

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 20/2023

(Dr. Ramniwas s/o Govardhanji Malu & ors. Vs. State of Maharashtra & ors.)
 with

CRIMINAL APPLICATION (APPW) NO. 33/2023 IN

CRIMINAL WRIT PETITION NO. 20/2023

(Dr. Ramniwas s/o Govardhanji Malu & ors. Vs. State of Maharashtra & ors.)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. N.B. Kalwaghe, Advocate for petitioners.
 Mr. S.V. Narale, APP for respondent No.1.
 Mr. T.M. Zaheer, Advocate for respondent Nos. 2 & 3.
 Mr. V. Mishra, Advocate for intervener

CORAM: VINAY JOSHI AND
MRS. VRUSHALI V. JOSHI, JJ.

DATED : 19/03/2024.

CRIMINAL APPLICATION (APPW) NO. 33/2023

Heard.

2. Application stands allowed and disposed of.

CRIMINAL WRIT PETITION NO. 20/2023

1. Heard.

2. Respondent No.3 Deputy Executive Engineer Rural Water Supply has lodged complaint in respect of the misappropriation of fund. Inquiry Committee was constituted under the Head of Deputy Executive Engineer. The Committee has made inquiry and concluded about the misappropriation of specific sum. Not only that, respondent No.2, Chief Executive Officer, Zilla

Parishad has directed the Deputy Executive Engineer vide communication dated 06.06.2019 to register a crime. In turn, the Deputy Executive Engineer made a complaint to the Police about misappropriation of fund, however the action has not been taken.

3. Perusal of the reply filed by the State indicates that the Police were under impression that since the departmental inquiry against one of the alleged miscreant has been set aside by this Court in Writ Petition No. 7074/2019, the action does not warrant. We have gone through the order of this Court passed in 7074/2019 which discloses that on technical grounds the departmental inquiry was set aside. We do not see any finding of this Court that there was no misappropriation warranting to set aside the departmental inquiry.

4. The State reply (para 7) has kept everything in abeyance by stating that during inquiry, if it is found that there is material then they would take action. We fail to understand how in earlier reply dated 13.10.202 addressed by the Police states that no action has been taken.

5. Be that as it may, prima facie it reveals that, misappropriation and setting aside the departmental inquiry on technical ground are two separate aspects. The concerned Police to take necessary steps as permissible in law by taking into account all these aspects. Necessary action shall be taken within six weeks from today.

6. Stand over after six weeks.
7. Intervenor is allowed to file reply.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)

Gohane