

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

PUBLIC INTEREST PETITION NO. 179 OF 2015.

Dr.Chandrakant Mokal .. Petitioner
Vs
The State of Maharashtra and others .. Respondents

Mr.Harihar Bhavé a/w Ms.Rupa Bhavé and Ms.Divya Menon i/b
Bhavé & Co., for the Petitioner.

Ms.Nisha Mehra - Additional Government Pleader, for Respondent
Nos.1 to 5.

Mr.N.V.Bandiwadekar, for Respondent No.6.

*CORAM : PRADEEP NANDRAJOG, C.J. &
N.M.JAMDAR, J.*

Date : 17 June, 2019.

P.C. :

1. This Public Interest Petition pertains to a school run by Respondent No.6 - Dapoli Education Society, at Dapoli. The Petitioner was previously in the management of the Society. He has filed this Petition complaining of inaction by the Respondent Nos.2 to 5 i.e. the State authorities, in taking any action against the office

bearers of the Society and Respondent No.7-the Head Master. According to the Petitioner gross illegalities were committed by Respondent Nos.6 and 7 in respect of school uniform and Mid-day meals given to the children under a government scheme.

2. We have heard learned counsel for the parties. It is not disputed before us, though it is not so specifically pleaded, that the School in question is an aided School. The Respondent No.6 in its reply has justified the actions taken and has a stand that no illegality is committed. It is stated that some action was taken against the concerned Head Master, who has now retired and some amount has been withheld from his retiral benefits.

3. We do not intend to enter into the factual adjudication as to whether there was misappropriation or illegality committed as alleged by the Petitioner and disputed by Respondent No.6, as cognizance is already taken by the Education Authorities. In paragraph 10 of the reply, the Education Officer states thus :

I say that the necessary action to initiate detailed enquiry in the matter through the Superintendent, Mid Day Meals Scheme, Dapoli

working under the Block Education Officer, Dapoli need be initiated by the Primary Education Officer, Ratnagiri as well as Audit of the Scheme need to be conducted by those authorities to ascertain the exact amount i.e. misappropriated if any, so as enable them to take necessary decision about criminal proceedings against the Respondents No.6 and 7 for the wrongful act and misappropriation, if any done by them. The necessary directions accordingly be issued to the Education Officer (Primary), Z.P., Ratnagiri as well as Block Education Officer, P.S., Dapoli. I further say and submit that the submissions made in the grounds are mostly the submissions made in earlier paras which have been suitably replied.'

This stand taken by the State needs to be taken to its logical end. The Superintendent, Mid-Day Meals Scheme Dapoli and the Education Officer (Primary) should carry out an enquiry in respect of allegations made by the Petitioner. The necessary decision as to whether criminal prosecution needs to be launched also needs to be taken.

4. There is one more aspect. If there was misappropriation and fraud as alleged, the correct cause of action would have been to bring the guilty to book. Instead the State authorities have responded by stopping the non-salary grant of the School. Stoppage of non-salary would affect the quality of education. In the present

circumstances, the stoppage of non-salary grant could hardly have been any solution. In fact, it is counter productive. Even the Petitioner does not demand that the non-salary grant of the School be stopped. We do not find any warrant to continue the stoppage of non-salary grant in this case.

5. The concerned Superintendent of Mid-Day Meals Scheme and the Education Officer, Ratnagiri are directed to hold an enquiry as referred to in paragraph 10 of the reply culled out above. The officers would initiate the inquiry within period of six weeks from today and make an endeavour to complete the same as early as possible. The officers would consider whether launching of criminal proceedings is warranted. The stoppage of non-salary grant to Respondent's Institution, stands revoked. Petition is disposed in above terms.

N.M.JAMDAR, J.

CHIEF JUSTICE