
(2003) 04 JH CK 0067

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 3008 of 2001

Chatra Chetna Sangathan

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-04-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 51 BLJR 1038 : (2003) 3 JCR 80

Hon'ble Judges : Vishnudeo Narayan, J;Lakshman Uraon, J

Bench : Division Bench

Advocate : Shubha Jha and Arbind Kumar Jha, for the Appellant; Nilesh Kumar, JC to AG, for the Respondent

Final Decision : Allowed

Judgement

Vishnudeo Narayan, J.—This application has been filed under Article 226 of the Constitution of India by the petitioner through its Chairman, Himanshu Mishra who has prayed for issuance of a direction to the Director General of Police (Vigilance), Government of Jharkhand, Ranchi to make a detailed enquiry regarding the supply of C.S.B. (Dalia) infested with insects and non-supply of S.S. Oil to the poor and innocent pre-school children in the various centres of Amrapara Block in the district of Pakur in view of the series of complaint of the villagers and also regarding illegal deductions of Rs. 200/- and Rs. 100/- from the honorarium of Sevika and Sahayaikas respectively every month and extortion of Rs. 800/- to Rs. 2,000/- from the Sevikas and Sahayaikas by respondent No. 6 under threat and coercion on the false plea regarding its recovery due to audit and also for a direction to respondent No. 1 for initiating disciplinary action against respondent Nos. 5 and 6 for the act of their omission and commission.

2. The petitioner is an organization headed by its chairman dedicated to the cause of public in general and students in particular in all the district of Santhal Parganas Division. The Central Government in collaboration with the World Bank has launched a scheme called Integrated Child Development Scheme (in short

"ICDS") where in C.S.B. (Dalia) made of maize, Soybean mixed with Iodine salt along with S.S. Oil besides other food articles manufactured by the United States of America is distributed by the Child Development Project Officer of every block to the poor pre-school children living in villages for their nourishment through Anganbari Sevikas after cooking the same with the help of one Sahaika at each centre and for that the Sevikas and the Sahayaikas get honorarium @ Rs. 500/- and Rs. 200/- respectively per month. Under the Scheme aforesaid lady Supervisor is required to visit various centers allotted to her and to make inspection as to whether the children are properly looked after and the food supplied to the Sevikas from the Child Development Project office is properly distributed among the pre- school children. Under the said scheme C.S.B. (Dalia) was supplied to the different Anganbari Centres in the Amrapara block from the office of respondent No. 5. The food stuffs supplied to the different centers are properly known as Poshahar. It is alleged that Poshahar supplied by the office of respondent No. 5 was found to be infested with insects which is hazardous to the health of children and the said Poshahar is primarily distributed among the poor innocent Adivasi and Harijan children. The Poshahar supplied to Pander Kole Centre in the Amrapara block was found to be infested with insects and Smt. Kiran Vengra, Supervisor of the CDPO office, Amrapara discovered the said Poshahar infested with insects and not fit for human consumption and she directed the Sevikas not to distribute the same till it is medically examined and she also made a report to that effect to respondent No. 5 on 17.3.2001 along with relevant papers regarding illegal deduction of amount of Rs. 200/- and Rs. 100/- respectively from the payment of honorarium made to Sevikas and Sahayaikas respectively and also regarding the lesser supply of the packets of Poshahar as against receipt of twelve packets of C.B.S. (Dalia). It is also alleged that villagers of different centers have also made complaint in respect of the infested Poshahar supplied to their centers. It is also alleged that respondent No. 6 had also sent a chit of paper dated 25.11.2000 per his pen directing Prem Lata Kishku, Sevika, Pander Kole to hand over Rs. 800/- to him on the pretext that the same is required to be given for audit. It is alleged that inspite of the complaint no action was taken by respondent No. 5 in the matter and innocent underfed children of Pahariyas, Santhals and Harijans were compelled to eat C.S.B. (Dalia) i.e. Poshahar infested with insects causing health hazards to them and respondent No. 5 is solely liable for the distribution of said infested Poshahar.

