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

+ **W.P.(C) 4893/2018**

Date of Decision:- 24th July, 2019

ASHOK KUMAR Petitioner

Through: Petitioner in person.

Versus

UNION OF INDIA AND ORS. Respondents

Through: Mr.Anurag Ahluwalia, CGSC with
Gp.Captain, A.K.Srivastava, for R-1&2.

Mr.Ripu Daman Bhardwaj, SPP for CBI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

J U D G M E N T

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: **D. N. PATEL, Chief Justice (Oral)**

1. This so-called public interest litigation has been preferred for the following prayers:-

“(i) Issue an appropriate Writ, Order or Direction in the nature thereof for setting aside the impugned order dated 16-03-2017 passed by the respondent No.1 in Grievance Petition No.PMOPG/D/2016/0236866;

(ii) Issue an appropriate Writ, Order or Direction in the nature thereof for setting aside the impugned order dated 17-08-2016 passed by the respondent No.2 in Grievance Petition No.PMOPG/D/2016/0142642;

(iii) Issue an appropriate Writ, Order or Direction in the nature thereof for quashing the impugned Report/Reply bearing

No.WAC/2778/I/Wks dated 30-06-2016 of the respondent No.3 and the impugned Report/Reply bearing No.171/I/Wks dated 20-06-2016 of the respondent No.4;

(iv) Issue an appropriate Writ of Mandamus, Order or Direction to the Respondent No.5/CBI to enquire into the serious offences of corrupt practices in compliance with the instructions contained in the letter bearing No.PMOPG/D/2016/0142651 dated 05-07-2016 and also in the letter bearing No.PMOPG/D/2016/0287673 dated 13-10-2016 issued by the Prime Minister's office and also in accordance with the guidelines laid down by the Hon'ble Supreme Court of India in the case titled as "Lalita Kumari Vs. Govt. of U.P., 2014 [1] JCC 1."

2. Having heard the petitioner, who appears in person, and the learned counsel for the respondents, it appears that time and again the petitioner has moved one Court to the another, including the National Green Tribunal ('NGT') for the very same subject matter.

3. In this writ petition the petitioner is seeking quashing of the order passed by respondent No.1 dated 16th March, 2017 which reads as under:-

"Registration Number	PMOPG/D/2016/0236866
Name Of Complainant	Shri ASHOK KUMAR

Date of Receipt	23 Aug 2016
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Received by	Prime Minister's Office
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Forwarded to	JS Air
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Contact Address	R No 97 South Block
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New Delhi 110011

Contact Number 23011862

Grievance PG/RAHU

Description

Current Status CASE CLOSED

Date of Action 16 Mar 2017

Details:

It is intimated that the petitioner had raised similar issues in earlier petitions PMOPG/D/2016/0142642 dated 27 May 16. The grievance was duly examined at appropriate level and a reply was uploaded in PG portal on 16 Aug 16. However, it is reiterated that the issue raised by the petitioner pertains to the issue originally disposed of (*sic.*) by National Green Tribunal in Aug 2015 with directions to the IAF to develop a bio-diversity park to recover losses to the ecology. The petitioner who claims to be a social activist now, was a small time dealer of sand at Tilpat Range till he was forced out of business by big time sand mafia. There is no evidence to substantiate the claim of the applicant that defence personnel were involved with alleged sand mafia and permitted illegal sand activities in defence premises. The losses quoted by the petitioner at Para 8 relates to already excavated portion of sand in Defence premises of Tilpat in the past based on the geometrically measured volume of the s”

4. It also appears from the facts of the case that the petitioner is also seeking quashing of the order dated 17th August, 2016 passed by respondent No.2 which is at Page-132 of the petition, which reads as follows:-

“Registration Number
Name Of Complainant
Date of Receipt
Received by
Forwarded to
Contact Address
Contact Number
Grievance Description
Current Status
Date of Action

PMOPG/D/2016/0142642
Shri ASHOK KUMAR
27 May 2016
Prime Minister’s Office
AIR FORCE HQ
R. No. 159, JAG (AIR), 1st Floor
Vayu Bhawan
New Delhi 110011
23010231
PG
CASE CLOSED
17 Aug 2016

Details:

That matter has been examined at appropriate level and after due enquiry it has been established that no involvement of any kind in the past of IAF officials could be established. There is no illegal sand mining permitted/happening on the Defence land at Tilpat Land. All claims made by the petitioner are found to be incorrect and baseless.”

