have gone into the matter and have given justification for their reasons, we see no reason to make any indulgence into the matter and direct for any enquiry by the Central Bureau of Investigation or any independent agency. The law with regard to directing an enquiry by the Central Bureau of Investigation has been clearly laid down by the Supreme Court in the case of *Pooja Pal v. Union of India*, (2016) 3 SCC 135; *State of West Bengal v. Committee for Protection of People's Rights*, (2010) 3 SCC 571 and *Dharam Pal v. State of Haryana*, (2016) 4 SCC 160 and as the ingredients laid down by the Supreme Court in the aforesaid cases are not available in the present case, we are not inclined to interfere into the matter.

6. The writ petition stands dismissed.

**CHIEF JUSTICE**

**V. KAMESWAR RAO, J**

**DECEMBER 07, 2018**

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