

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2020
CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.14161 of 2020

B.Venkatesan

... Petitioner

Vs.

State rep. by its,

1.The Director,
Anti Corruption and Vigilance Department,
No.293, M.K.N Road,
Alandur, Chennai 600 016.

2.The Inspector,
Office of the DSP,
Vigilance and Anti Corruption,
Vellore, Tamil Nadu.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the respondents to register the petitioner's complaint dated 19.12.2019 within a time frame fixed by this Court and to pass such other suitable order.

For Petitioner : Ms.T.Bhagyalakshmi

For Respondents : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the respondents to register the petitioner's complaint dated 19.12.2019.

2.The gist of the complaint is that the petitioner, who is presently working as Cooperative Sub-Registrar (Milk and Dairying Department of Cooperative Societies) at the office of the Deputy Registrar, Thiruvarur District, lodged a complaint to the 1st respondent under the Whistle Blowers Act, 2011 on 19.12.2019 related to the scam and corruption in purchase of 40 RO plants in C1325 Vellore District Cooperative Milk Producers Union.

3.The petitioner worked as Cooperative Sub-Registrar at the office of the Deputy Registrar, Dairying in Vellore, during the year 2017 to 2019. The petitioner was appointed as Enquiry Officer on 21.02.2019 vide order in S.L.Gi.2054/2018 to enquire about the corruption and scam relating to the purchase of 40 R.O water plant in relating to C1325, Vellore District Cooperative Milk Producers Union. An enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983 was commenced based on the special audit report filed by the Assistant Director/Auditor, Vellore, Thiruvannamalai District Cooperative Milk Producers Union vide order, dated 24.08.2018, in which, it is found that there was several manipulation in prices, misappropriation with inflation creating heavy loss to the tune of Rs.1,69,00,000/- to the purchase of R.O water plant in relating to C1325, Vellore District Cooperative Milk Producers Union. During enquiry, officials involved in the scam were summoned viz., Arul Jothi Arasan, Prabhakaran, Velazhagan, Alex Jeeva Das, Kamaraj, Christhu Dass and Ramachandran (Deputy Registrar Dairying) and others. The petitioner examined more than 60 witnesses. The Commissioner of Cooperative Milk and Dairying, Mr.Kamaraj under the guise of his power gave permission for the purchase of R.O plant and he was also involved in the scam and corruption. He influenced his senior officer Mr.Chirsththu Dass and began to create obstacles to the enquiry proceedings conducted by the petitioner. Subsequently, the said Mr.Chirsththu Dass warned the petitioner with dire consequences not to proceed further with the enquiry and file a report that there is no revenue loss.

4.During enquiry, most of the officials failed to cooperate even after receipt of the summons. Mr.Kamaraj and Mr.Chirsththu Dass asked the petitioner to submit all the enquiry reports to the Aavin Head Office, Nandhanam during the pendency of enquiry. Mr.Kamaraj influenced Mr.Ramachandiran, the Deputy Registrar (Dairying), Vellore and demanded the enquiry files pending and thereafter, the petitioner was suspended at the behest and the enquiry officer was changed and, who began to destroy all the records related to the purchase of R.O plant. The petitioner refused to obey the order of the higher officials and unearthed the scam and corruption done by the officials. During enquiry, the petitioner found that there is corruption and scam in the purchase of 4 R.O plant with 1000 LPH and 36 R.O plant with 500 LPH during the year 2017 to 2018 relating to C1325, Vellore District Cooperative Milk Producers Union and thereby, caused revenue loss of Rs.1,69,00,000/-. Mr.Velazhagan, who is the president of the Vellore District Cooperative Milk Producers Union and Mr.Prabhakar (General Manager) along with 11 members acted as members of the Price Point Management Committee for the above said purchase involved in the scam and corruption. Mr.Arul Jothi Arasan and Mr.Prabhakar are instrumental in

manipulating the price for purchase of R.O plant, causing revenue loss to the union to the tune of Rs.1.69 crores and trying to suppress the scam and corruption, they had not followed the procedures and guidelines guaranteed under the Tamil Nadu Transparency Act, 1998 and Rule 2000 while purchasing R.O plant.

5. During enquiry, the petitioner found that Mr. Arul Jothi Arasan involved in the corruption of Rs.4,70,000/- and Mr. Prabhakar involved in the corruption of Rs.1,12,73,770/- in connivance with several officials including the Deputy General Manager Mr. Murali Prasad and Dr. Shanthakumar, Mrs. Lydia Margaret, Union Audit Manager were hand in glove in committing the offence of manipulating the records, creating false records, falsification of documents. The petitioner was warned and threatened to file an enquiry report in their favour by diluting the corruption and scam. When the petitioner refused the same, he was suspended and transferred and the audit report of Government of Tamil Nadu was nullified and derived the loss shown as Rs.17,00,000/-. The above act of these persons would clearly show that they committed the offence under the Prevention of Corruption Act, 1988 and Section 420, 406, 475, 467, 471, 503 and 189 IPC.

6. The learned counsel for the petitioner filed the typed set and submitted that the petitioner had given a complaint dated 19.12.2019 to the 1st respondent under the Whistle Blowers Act, 2011 along with the relevant documents. The petitioner received the acknowledgement card on 08.01.2020. Subsequently, the complaint was forwarded to the 2nd respondent and thereafter, no action was initiated on the petitioner's complaint along with 41 documents. Thus, the understanding of the petitioner is that no action taken till date, on the other hand the Tamil Nadu Audit Report got diluted. Hence, the petitioner has filed the above petition to register a case on the complaint dated 19.12.2019.

