

(2025) 01 MP CK 1695

In the Madhya Pradesh High Court, Jabalpur Bench

Case No : Writ Petition No. 3487 of 2021

Ajay Singh RaghuvanshiVs M.P.Rural Road Development Authority & Another

Date of Decision : 28-01-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 100, 161, 162, 374(2)
Indian Penal Code 1860 — Section 34, 307
Arms Act 1959 - 3, 25(1B)(a), 25A(2)
Evidence Act, 1872 — Section 27

Citation : (2025) 01 MP CK 1695

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : Akhilesh Kumar Saxena, Mradula Sen

Final Decision : Disposed Off

Judgement

JUDGMENTTAG-JUDGMENT

Vinay Saraf, J

By the instant petition filed under Article 226 of the Constitution of India, the petitioner has called in question the legality and tenability of charge-sheet dated 27.01.2021 issued to the petitioner by Chief Executive Officer, M.P. Rural Road Development Authority, Bhopal alleging that the Bridge constructed over Barbaspur Sonwara Amarnala Marg was washed away due to excessive rain in the month of August, 2020, for which a high level inquiry was conducted, wherein it is found that in Detailed Project Report (DPR) prepared for construction of the project in question, erroneous calculation of catchment area was done, as a result whereof, in the first rainy season itself, on release of water from Sanjay Sarovar Dam, the Bridge got submerged, damaged and washed away for which the petitioner is also responsible being General Manager of PIU-II, Seoni and therefore departmental proceeding has been instituted against the petitioner.

2. Heard Shri R.K. Verma, learned senior counsel with Shri Ram Murti Tiwari,

Advocate for petitioner and Shri Vijayendra Singh Choudhary, Advocate for respondents.

3. With the consent of the parties, arguments were heard for the purpose of final disposal of the present petition.

4. Facts in brief, which are relevant for deciding the controversy in question shows that the petitioner was employee of M.P. Power Transmission Co. Ltd. and his substantive post was Executive Engineer (Civil). The petitioner was transferred on deputation in the year 2008 and posted as General Manager, M.P. Rural Road Development Authority. A high level Bridge was proposed to be constructed by the M.P. R.R.D.A. PIU-II Seoni on Banganga River Across Barbaspur Sonwara Amarnala Road in District Seoni and for that purpose a consultancy agency was appointed who prepared a Detailed Project Report (DPR) and after examination of the same, State Technical Agency, Jabalpur (STA) approved the DPR and Chief General Manager after consultation with STA granted the technical sanction on 29.01.2018 for construction of Bridge in question.

5. Revised Technical Sanction was granted on 14.05.2018, after cancelling the earlier sanction dated 29.01.2018 and the Bridge was constructed in furtherance of the Revised Technical Sanction dated 14.05.2018. In August, 2020 the incident of submergence and collapse of Bridge was happened and therefore, High Power Inquiry Committee was constituted and the committee submitted its detailed report, wherein the committee held that the incident occurred on account of faulty Detailed Project Report (DPR) prepared by the consultant and supervision consultant, which was finalized by Chief General Manager, M.P.R.R.D.A.Jabalpur upon the recommendation of In-charge General Manager, PIU II Seoni, and consultation with S.T.A., therefore, these officers are responsible for the incident.

6. The petitioner was placed under suspension on 22.01.2021. However, considering the fact that the petitioner was going to be superannuated on 30.01.2021, the order of suspension was stayed by the Coordinate Bench in W.P. No.2041/2021 by order dated 29.01.2021. Charge-sheet in challenge was served with a memo dated 27.01.2021 to the petitioner just few days prior to his retirement, which has been challenged in the present petition on several grounds.

7. Learned senior counsel appearing on behalf of the petitioner submits that the issuance of memo along with charge-sheet dated 27.01.2021 is ex facie arbitrary, illegal and tainted with malice in law, which has been issued just few days prior to the retirement of the petitioner. He submits that after the incident, High Level Inquiry was conducted, wherein it was found that a faulty DPR was prepared without considering the actual figures of catchment area, which resulted into the damage of the Bridge. He further submits that the petitioner was posted as General Manager in PIU-I Seoni and was given the charge of PIU-II from 19.12.2017 to 05.05.2018. The agency was appointed for the purpose of

preparation of DPR prior to taking charge by the petitioner. DPR was submitted before 12.11.2017 and a joint inspection by Chief General Manager and State Technical Agency, Jabalpur was carried out on 12.11.2017, whereas the petitioner was posted on 19.12.2017, therefore, the petitioner played no role in preparation of DPR. The technical sanction issued by Chief General Manager dated 29.01.2018 on the basis of said DPR was cancelled on 14.05.2018 and on the same day, Revised Technical Sanction was granted and on the basis of Revised Technical Sanction, the Bridge was constructed. The petitioner was relieved from the charge of General Manager PIU-II Seoni on 05.05.2018 and much after 05.05.2018, the Revised Technical Sanction was granted and therefore, the petitioner had no role in issuance of Revised Technical Sanction and in construction of Bridge.