3. In the counter affidavit filed on behalf of respondent No. 1, the State of Jharkhand it has been stated that C.B.S. (Dalia) were distributed to the Anganbari workers in good and proper condition and some cases of infestation in C.S.B. (Dalia) cannot be ruled out due to the improper storage at the Anganbari Center level and all the workers are pre-instructed not to distribute infested Poshahar to the children as soon as they feel that the food are not fit for human consumption and to report the matter to the project officer for further action and as soon as Poshahar were detected to be Infested at few Anganbari Centers, the Anganbari workers in compliance of the said direction had stopped distribution of

the Poshahar and lady supervisor, Kiran Vengra reported the matter on 17.3.2001 to respondent No. 5 who immediately issued directions to stop distribution of such Poshahar vide letter dated 26.3.2001 (Annexure-D) and no infested Poshahar was distributed amongst the children and rotten and infested Poshahar was never distributed to the children and the women. It has also been stated that no amount has ever been deducted from the honorarium from the Sevikas and the Sahayaikas and they were also never compelled to pay any amount under threat or coercion on the ground of audit, and the acquaintance roll (Annexure-A) will show the actual amount admissible paid to the Sevikas and Sahayaikas as per Annexure-A by respondent No. 5, C.D.P.O., Amrapara and S.S. Oil has also-been distributed to all the Anganbari Sevikas. It has also been stated that Smt. Kiran Vengra, Supervisor had committed a lot of irregularities and acts of indiscipline for which after investigation charge has been framed against her by respondent" No. 5 in a departmental proceeding initiated against her and she is making deliberate attempt to malign the image of I.C.D.C. programme in general and respondent No. 5 in particular. It is also stated that the allegation levelled against respondent No. 5 was ordered to be enquired into by Deputy Commissioner, Pakur and to submit the report in respect thereof. It has also been stated that on the receipt of the report, action against the erring officer will Immediately be taken if the allegations are found correct.

4. In the counter affidavit filed by the respondent No. 5 it is stated that she has been working as C.D.P.O., Amrapara since 20.10.2000 and she has supplied Poshahar to the beneficiaries of her area which have been consumed by the beneficiaries but not a single allegation has been made by any of the beneficiaries about the quality of Poshahar. It is further stated that before her joining the stock was sealed by the order of Deputy Commissioner, Pakur on 18.10.2000 in connection with some enquiry and later on it was ordered to distribute the said articles to the beneficiaries and on the direction aforesaid the same has been distributed in the month of January and February, 2001 and sent to different centers. It has also been stated that Smt. Kiran Vengra, Supervisor of the Child Development Project Office, Amrapara has been placed under suspension by the Department and charge was framed against her by this respondent on 5.3.2001 and thereafter she has fabricated false report on 17.3.2001 regarding few of the packets of Poshahar being infested and having been distributed among the beneficiaries with mala fide motive. It is also alleged that Kiran Vengra aforesaid had earlier filed W.P. (PIL) No. 2521 of 2001 but the same was dismissed on 20.6.2001 in which this Court has observed that the petitioners are the employees and both are husband and wife and they have filed the present writ application in the shape of Public Interest Litigation which in their opinion is not maintainable. It has also been submitted that suppressing the facts aforesaid she has got this writ petition filed through the petitioner on the same cause of action. Lastly it has been stated that the allegation levelled against this respondent was enquired into by the higher officials of the Department and the same was found false and baseless.

5. Thereafter the petitioner filed a rejoinder to the counter- affidavit of respondent No. 1 and thereafter of respondent No. 5 and reply to the rejoinder of the petitioner was also filed on behalf of respondent-State. Respondent No. 6 has not appeared inspite of service-of notice.

6. This Court vide order dated 12.10.2001 appointed a High Powered Committee comprising of the Divisional Commissioner, Santhal Pargana Division, Social Welfare Department, Government of Jharkhand; and an officer of the rank of the Deputy Inspector General or the Senior Superintendent of Police to be nominated by the Director General of Vigilance, Jharkhand to go into the entire gamut of the problem and enquire into the matter with reference to all the relevant aspects and to submit a detailed report and make recommendations for future. In pursuance of the order dated 12.10.2001 an enquiry was conducted by the High Powered Committee aforesaid and Director, Social Welfare Department, Jharkhand filed affidavit enclosing the enquiry report of the High Powered Committee aforesaid. It is relevant to mention here that three questions were formulated by the said Committee for enquiry which are as follows :

- (i) allegation relating to distribution of rotten and infested Poshahar to different centers of Amrapara block;
- (ii) illegal deductions of Rs. 200/- and Rs. 100/- from the honorarium of Sevikas and Sahayaikas of different centers of Amrapara block; and
- (iii) unlawful demand of Rs. 800/- to Rs. 2,000/- from the Sevikas and Sahayaikas by Rasik Soren, Assistant, C.D.P.O. office Amrapara.

