

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

35 CRIMINAL WRIT PETITION NO.1182 OF 2022

RAUF NYAJU PATEL

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. V.A. Bagal, Advocate for the petitioner

Mr. S.D. Ghayal, APP for respondent Nos.1 to 5

...

CORAM : SMT. VIBHA KANKANWADI AND
RAJESH S. PATIL, JJ.

DATE : 19th SEPTEMBER, 2022

ORDER :

1 Heard learned Advocate Mr. V.A. Bagal for the petitioner and learned APP Mr. S.D. Ghayal for respondent Nos.1 to 5.

2 By invoking the constitutional powers under Article 226 of the Constitution of India the petitioner is seeking issuance of appropriate writ to direct respondent No.2 to initiate departmental inquiry and criminal prosecution against respondent Nos.3 to 5 as well as other responsible officers and also to decide the complaint filed by the petitioner on 22.02.2022 and to submit the compliance report to this Court.

3 It appears from the facts of the case that the petitioner, who is an agriculturist and doing social work, had lodged complaint on 22.02.2022 with Executive Director, Godavari Marathwada Pathbandhare Vikas Mahamandal, Aurangabad in respect of an irrigation project. It is stated that a Press Note was published about the said work which was allegedly sanctioned. The work that was sanctioned was for Rs.219.54 lacs, however, at the time of e-tender it was published for Rs.486.47 lacs. When this was pointed out by the present petitioner, it appears that by letter dated 08.07.2022 an inquiry has been ordered by Dy. Superintending Engineer and such directions were given to Executive Engineer, Aurangabad. Now, the petitioner has prayed that the said inquiry to be done within a stipulated period and lodging a criminal prosecution.

4 Here, it is to be noted that e-tender was published and it appears that it was of huge excessive amount, but it has not been taken to the logical end. Prior to that, after it was pointed out by the petitioner, it appears that the officers have acted swiftly and inquiry has been ordered. There is no question of misappropriation. For some intended misappropriation which had not seen the light of the day, prosecution will not lie and no such directions can be given. When as per letter dated 08.07.2022 the action is taken, let the department take its action. No case is made out for exercising

constitutional powers of this Court. Petition stands rejected.

(Rajesh S. Patil, J.)

(Smt. Vibha Kankanwadi, J.)

agd