7. The learned Additional Public Prosecutor appearing for the respondents filed status report of Mr. E. Prithivirajan, Additional Superintendent of Police, Head Quarters, Vigilance and Anti Corruption, Chennai and submitted that the complaint of the petitioner dated 19.12.2019 was received by the Directorate on 27.12.2019 and assigned D.V.A.C. Ref. No. 14353/2019/AAVIN/VL., dated 07.01.2020. It is stated in the report that already two petitions dated 11.12.2019 and 03.12.2019 were received from Mr. G. Sampath of Mylapore, Chennai and Mr. L. Mathivanan of Kanchipuram District against the said Mr. Prabhakar, General Manager, Aavin, Vellore and Mr. Muraliprasadh, Deputy General Manager, Aavin and others with same allegations i.e., irregularities in the procurement of R.O plants to the Cooperative Milk Producers Union at Vellore District by

violating Tender Transparency Act and thereby caused heavy revenue loss to the Cooperative Milk Producers Union. The petitions were scrutinized in Directorate and sent to Tiruvannamalai Detachment, Vigilance and Anti Corruption Department, to generate Vigilance Report.

8.The Vigilance report containing the same allegations have been generated in V.R.No.03/2018-19 by Tiruvannamalai Detachment and it was forwarded to the Vigilance Commissioner vide DVAC V.R.No.41267/2018/AAVIN/TVM, dated 09.02.2019 to get prior approval under Section 17(A)(1) of the Prevention of Corruption (Amendment) Act, 2018 to register preliminary enquiry against the erring officials. Further, the Vigilance Commissioner had forwarded the same to the Additional Chief Secretary to Government, Rural Development and Panchayat Raj Department seeking permission to register preliminary enquiry against Mr.Prabhakar, General Manager, Aavin, Vellore on 01.04.2019. The Managing Director of Aavin, Nandanam, Chennai sent a letter to the Commissioner, Dairy Development Department, Madhavaram, Chennai with a request to accord necessary permission against Mr.Murali Prasad, Assistant General Manager, Aavin on 05.03.2020 and 17.04.2020, which is still pending with the Commissioner of Dairy Development Department, Madhavaram.

9.After conducting preliminary enquiry, the involvement of any other officials come to light, they would also be prosecuted accordingly. The complaint of the petitioner contains the same allegation, hence it has been clubbed with the earlier petitions dated 11.12.2019 and 13.12.2019 of G.Sambath of Mylapore, Chennai and Mr.L.Mathivanan of Kanchipuram District.

10.Considering the rival submissions and on perusal of the materials, the respondents is reminded that as per Section 17(A) of the Prevention of Corruption Act, 1988, the concerned authority to convey its decisions within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month. It is seen that requisition under Section 17(A) of the Prevention of Corruption Act, has been sent on 01.04.2019, 05.03.2020 and 17.04.2020, four months period already got expired and deemed approval is to be construed.

11.In view of the same, the 2nd respondent to proceed with the preliminary enquiry and on collection of materials, if need arises, case to be registered, investigation to be conducted. It is to be seen that the allegations are serious in nature, wherein Rs.1,69,00,000/- of public funds were misappropriated and siphoned out. Thus, the 2nd respondent to take serious note of all these facts and proceed with the enquiry, without loss of time.

12.This Criminal Original Petition is disposed of with the above observation.

-s/d-
Assistant Registrar

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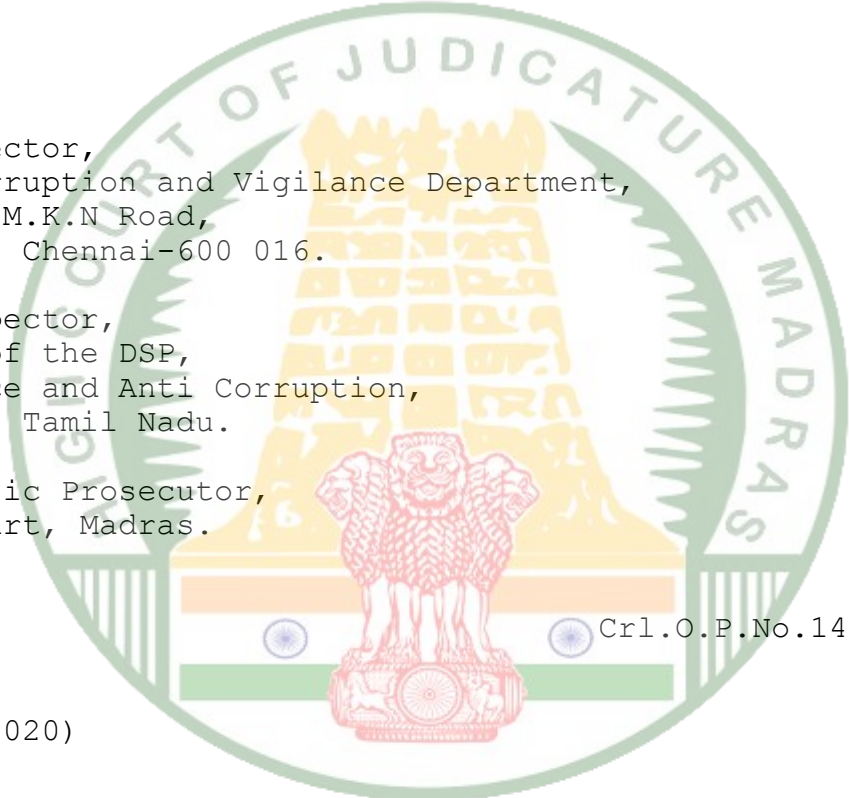
Sub-Assistant Registrar

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To

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- 2.The Inspector,
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High Court, Madras.

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NMI (CO)
SP(08/12/2020)



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