It is relevant to mention that allegation No. (ii) aforesaid has not found to be substantiated in course of enquiry for the reasons stated in the enquiry report. However, allegation Nos. (i) and (iii) referred to above were found to be substantiated in course of enquiry and respondent No. 5 was held responsible for the dereliction of duty as well as supply of Poshahar and for that necessary disciplinary action was recommended to be taken against her. Allegation against respondent No. 6, Rasik Soren was also found substantiated in the course of enquiry.

7. It has been submitted by the learned counsel for the petitioner that under the welfare scheme of the Central Government Poshahar is supplied through the Child Development Project Office for the nourishment of the underfed pre-school children especially of the Harijan and Adivasi community and it has become established as per the enquiry report of the High Powered Committee that infested Poshahar were supplied to the different centres in the block of Amrapara by respondent No. 5 which was hazardous to the health of the pre-school children aforesaid and there was deliberate negligence on the part of respondent No. 5 and inspite of report in respect thereof having been brought to the notice of respondent No. 5 by Kiran Vengra, Supervisor and also by several persons of different centres, no tangible step was taken by respondent No. 5 and pre-school children were compelled to take infested Poshahar and in such situation the

petitioner had to ventilate the cause of the pre- school poor children of Adivasi and Harijan who were made victim due to the supply of the infested Poshahar and this writ petition is in true spirit, a Public Interest Petition, for the redressal of the grievance of the poor Harijan and tribal pre-school children. It has also been submitted that basically it is a Public Interest Litigation in the facts and circumstances of this case and it is definitely not in the nature of adversarial litigation and it is the basic duty of the officer of the Government to make basic human rights meaningful to the deprived and vulnerable sections of the society and to assure them social and economic justice as per the mandate of the Constitution. Relying on the ratio of the case of *Bandhua Mukti Morcha Vs. Union of India (UOI) and Others*, it has been submitted that the Government and its officers must welcome public interest litigation because it would provide them an occasion to examine whether the poor and downtrodden are getting their social and economic entitlement or whether they are continuing to remain the victim of deception and exploitation and whether social and economic justice has become a meaningful reality for them or it has remained merely a teasing illusion and a promise of unreality so that in case the complaint in the public interest litigation is found to be true, they can discharge their constitutional obligation root out exploitation and injustice and ensure to the weaker sections for their rights and entitlement. It has also been submitted that the matter of great constitutional importance has been raised in the PIL which has direct bearing on the weakest section of the society i.e., Pahariyas, Santhals and Harijans living in the far remote villages in the most backward region in the district of Pakur whose pre-school children have been debarred of being benefited by Poshahar under the scheme launched by the Central Government in collaboration with the World Bank with their avowed objective for the fulfillment of their cherished desire of the Constitution makers as enshrined under Article 39(f) of the Directive Principles of the State Policy under the Constitution. It has also been submitted that the enquiry report of the High Powered Committee constituted as per order dated 12.10.2001 has found that respondent No. 5 had distributed infested Poshahar to the different centres for the use of the pre-school children of the weaker section of the society and inspite of information and report to that effect no tangible action has been taken by respondent No. 5 as a result of negligence on her part amounting to dereliction of duty as C.D.P.O. of Amrapara block and such necessary directions may be given to respondent No. 1 the State to ensure that infested food should never be supplied to the centers under the scheme aforesaid for the use of the pre-school children of the weaker section of the society and suitable disciplinary action may also be taken for the omission and commission on the part of respondent No. 5. Lastly, it has been contended that the allegation of extortion as alleged against respondent No. 6, Rasik Soren was also substantiated in the enquiry as per the material on the record.

8. Mr. Nilesh Kumar, learned J.C. to A.G. has submitted that this writ petition is definitely not a public interest litigation rather it is an adversarial litigation at the instance of Smt. Kiran Vengra, who has been put under suspension along with

her husband for dereliction of duty and with a view to wreck vengeance she has got this writ petition filed in the garb of PIL falsely implicating respondent No. 5. It has also been submitted that Smt. Kiran Vengra had earlier filed W.P. (PIL) No. 2521 of 2001 which was dismissed on 26.6.2001 as not maintainable and this Court in the said order has observed that the petitioners are the employees and both are husband and wife and they have filed the present writ petition in the shape of PIL which in their opinion is not maintainable. It has also been contended that on the said fact this PIL was filed by the petitioner at the instance of Kiran Vengra to ventilate her grievance. It has been further contended that prior to the joining of respondent No. 5 as C.D.P.O. in Amrapara block the godown was sealed as per the order of the Deputy Commissioner, Pakur in the month of August and thereafter in the month of October, i.e., on 18.10.2000 the D.C., Pakur issued direction for the distribution of the Poshahar to the different centres which were distributed in the month of January and February to the different centres and Mrs. Kiren Vengra on 17th March, 2001 has reported to have found one bag of infestation C.S.B. (Dalia) supplied to Pandar Kore centre and soon thereafter respondent No. 5 issued necessary direction to all the Sevikas and to distribute the Poshahar C.S.B. (Dalia) to the beneficiaries forthwith if it is infested and not fit for human consumption. In this connection Annexure-D to the counter- affidavit of respondent No. 1 was referred to. It has also been submitted that there was no complaint from any other centre regarding the Poshahar being infested and unfit for human consumption. Lastly it has been contended that Kiran Vengra is bent upon to malign the reputation of respondent No. 5 as a result of vendetta through the garb of this PIL when she has failed in her venture earlier by filing W.P. (PIL) No. 2521 of 2001 making adverse allegations including the infested supply of the Poshahar.