5. We see no reason to quash the aforesaid orders, which are referred to hereinabove mainly for the reason that this issue has been dealt with at great length at various stages.

6. Earlier the petitioner has preferred O.A.No.302/2013 before the NGT. In the said matter, a Committee was constituted and enquiry was conducted on the

allegations of illegal mining and illegal gratification etc., with the connivance of the officers of the respondent No.2 in the so-called 'illegal mining of sand'. A detailed inquiry report was also presented before the NGT and the said report is at page No.24 to 29 of the counter affidavit filed by the respondents as Annexure R-1. It appears that, thereafter, the petitioner had withdrawn the said litigation from the NGT.

7. Before the NGT the Committee made several recommendations out of which the recommendations No.3 to 5 are relevant for the present matter which are at page No.29 of the counter affidavit filed by the respondents which dealt with the prevention of the illegal mining at places known as Tilpat-I and Tilpat-II, situated in the states of Haryana and Uttar Pradesh. The said recommendations read as follows:-

“(iii) The committee is of the opinion construction of boundary wall and barbed fencing around Tilpat I & Tilpat II area by the Air Force Authority will protect these areas from encroachment. The proposal submitted by the Air Force Authority to the committee vide its letter dt.07.04.2015 already annexed at Annexure 'A-2'.

(iv) The committee is of the opinion that smaller pits existing at Tilpat Range-II can be re-claimed by filling up/spreading the same with the help of available waste material/overburden/clay lying in and around the area in question. The area after landscaping can be used for plantation by Air Force Authority.

(v) The committee suggested that the plantation by the Air Force with Forest Department, in the periphery of the Tilpat & Tilpat II areas after the construction of boundary wall and barbed wire fencing could further help in restoring the bio diversity of the area and also prevent erosion of the top soil.”

8. Ultimately, the final order was passed by the NGT on 3rd August, 2015 which reads as under:-

“The Learned Counsel appearing for the MoEF submits that they have examined the report submitted to the National Green Tribunal with the copy to the Ministry. The Ministry agrees with the recommendations, which should be implemented in their true spirit and substance.

In view of the statement made by the Learned Counsel appearing for the MoEF, the Applicant, does not press this application, however, submits that state of Haryana, State of Uttar Pradesh and MoEF should make effort to recover the amount assessed as damages to the environment caused by illegal mining and use the same in restoration of environment including creation of waterbodies etc. We direct that they would act accordingly.

With the above directions Original Application No.290 of 2013 and Original Application No. 302 of 2013 stand disposed of.”

9. It further appears from the facts of the case that the respondent Ministries have agreed to implement the recommendations of the said Committee and in paras-4 to 10 of the counter affidavit of the respondents, it has been narrated as to what steps have been taken by Union of India after the recommendations of the aforesaid Committee. The relevant part of which is at para-6 of the said counter affidavit reads as under:-

“(a.) Construction of Boundary Wall/Fencing:

The security wall at Tilpat-I has been constructed (16 km already made) along with CC road on the perimeter for patrolling the area.

The work is more than 95 percent complete and has been achieved in a short span of last 18 months. Also, fencing of area on the floodplains (3.2 Km length) has been erected and the work is almost complete. In Tilpat-II, double chain link fencing has been constructed and the work was completed in the year 2016 itself. These measures were put in place to secure the land in manner that no encroachment of IAF land or any illegal activity is allowed.

(b.) Deployment of IAF Personnel at Tilpat-I and II.

The security set up was established at both Tilpat-I and II and the area has been under constant vigil and surveillance by the IAF personnel. The security is reviewed periodically and whenever situation demands, the manpower is increased to cater to the requirements of the Estate. Not only this, whenever any illegal activity has been noticed at both locations, situation has been tackled and help of civil police is sought. Most recent being the detection and prevention of three tractors at Tilpat-I involved in trespassing on the night of 07.04.2018 where IAF personnel braved threat to their lives when attacked by the mob. A case was registered with police post Khedipull, Dist Faridabad vide FIR No 107/18. However, detection of such activity inside the Estate has been few and far in between.”

