

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURREVP No. 51 of 2020

1. State Of Chhattisgarh Through Chief Secretary, Mahanadi Bhawan, New Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Applicant

Versus

1. Union Of India Through Home Secretary, Ministry Of Home Affairs, (India), North Block, Cabinet Secretariat, Raisina Hills New Delhi (New Delhi)., District : New Delhi, Delhi
2. Secretary (Personnel) (DOPT) Department Of Personnel And Training, North Block, New Delhi 110001., District : New Delhi, Delhi
3. The Secretary Ministry Of Human Resources And Development (M H R D), Govt. Of India, Shastri Bhavan, New Delhi 110001, District : New Delhi, Delhi
4. Central Bureau Of Investigation (C B I) Bhilai, Chhattisgarh, Through The Dy. S.P. Bhilai, District Durg Chhattisgarh., District : Durg, Chhattisgarh
5. Secretary To Honble Minister, Women And Child Welfare Department, Through Chief Secretary Mahanadi Bhawan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
6. The Secretary Nagriya Prashashan Avm Vikash Vibhag, Indravati Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
7. The Secretary Panchayat Avm Gramin Vikash Vibhag, Mahanadi Bhawan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
8. The Secretary School Shiksha Vibhag, Mahanadi Bhawan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
9. The Secretary Samaj Kalyan Vibhag, Mahanadi Bhawan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
10. The Secretary Lok Swasthya Avm Pariwar Kalyan Vibhag, Mahanadi Bhawan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh

11. The Secretary Vitt Vibhag, Mahanadi Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
12. The Director Panchayat Avm Samaj Sewa Vibhag, Mahanadi Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
13. Smt. Renuka Singh W/o Phool Singh, Ex-Minister Women And Child Welfare Department, Through Chief Secretary, Mahanadi Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
14. Shri Vivek Dhand S/o Shri S.P. Dhand, Through Chief Secretary, Mahanadi Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
15. M.K. Raut S/o Shri V.T. Raut, Through Chief Secretary, Mahanadi Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
16. Shri Alok Shukla S/o Late Shri T.C. Shukla, Through Chief Secretary, Mahanadi Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
17. Shri Sunil Kujur S/o Shri P. Kujur, Through Chief Secretary, Mahanadi Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
18. Shri B.L. Agrawal S/o Shri R.K. Agrawal, Through Chief Secretary, Mahanadi Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
19. Shri P.P.Soti S/o Shri P.D. Soti, Through Chief Secretary, Mahanadi Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
20. Shri Satish Pandey S/o Shri R.S. Pandey, Through Chief Secretary, Mahanadi Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
21. Shri Rajesh Tiwari Director, State Resource Center (Rajya Shrot Nishakt Jan Sansthan), Samaj Kalyan Parisar, Mana, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
22. Shri Ashok Tiwari Director, State Resource Center Rajya Shrot Nishakt Jan Sansthan, Samaj Kalyan Parisar, Mana, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

23. Shri Herman Khalkho Dy. Director, Social Welfare Department, Through Chief Secretary, Mahanadi Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
24. Shri M.L. Pandey Addl. Director, Social Welfare Department, Through Chief Secretary, Mahanadi Bhawan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
25. Shri Pankaj Verma Dy. Director, Social Welfare Department, Through Chief Secretary, Mahanadi Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
26. The Treasurer District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
27. The Registrar Firms And Societies, Indrawati Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
28. The Branch Manager State Bank Of India, Branch, Moti Bagh, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
29. The Branch Manager State Bank Of India, Branch New Mantralay, Branch, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
30. State Resource Center (Rajya Shrot Nishakt Jan Sansthan) Samaj Kalyan Parisar, Mana District Raipur Chhattisgarh, Through Its Director Samaj Kalyan Parisar, Mana District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
31. Kundan Singh Thakur S/o Shri Hari Singh Thakur Aged About 43 Years R/o House No. 3, Near Khallari Mata Mandir, Police Station City, Kushalpur Chouck, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

----- Respondents

For State	Shri S.C. Verma, Advocate General with Shri Mateen Siddiqui, Dy. AG
For UOI/CBI	Shri Vaibhav P. Shukla, Adv. on behalf of Shri B. Gopa Kumar, Adv
For Writ Petitioner	Shri Devershi Thakur, Adv.

Hon'ble Shri Prashant Kumar Mishra, J.

Hon'ble Shri Parth Prateem Sahu, J.

7-2-2020

The following order of the Court was passed by
Prashant Kumar Mishra, J.

1. This review application has been preferred seeking review of our order dated 30-1-2020 passed in WP PIL No.53 of 2018 (***Kundan Singh Thakur v Union of India & Others***) directing the Central Bureau of Investigation (for short 'the CBI') to register an FIR (First Information Report) within one week; seize the relevant original records from the concerned department, organization and offices throughout the State within 15 days; and thereafter complete fair and independent investigation at the earliest.
2. The issue raised in the Writ Petition (Cr.), later converted into a Public Interest Litigation (for short 'PIL') under the orders of the Court, concerns misappropriation of funds at the State Disabled Resource Center (राज्य श्रोत निःशक्त जन संस्थान), referred as 'SRC' in the main order.
3. In the Writ Petition (PIL) allegations were levelled that whopping amount towards payment of salary was withdrawn by showing them to be working at the Physical Referral Rehabilitation Centre (for short 'the PRRC'). It was alleged

that the PRRC is running only on papers without there being any visible tangible activity. Employees were shown to be working, but no recruitment process through advertisement or otherwise was ever drawn nor any hospital for disabled is established, nor any employees were ever appointed.

