
(2006) 05 P&H CK 0021

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11091 of 2003

Ashok Chaudhary and Another

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 30-05-2006

Acts Referred:

Official Secrets Act, 1923 — Section 5

Citation : (2006) 4 RCR(Criminal) 190

Hon'ble Judges : H.S. Bedi, Acting C.J.;Ranjit Singh, J

Bench : Division Bench

Advocate : R.S. Bains, for the Appellant; A.S. Grewal, Addl. A.G., Punjab for the Respondent Nos. 2 and 3, Mr. Randhir Singh, D.A.G., Haryana for the Respondent Nos. 4 and 15 Mr. M.L. Sarin, Mr. Hemant Sarin, Advocate for the Respondent No. 6, Mr. H.S. Mattewal, Mr. H.S. Sidhu, Advocate for the Respondent No. 8, Mr. D.S. Patwalia, Advocate for the Respondent Nos. 9 to 11 and Mr. A.R. Takkar, Advocate for the Respondent No. 14, for the Respondent

Judgement

Harjit Singh Bedi , A.C.J.—This Public Interest Litigation has been pending at the motion stage since 2003. The prayer of the petitioner is

that equipment worth Rs. 2.77 Crores had been purchased by the Computer and Wireless Wing of the Punjab Police in the years 2000-2001 and

2001-2002 from M/s. Surya Telecom by respondent Nos. 6 to 8 ignoring all norms and procedures causing a huge loss to the Government, a

matter which needed to be investigated. It has been alleged that M/s. Surya Telecom was a company which was being controlled by a person with

a dubious background and he had connived with some of the respondents to engineer the supply of substandard equipment to the police.

2. While the matter had been pending in this Court, notice had also been issued to Mr. Rajan Gupta, the learned counsel for the Central Bureau of

Investigation and he too has been appearing in these proceedings. A committee of experts was also set up by the Court, which has submitted a

report of a very highly technical nature. An in-house enquiry was also conducted by Shri R.K. Gupta, A.D.G.P. and it is the case of the petitioners

that this enquiry had been rushed through with the intention of stalling the present proceedings and as such no sanctity could be attached to its

findings, which were even otherwise vague and intended to bail out those who were involved in the purchases.

On 19.9.2003 this Court had recorded the following order :-

Mr. R.S. Bains, learned counsel appearing on behalf of the petitioners hands over to us and Mr. A.G. Masih, learned Deputy Advocate General,

Punjab, Xerox copy of an alleged letter bearing No. 1449/PS/DGP dated, Chandigarh, the 17.9.2003 to The Principal Secretary Home, Govt. of

Punjab, Department of Home Affairs & Justice, pertaining to this writ petition recommending that ""with the view to ensure fair play, equity and

justice, it is recommended that the entire matter, pertaining to the purchase of wireless sets for 2000-2001, 2001-2002 and 2002-2003 be handed

over to C.B.I. or to any other independent agency for enquiry.

Mr. A.G. Masih, learned Deputy Advocate General, Punjab comes up with a prayer for adjournment to verify the genuineness of the document

aforementioned. Except indicating as to how a confidential document has reached the petitioner apparently breaching provisions of Section 5 of the

Indian Official Secrets Act is an aspect which is required to be considered by the D.G.P., Punjab and/or the Chief Secretary, Punjab and not for

us to make comments in that regard.

The document is being kept on record.

Adjourned to 23.10.2003.

Let a copy of this order be handed over to Mr. A.G. Masih, learned Deputy Advocate General, Punjab in course of the day for its intimation to

and follow up action.

3. We too have perused the letter dated 17.9.2003 and for emphasis we reiterate its recommendations which are :-

With the view to ensure fair play, equity and justice, it is recommended that the entire matter, pertaining to the purchase of wireless sets for 2000-

2001, 2002-2002 and 2002-2003 be handed over to CBI or to any other independent agency for enquiry.

4. Mr. Sarin, the learned Senior Counsel appearing for respondent No. 6 has pointed out that from the documents on record including the letter

dated 17.9.2002 and the pleadings inter se the respondents themselves wherein allegations/counter-allegations had been levelled, it was clear that

the entire matter had been initiated on account of service rivalry and as such this litigation was not maintainable. In support of this submission, he

has placed reliance on State of Karnataka Vs. Arun Kumar Agarwal and Others, ; Dr. B. Singh Vs. Union of India (UOI) and Others, ; N.K.

Prasada Vs. Government of India and Others, and Dattaraj Nathuji Thaware Vs. State of Maharashtra and Others, .

5. We find no merit in this plea and in the absence of any evidence to this effect, the mere ipse dixit of the learned counsel cannot be accepted.

6. We have also perused the aforesaid judgments very carefully. They stipulate that frivolous allegations based on no material and actuated by a

person with mala fide intention must be thrown out at the very threshold. All the judgments, however, stem from the facts therein. In the present

case we find no material to show that any of the Advocates which constitute the petitioner-Members Lawyer's Initiative have any animus against

the respondents and it is the stand of the respondents inter se that something was clearly amiss in the deals made with M/s. Surya Telecom. We

must emphasise that the head of the department had also suggested in his recommendation dated 17.9.2003 that the matter needed to be enquired

into by the Central Bureau of Investigation.

7. It has also been pleaded by Mr. Sarin that as the letter dated 17.9.2003 was a secret document and as it had been procured by the petitioners

by dubious means, the present public interest litigation was to be thrown out on this short ground. He has in this connection relied on Ashok Kumar

Pandey Vs. The State of West Bengal and Others, . We find no merit in this plea. A copy of the letter in question was not a secret document as it

had been addressed to the Advocate General's office and as observed by this Court in its order dated 19.9.2003, this was a matter for enquiry by

the DGP/Chief Secretary, Punjab. We even otherwise find that the aforesaid communication cannot by any stretch of imagination be used as a

justification to scuttle the investigation at the very outset in the face of a prima facie need for a further probe.

8. We accordingly direct that an investigation be made by the Central Bureau of Investigation on the basis of the recommendations made by the

Director General of Police, Punjab in his letter dated 17.9.2003 and that in the course of its investigation, the CBI would not be influenced by any

observations or any interim directions made in the present proceedings. As the investigation pertains to purchases made by very Senior Police

Officer(s), we hope and trust that the matter would be dealt with expeditiously so that the guilty are brought to book and those who are innocent,

may have the satisfaction of being free from any kind of taint. We, for the sake of clarity, further observe that all interim directions given in these

proceedings stand automatically vacated.

9. The writ petition is disposed of in the above terms.

10. A photocopy of the entire paper book be supplied to Mr. Rajan Gupta, the learned Counsel for the CBI forthwith.

Order accordingly.