

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.161 OF 2021
WITH APPLN/728/2022 IN WP/161/2021

VIJAY DNYANBA RAUT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for the petitioner: Mr.R.O. Awasarmol
APP for the respondent – State : Mr.S.J. Salgare
...

**CORAM : MANGESH S. PATIL &
M.M. SATHAYE, JJ.**

DATE : 06 MARCH 2023

PC :

Heard both the sides.

2. The petitioner alleges that during the inspection of the distribution of the foodgrains through the fair price shops during the period January 2014 to January 2017, the concerned Tahsildar (Supply) of Sengaon and the auditor had reported to the Assistant District Supply Officer about pilferage of wheat around 6000 quintals and rice approximately 2400 quintals which had gone out of the government godown and was supplied to some fair price shop owners and it was found that even the audit could not take place because of the non-cooperation of the concerned persons and non-production of the record. The Tahsildar concerned giving details, has expressly stated that after due enquiry as to how the concerned officers had not kept the record, had destroyed some of the record and had

unauthorizedly and illegally allowed grains worth rupees more than 2 crore to be supplied in excess to various fair price shop owners. It is alleged that a serious crime regarding misappropriation and criminal breach of trust has taken place long back and in spite of the inquiry, except steps for recovery of money and for proceeding departmentally against concerned government officials, no further steps to set the criminal law in motion have been taken.

3. The affidavit in reply filed on behalf of respondents no.2 and 3 by an officer of the rank of Tahsildar has candidly accepted such pilferage of the government grains. He has also submitted that indeed, there was such misappropriation. It also refers to the amount of loss to the exchequer and steps being taken against fair price shop holders as well as government officials. Conspicuously, the affidavit in reply omits to state as to why the alleged misdeeds are insufficient to make out any offence.

4. Considering the report submitted by the then Tahsildar and the report of the auditor, we are of the considered view that the criminal law ought to have been set in motion way back. We do not intend to express anything more, but find it sufficient to record an observation that the circumstances do indicate commission of a serious crime, which deserves to be registered and investigated.

5. We allow the writ petition and direct that petitioners' complaint dated 12.12.2018 shall be treated as F.I.R. by the concerned Officer Incharge of the Police Station, Sengaon, District – Hingoli and investigation shall be undertaken as expeditiously as possible.

6. Amount deposited by the petitioner pursuant to the order dated 11.03.2021 shall be refunded to him.

7. Criminal Application No. 728 of 2022 is disposed of.

[M.M. SATHAYE]
JUDGE

[MANGESH S. PATIL]
JUDGE

sga/