8. Learned senior counsel has pointed out from the documents that in DPR the highest flood level is considered at RL 482.554 and allowing for water clearance and height of super structure, the formation level was kept at RL 485.519 whereas on 28 and 29/August 2020 due to heavy rainfall in the catchment area of the Bridge and sudden release of 220000 cusecs flood discharge from Sanjay Sarovar (Bhimgarh) Dam situated at 20 kms. upstream of the Bridge, the flood level reached to RL 487.23 mt., which was 2.0 mt. higher than the formation level of the bridge and velocity raised to 7.06 mts/second against designed velocity of 4.9 mts/second considered in DPR, consequently when High Level Bridge get submerged, it was washed out and damaged. He submits that petitioner is not responsible either for preparation of DPR or for construction of the bridge and therefore, the issuance of charge-sheet to the petitioner amounts to colourable exercise of power and malice in law and consequently liable to be quashed.

9. Learned senior counsel further submits that the allegations against the petitioner is that the petitioner signed the DPR on 07.01.2018 as General Manager PIU-II, Seoni though he played no role in preparation of the DPR and at the most, the same may be treated as negligence on the part of petitioner, but a negligence may not constitute a misconduct for the purposes of punishment and therefore, the charge sheet is liable to be quashed.

10. He relied on the judgment of Apex Court delivered in the matter of Inspector Premchand vs. Government of NCT of Delhi and others, (2007) 4 SCC 566, wherein the Apex Court has held that the negligence is not misconduct. He further relied on the judgment of Division Bench of this Court delivered in the matter of S.D. Bhind vs. Union of India and others in W.P. No.677/2007 on 12.11.2014, wherein after considering the evidence available on record the Division Bench has held that any action of public servant, which may fall in the category of carelessness or negligence does not constitute any misconduct and therefore, the employee is not liable for the punishment.

11. Learned senior counsel vehemently argued that the petitioner has been served with the charge sheet in order to harass and the petitioner is not liable for

the alleged incident, therefore, the charge sheet is liable to be quashed. He further submits that DPR was considered by STA and technical sanction was granted by Chief General Manager with the consult of STA on 29.01.2018, which was cancelled and revised technical sanction was granted on 14.05.2018 on the basis of which the construction was carried out and therefore, the petitioner can not be held liable for any action.

12. Per contra, Shri Vijayendra Singh Chouhdary, Advocate appearing on behalf of respondents submits that the petitioner was posted as General Manager PIU-II Seoni on 19.12.2017, and thereafter the petitioner examined the DPR signed and submitted the DPR before STA as General Manager with an undertaking that he checked the DPR and therefore, the petitioner has played the role in preparation of DPR and approval of DPR by certifying the fact that he has checked the DPR after receipt of the same. He further submits that issuance of charge-sheet is not a punishment and it is settled law that under Article 226 of the Constitution of India, the Writ Courts should not interfere in the departmental enquiry by making any roving enquiry in the matter. He relied on the judgment of Apex Court in the matter of Union of India and Another vs. Kunisetty Satyanarayana, (2006) 12 SCC 28, Executive Engineer, Bihar State Housing Board vs. Ramdesh Kumar Singh and others, JT 1995 (8) SC 331, Special Director and another vs. Mohd. Ghulam Ghouses and another, AIR 2004 SC 1467, ULagappa and others vs. Divisional Commissioner, Mysore and others, 2001 (10) SCC 639, wherein the Apex Court has held that no writ lies against the charge-sheet or show cause notice and generally a writ petition is not maintainable against charge-sheet, as issuance of same does not give rise to a cause of action on account of the fact that it does not adversely affect the rights of a party except in cases where the charge-sheet has been issued by an authority not competent to do so. He further submits that the Division Bench of this Court in the matter of State of M.P. and others vs. Ashok Sharma (Dr.) reported in 2011 (2) MPLJ 2006 has held that correctness of allegations of Departmental Enquiry cannot be determined by making a roving enquiry in the matter of suspension and therefore, whether the charges levelled against the petitioner and other persons are correct or not, whether any misconduct is made out or not are certainly subject matter of the Departmental Enquiry. He submits that the petitioner may participate in the departmental enquiry and put up his defence before the Inquiry Officer. He prays for dismissal of the petition.