9. There is no denying the fact that Smt. Kiran Vengra and her husband had earlier filed W.P. (PIL) No. 2521 of 2001 after they were put under suspension and proceeded against in a departmental proceeding in which the matter in issue was also regarding the distribution of the infested Poshahar to the different Anganbari centres in Amrapara block and that writ petition was dismissed as not maintainable being a public interest litigation. Basically on the similar facts the petitioner has filed this writ application. Here the petitioner is an organization dedicated to the cause of public in general and students in particular in the division of Santhal Parganas in which a very sensitive matter in public interest regarding the distribution of the infested Poshahar to the Anganbari centres for the use of the beneficiaries i.e., the pre-school children of the Pahariyas, Santhals and Harijans living in the remote village of Pakur which is hazardous to their health has been raised as a result of dereliction of duties of the officers concerned in respect thereof. The simple relief sought in this case is for a detailed enquiry in the matter by Director General of Police (Vigilance), Government of Jharkhand so that the evil practice of supply of the infested Poshahar unfit for human consumption to the preschool children of tribal and Harijan community and of weaker section of the society be checked and stopped

forthwith besides other mala fide practices prevalent in the C.D.P.O. office. It also appears that there is no reference in the writ application of the petitioner regarding earlier dismissal of W.P. (PIL) No. 2151 of 2001 filed by Smt. Kiran Vengra though the annexure enclosed therewith appears to have definitely been supplied to the petitioner by Smt. Kiran Vengra and she may be instrumental in getting this writ application filed by the petitioner. Since the matter in issue is a viable public interest and for the benefit of the pre-school children of the weaker community in general and as such we have no hesitation to come to the conclusion that it is a public interest litigation and, therefore, maintainable. The rejection of the earlier writ petition filed by Smt. Kiran Vengra does not at all affect its maintainability. The High Powered Committee was constituted vide order dated 12.10.2001 consisting of Divisional Commissioner, Santhal Pargana Division, Director. Social Welfare Department, Government of Jharkhand and an officer of the rank of the Deputy Inspector General or the Senior Superintendent of Police to be nominated by the Director General of Vigilance, Jharkhand with specific direction that efforts shall be made to identify the culprits who are responsible for the mis-deeds of the past so that appropriate punishment is meted out to them in accordance with law. In pursuance of that order the High Powered Committee consisting of Sri B.K. Singh. Divisional Commissioner. Santhal Pargana Division, Sri Alok Goel, Director. Social Welfare, Jharkhand and Sri Ram Lakshman Singh, Superintendent of Police, Vigilance, Jharkhand enquired into the matter regarding the alleged distribution of the infested Poshahar from the C.D.P.O. office Amrapara to the different Anganbari centres in Amrapara block. It transpired in course of enquiry that a god own of the C.D.P.O. office Amrapara where the Poshahar was kept was sealed on 11.8.2000 in connection with Amrapara P.S. Case No. 40 of 2000 u/s 414 of IPC as per order of the Deputy Commissioner, Pakur and thereafter on 18.10.2000 the Deputy Commissioner, Pakur ordered and directed to open the seal of the said godown but in fact the said godown was opened only on 30.12.2000 and thereafter the Poshahar kept in the said godown was distributed for two months. Smt. Kiran Vengra, lady Supervisor, reported to respondent No. 5. Sushri Bindu, C.D.P.O., Amrapara on 17.3.2001 regarding the infested Poshahar having been distributed to the different centres for the use of the beneficiaries when she had found one bag of Poshahar infested on inspection but respondent No. 5 did take no prompt step to stop the distribution of the infested Poshahar. Not only this respondent No. 5 on that occasion had also visited Bohra centre under her jurisdiction and she has herself found the Poshahar supplied to the centre infested. However, the Committee has further reported that there is no report before the Committee regarding any beneficiaries having suffered any ailment due to the use of the said infested Poshahar. The Committee has also come to the finding that respondent No. 5 is responsible for considerable delay in opening the seal of the godown for the distribution of Poshahar and she has also found the Poshahar to be infected at one place but she did not take any prompt action to stop Its distribution which amounts to dereliction of duty on her part. The Committee has further opined that Smt. Banani Ghoshal is also responsible for not submitting