4. In course of hearing of the writ petition, the PIL Court passed the following order on 30-7-2018 :

Heard.

Respondent No.4 – The Chief Secretary, Government of Chhattisgarh will hold an independent enquiry into the allegations made in this writ petition. If what has been stated therein are true and correct then it is a serious issue, which requires a deeper look, and remedial measures would be taken including fixing responsibility or else, if there are certain misgivings due to half- baked inputs.

Clarity must emerge from the report as to the working and withdrawal of funds which are being made through an organisation State Resource Center (SRC) or such other organisations involved in such activities.

The Court would expect an affidavit at the level of the Chief Secretary within a period of four weeks.

Post it after four week.

5. After the above order was passed a report was submitted on 1-10-2018 supported with affidavit of Smt. Chameli Chandrakar, District Rehabilitation Officer, Social Welfare Department, Bilaspur, along with an enquiry report. Thus, the

Chief Secretary did not file any affidavit as directed by the Court on 30-7-2018. This Court thereafter passed an order on 4-10-2018 directing the State to file further affidavit as to what follow-up action has been taken on all the fronts. Thereafter, on 7-12-2018 the PIL Court desired to know as to under what circumstances affidavit of the State could not be filed in terms of the previous direction. On 18-1-2019 State again sought time to file affidavit in compliance of the Court's previous order. Thus, by way of last indulgence State was allowed additional time on 20-2-2019.

6. On 2-10-2018 the Chief Secretary to the Government of Chattisgarh filed an affidavit annexing the same report, which was earlier filed by Smt. Chameli Chandrakar, District Rehabilitation Officer, Social Welfare Department, Bilaspur.
7. Show cause notices issued to the employees namely; Rajesh Tiwari, Pankaj Verma, Herman Khalkho & Anil Soumitra were also part of the affidavit of Smt. Chameli Chandrakar. Additional affidavit was filed by Smt. Chameli Chandrakar on 13-3-2019.
8. Based on the allegation made in the Writ Petition (PIL) and the report submitted by the Chief Secretary to the Government of Chhattisgarh and the Officer-in-Charge (OIC)

of the case this Court found, *prima facie*, substance in the allegations concerning misappropriation and siphoning of public funds. Since after issuance of show cause notices to four officers the State did nothing to unearth the financial irregularity to ascertain the persons who have misappropriated public funds and the officers arrayed as respondents being senior officers this Court deemed it appropriate to handover the matter to the CBI for registration of FIR and investigation.

9. Shri S.C. Verma, learned Advocate General appearing with Shri Mateen Siddiqui, learned Deputy Advocate General would submit that the writ petitioner has concealed material facts before this Court and has not come with clean hands. Learned Advocate General would further argue that direction for CBI enquiry was completely unwarranted because the PIL Petitioner has never approached the police for registration of FIR nor there was any allegation of institutional bias of any State Investigating Agency. Learned Advocate General would next argue that Writ Petition (Cr.) was wrongly converted into Writ Petition (PIL) and that the writ petitioner having also filed WPS No.2033 of 2016 agitating the service dispute, the PIL was not maintainable.

10. In so far as conversion of WP (Cr.) into WP (PIL) is concerned, the same happened in presence of State counsel when on 26-3-2018 the Single Bench was of the opinion that the WP (Cr.) has, in fact, been filed *Pro bono publico*. None of the parties raised any objection to this order of the Single Bench nor it was challenged either before the Division Bench or before the Supreme Court, therefore, the said order converting the WP (Cr.) into WP (PIL) has attained finality. In any case during pendency of PIL, State never objected that the matter should be sent back to the Single Bench.
11. In course of hearing of WP (PIL) on 30-7-2018 this Court directed the Chief Secretary to hold an independent enquiry into the allegations made in the writ petition. It was noted that if what has been stated therein are true and correct then it is a serious issue, which requires a deeper look, and remedial measures would be taken including fixing responsibility or else, if there are certain misgivings due to half- baked inputs. Thus, full opportunity was granted to the State to defend the allegations made in the writ petition and it is not a case where the PIL Court issued directions without considering the material on record. In fact, in our order we have referred to some of the findings mentioned in the report of the Chief Secretary.

12. Having appreciated the submissions, we are of the considered view that we have passed the order under review on satisfaction that the matter needs to be investigated by an independent agency. In fact, we have referred the matter to the CBI for the reason that the SRC was manned by officers at the level of the Chief Secretary and despite direction by the PIL Court the matter was not properly examined and effective action was not taken by the State authorities.
13. For the reasons stated hereinabove, in our considered view there is no error apparent on the face of record warranting exercise of review jurisdiction to review & recall the order dated 30-1-2020 passed in WP PIL No.53 of 2018.
14. As a sequel, the review petition, *sans substratum*, is liable to be and is hereby dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Parth Prateem Sahu)
Judge