13. Considered the arguments advanced by the rival parties and after going through the record, few facts are not in dispute that when the agency for preparation of DPR was appointed, the petitioner was not posted and therefore, neither the consultant agency nor the supervision consultant was appointed by the petitioner. So far as the preparation of DPR is concerned, the petitioner had no role and the joint inspection by Chief General Manager with STA was also carried out in the absence of the petitioner on 12.11.2017, whereas the petitioner was posted as In-charge of General Manager PIU-II, Seoni on 19.12.2017. It is also not in dispute that on the basis of DPR and after

consultation with STA, originally Chief General Manager granted technical sanction on 29.01.2018 and on that day the petitioner was holding the charge of General Manager PIU-II Seoni. The technical sanction granted on 29.01.2018 was remained in force till the petitioner handed over the charge to Shri J.P. Mehra on 05.05.2018 and thereafter, the same was cancelled by Chief General Manager on 14.05.2018 and revised technical sanction was granted on 14.05.2018 on the basis of which the construction was carried out. On 14.05.2018, the petitioner was not posted as General Manager PIU-II Seoni.

14. From the perusal of the report of High Level Inspection Committee, the reason for the incident was faulty DPR. After detailed study of DPR, side inspection and discussion with field officer, the opinion of the High Level Committee was as under:-

"The main reason of failure of bridge is heavy rainfall in the whole catchment area of bridge catchment on 28.08.20 & 29.08.20 and sudden release of 220000 cusecs (6244.66 cumecs) flood discharge from Sanjay Sarovar (Bhimgarh) dam situated at 20 km Upstream of this bridge. Due to this fact water level at bridge location increased with extensive velocity and reached to RL 487.23 m i.e. about 2.0 meter above formation level of bridge (RL 485 519 m). Due to increase of HFL from RL 482.544 m to 487.23 m, this high level bridge is heavily damaged (7 span of T-beam girder & deck slab and 4 nos. piers completely damaged).

In addition to above mentioned points, some major discrepancies are also observed in DPR preparation. ECS DPR consultant failed to mention, the details of already constructed major Sanjay Sarovar by water Resources Department on the 20 km upstream of bridge. They are not considering the flood discharge from dam in the design of bridge.

In Revised DPR submitted by DPR Consultant, provision of bracket are shown in GAD, but details of bracket & their reinforcement details are not shown in reinforcement drawings.

From discussion at site with Team Leader SQC, shows that supervision consultant has not exercised review of DPR before start the construction of work, During visit, Team Leader Supervision & Quality control Consultant informed that due to high level bridge, construction of Bracket at top of Pier as shown in GAD are not constructed. At the time of Inspection, it was found that Bracket reinforcement are provided in most of the piers but concrete work in Brackets not done. This shows that regarding Construction of bracket in the bridge, supervision consultant was in confusion. It is not clear that after providing reinforcement of bracket, why concrete work in Bracket not executed and completion certificate of Incomplete work of bridge was issued by Supervision consultant & General Manager PIU-2 Seoni."

15. It is apposite that when the DPR was prepared petitioner had not played any role. However, when the DPR was accepted the petitioner has signed the same as General Manager on 07.01.2018 confirming the fact that DPR was checked by

him. As per the High Level Committee, Topo Sheet was available and from the study of Topo Sheet, the officer who checked the DPR must be aware of that the DPR consultant has not discussed regarding already constructed major dam on same stream/river about 20 kms upstream of proposed Bridge. Whereas at the time of preparation of DPR and calculation of the catchment area, the fact of availability of already constructed major dam was not considered. The petitioner has challenged the charge-sheet in the present petition and the law is settled that the correctness of the allegation cannot be examined at this stage.

16. The petitioner has approached this Court on the ground that the petitioner did not play any role in preparation of DPR, acceptance of DPR, issuance of technical sanction etc. However, it appears that the petitioner has signed the Pradhan Mantri Gram Sadak Yojna check list as General Manager, PIU-II, Seoni prepared for the purpose of construction of proposed bridge across Banganga River Barbaspur Harduli Sonwara Amnanala to Sunwara Seoni, which contains every details and on the basis of said check list filled up by PIU, taking into consideration the catchment area, high flood level etc. the STA submitted its report and therefore, prima facie it is not a case wherein the petitioner has not played any role at all. The petitioner was at fault or not and the conduct of petitioner signing the report amounts to misconduct or mere negligence, it cannot be decided at this stage and the same can be considered after inquiry.

17. After examination it reveals that, revised DPR was submitted on 30.04.2018 and same was signed by the petitioner after checking the same in the capacity of General Manager, PIU-II, Seoni, on the basis of which revised technical sanction was granted, therefore, the arguments advanced by the petitioner that the Bridge was constructed as per revised technical sanction, granted on 14.05.2018 and consequently the petitioner is not responsible as he worked only up to 05.05.2018 are not helpful to the petitioner. Infact, the construction was raised as per the DPR, which was checked and signed by the petitioner as General Manager PIU-II Seoni.

18. Consequently, this Court does not find any reasons to interfere in the departmental enquiry and the proceedings. At the same time, this Court refrain itself from recording any findings on the merits of the case as the inquiry is still pending and the Inquiry Officer will consider the same on the basis of the available evidence.

19. In view of above, it is not a fit case for interfering in the departmental proceedings at the stage of issuance of charge-sheet and memo and consequently, the petition fails and same is hereby dismissed. No order as to costs.