report regarding the distribution of infested Poshahar supplied to Anganbari centres under her jurisdiction and she is also liable to be proceeded with. Lastly the Committee came to the finding that on getting the information of the infested food to the different Anganbari centres respondent No. did not take any prompt action and she is responsible for that which amounts to dereliction of duty on her part and to be proceeded with. The allegation against respondent No. 6, Rasik Soren which was enquired into was also found to be substantiated in the said enquiry. However, the allegation regarding alleged deduction from the honorarium of the Sevikas and Sahayaikas were found to be incorrect and false. It therefore appears that infested Poshahar was supplied to the different Anganbari centres in Amrapara block and respondent No. 5 being C.D.P.O., Amrapara block has definitely failed in discharge her duty in taking prompt step for the use of the infested Poshahar by the beneficiaries of the different Anganbari centres of her jurisdiction.

10. Respondent No. 6, Rasik Soren is the head clerk of C.D.P.O. office, Amrapara Annexure-10 to the writ petition is the chit of a paper addressed to Prem Lata Kisku, Anganbari worker, per pen containing the signature of this respondent whereby a sum of Rs. 800/- was asked from her for the payment to the audit party. It is transpired in course of enquiry that respondent No. 6 got the said chit of paper (Annexure-10) handed over to Prem Lata Kisku by Sabita Soren, Sevika of Ambajore centre of Amrapara block. Said Sabita Soren in her statement before the High Powered Committee has admitted that the said chit of paper was given to her by respondent No.6 for being delivered to Prem Lata Kisku aforesaid. She has further admitted in course of enquiry that she had personally delivered the said chit of paper [Annexure-10) to Prem Lata Kisku as directed. However, Prem Lata Kisku has stated in the enquiry that she had received Annexure-10 aforesaid but she did not make payment of Rs. 800/- as desired by respondent No. 6. On the basis of the facts aforesaid having been established in course of enquiry, the Committee aforesaid came to the finding that the allegation against respondent No. 6 in respect thereof stands substantiated and respondent No. 6 had made illegal and unlawful demand of Rs. 800/- from Prem Lata Kisku. Therefore, the conduct of respondent No. 6 making unlawful demand of Rs. 800/- by Annexure-10 to the writ petition from Prem Lata Kisku is unbecoming of a Government servant and for that he is liable to be proceeded against in a departmental proceedings in accordance with law.

11. Therefore, in the facts and circumstances of this case and the materials on the record it is a matter of concern that infested Poshahar were supplied to the different centres in the block of Amrapara by respondent No. 5 which was hazardous to the health of the pre-school children specially of the community of Scheduled Casts, Scheduled Tribes and weaker sections of the society and a vital issue of public interest in general has been raised in this writ petition by the petitioner. The very purpose, aim and object of the I.C.D.S. has been frustrated due to the negligence of respondent No. 5 when undernourished preschool children of the aforesaid communities living below the poverty line were

compelled to take Infested Poshahar supplied to their centres. The allegation of demand of Rs. 800/- against respondent No. 6 also stands established.

12. Viewed thus, this writ application is hereby allowed and it is hereby directed that respondent Nos. 1 and 2 shall take appropriate action within two months from the date of receipt of this order in accordance with law against respondent Nos. 5 and 6 for dereliction of their duty on their part. It is further directed that C.D.P.O, of each block of this State has to ensure as well as to certify that the Poshahar distributed to the different centres in their respective jurisdiction is fit for human consumption and not infested and rotten before its actual removal for its distribution from their godown. Respondent Nos. 1 and 2 are further directed to issue necessary circulars in respect thereof within two months from the date of this order so that such incident regarding distribution of the infested Poshahar may not recur. Respondent Nos. 1 and 2 are also directed to take befitting steps forthwith for the proper storage of the Poshahar in the godown of the C.D.P.O. office as well as in the Anganbari centres. Lastly respondent Nos. 1 and 2 are directed to ensure that all the vacant posts of Sevikas and Sahayaikas at different Anganbari centres be, filled up forthwith in accordance with rules and circulars in respect thereof.

Lakshman Uraon, J.

13. I agree.