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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO.22 OF 2021

Nilkanth s/o Kamlaji Jaiwal ... PETITIONER

VERSUS

The State of Maharashtra & ors. ... RESPONDENTS

.....
Mr. S.S. Thombre, Advocate for petitioner
Mr. D.R. Kale, Government Pleader for State
.....

CORAM : DIPANKAR DATTA, CJ AND
N.B. SURYAWANSHI, J.

DATE : FEBRUARY 14, 2022.

P.C. :

1. The principal relief claimed in this P.I.L. petition reads as under:

“(B). By issuing an appropriate writ, order or directions in the like nature, this Hon’ble Court may be pleased to direct the respondent nos.1 to 4 to appoint an appropriate enquiry committee to conduct an inquiry in respect of the works of Water Supply Scheme at village Kaygaon, Tal. Sillod, District Aurangabad executed under the Employment Guarantee Scheme and to take further action against the responsible persons including the respondent nos.8 and 9 for misappropriation of the government funds and for that purpose issue necessary orders.”

2. It is alleged by the petitioner that the respondents 8 and 9 have indulged in misappropriation of public funds while construction of wells and pipelines under the Employment Guarantee Scheme were in progress and no steps have been taken against them. He seeks an order so that such allegations of misappropriation may be examined at the first instance by an enquiry committee to be appointed by this Court.

3. On perusal of the Public Interest Litigation, we did not find any averment of lodging of any First Information Report by the petitioner with the concerned police station. Once it is alleged that public funds have been misappropriated, which is a criminal offence, it is normal to expect the criminal law to be set in motion by lodging an F.I.R. Mr. S.S. Thombre, learned advocate for the petitioner, does not dispute that F.I.R. has not been lodged by the petitioner and that this Court has been approached directly without the police being called upon to investigate the alleged criminal offence. It is settled law that when the law provides a machinery for redress and such machinery is not invoked, it would not be a proper exercise of jurisdiction to entertain a Public Interest Litigation. In view of the same, we are

disinclined to entertain this public interest litigation.

4. The P.I.L. Petition stands dismissed. No costs.

5. This order of dismissal shall, however, not preclude the petitioner to explore his remedy elsewhere, in accordance with law.

(N.B. SURYAWANSHI, J.)

(CHIEF JUSTICE)

fmp/-