10. It further appears that the petitioner has also filed several litigation which are enumerated in para-7 of the counter affidavit filed by the respondents and these litigations are as under:-

- (i) O.A.No.302/2013, O.A.No.290/2013 which resulted into ‘not pressed’ and then were disposed of by NGT.
- (ii) W.P.(C) No.2896/2016 titled *Ashok Kumar vs. Union of India & Ors.* preferred before this Court and dismissed by this Court by order dated 4th April, 2016.

- (iii) LPA No.262/2016 against order dated 4th April, 2016 which was dismissed by this Court.
- (iv) W.P.(C) No.7991/2016 titled *Ashok Kumar vs. Union of India & Ors.* which was also dismissed by this Court vide order dated 11th September, 2017.

11. Moreover as many as five representations have been preferred by the petitioner before the office of the Prime Minister. They are narrated at page no.200-201 and the summary thereof reads as under:-

Sl.No.	Case Details	Case Summary
1.	Representation/PMOPG/D/2016/0142646 Before PMO Portal disposed vide order dated 26.05.2016	The representation was forwarded to Defence Secretary, Govt. of India, who further forwarded the same to the Air HQs, Vayu Bhawan, New Delhi. Representation was also forwarded to Secretary, Department of Personnel and Training, New Delhi. Reply to this representation was made by Respondent No.4 by Report/Reply No. 171/I/Wks dated 20.06.2016 and by Respondent No.3 by Report/Reply No.WAC/2778/1/Wks dated 30.06.2017 respectively. The Secretary, Department of Personnel and Training, New Delhi had forwarded the representation to Anti-Corruption Head Quarters Zone

		of the CBI to examine the issue and for further necessary action.
2.	Representation/PMOPG/D/2016/0230398 before PMO Portal replied vide order dated 12.08.2016	A Reminder to his representation was forwarded by the petitioner to PMO. Then PMO forwarded the same to Secretary, Department of Personnel and Training vide letter PMPOPG/D/2016/0230398. An order was passed by Respondent No. 2 on the grievance petition No.PMOPG/D/2016/0142642 dated 17.08.2016 on the basis of report bearing No. 171/1 /Wks dated 20.06.2016 and WAC/2778/1/Wks dated 30.06.2017.
3.	Representation/PMOPG/D/2016/0236866 at PMO Portal replied vide order dated 19.08.2016	Aggrieved by the order dated 17.8.2016 issued by Respondent No. 2, The petitioner made another representation dated 19.08.2016 to PMO and Respondent No. 1, same was forwarded by PMO vide their letter No. PMOPG/D/2016/02386 dated 23.08.2016 to Secretary, Department of Personnel and Training. Then DoPT forwarded the same to Secretary Ministry of Defence by their letter dated 14.09.2016 for appropriate action. Then necessary action under taken by

		Secretary MOD.
4.	Representation/PMOPG/D/2016/0287673 at PMO Portal replied vide order dated 27.09.2016	Aggrieved by the order of Secretary MOD the petitioner forwarded this representation dated 27.09.2016 to PMO. Same was forwarded by PMO vide their letter No. PMOPG/D/2016/0287673 dated 13.10.2016 to Anti Corruption HQs of the CBI to examine the issue and for further necessary action. Then appropriate action was undertaken by CBI on the same.
5.	Representation to the Hon'ble President of India vide PMOPG/D/2017/ 0096219 at PMO Portal replied vide order dated 21.06.2017	Representation was for independent CBI enquiry into the matter related to illegal sand mining.

12. Thus, it appears that the petitioner is constantly aggrieved and has ventilated them through petitions before the NGT or by way of writ petitions or LPAs etc. before this Court. Even a Committee was constituted by the National Green Tribunal to look into the allegations levelled by the petitioner against several persons and the report submitted by the Committee has also been acted upon.

13. We are not going into much detail of the report of the Committee. Suffice it to say that nothing was found objectionable against any particular person or with regard to the alleged 'illegal mining'. The report notes that the

mining which was observed is not a new one.

14. In view of these facts, while exercising our powers under Article 226 of the Constitution of India, we see no reason to entertain this writ petition for further inquiry into the same type of allegations of the illegal mining with the alleged connivance of the officers of the respondent. Enough number of litigations have been generated by the petitioner and the orders passed by this Court have attained their finality.

15. With these observations, we find no reason to grant the prayers as referred to hereinabove. The writ petition is accordingly disposed of

C.M.No.32939/2018 (directions)

In view of the final order passed in the writ petition, this application also stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

JULY 24, 2019
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