

(2013) 03 DEL CK 0315

In the Delhi High Court

Case No : Writ Petition (C) No. 2589 of 1999

CSIR Scientific Workers Association and Another

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 22-03-2013

Acts Referred:

Citation : (2013) 03 DEL CK 0315

Hon'ble Judges : D. Murugesan, C.J.;Rajiv Sahai Endlaw, J

Bench : Division Bench

Advocate : Rohit Kumar Singh, for Mr. Prashant Bhushan, for the Appellant;
Praveen Swarup, for R-2 CSIR, for the Respondent

Judgement

Rajiv Sahai Endlaw, J.—This petition, by way of a Public Interest Litigation (PIL) has been filed seeking directions to the Union of India (UOI), Council of Scientific & Industrial Research (CSIR) and Dr. G.P. Phondke director of the National Institute of Science & Communication (NISCOM), New Delhi. It is inter alia the case of the petitioners:

(i) that the CSIR was set up as a registered Society by the Government of India inter alia to facilitate industrial application and use of scientific research, with many constituent laboratories and institutions, one of which is NISCOM, established in 1943 as Publication and Information Directorate (PID) with the function of conducting research into and compiling a database of the natural resources and industrial wealth available in different parts of India;

(ii) that with the aforesaid objectives NISCOM has been preparing, compiling and disseminating a detailed and voluminous publication called "The Wealth of India" (in English) and "Bharat Ki Sampada" (in Hindi) comprising of a valuable database on the biological and mineral wealth of India and which is a national resource compiled at the expense of NISCOM;

(iii) that in 1989, respondent No. 3 Dr. G.P. Phondke became the Director of NISCOM and whose style of functioning threatened the very existence of NISCOM

and which lead to the constitution of an Enquiry Committee (of Dr. Sangal);

(iv) that despite the Enquiry Committee finding a large number of gross irregularities having been committed by the respondent No. 3 Dr. G.P. Phondke and others at the helm of affairs of NISCOM, no action was being taken neither against the respondent No. 3 Dr. G.P. Phondke nor for remedying the situation;

(v) that the respondent No. 3 Dr. G.P. Phondke had also transferred the entire database of NISCOM regarding the natural wealth of India from NISCOM into the hands of a new private Society called Asian Health, Environmental & Allied Database (AHEAD) controlled by Dr. G.P. Phondke himself and his associates and also transferred certain grants meant for NISCOM to AHEAD. Other acts of mismanagement of affairs of NISCOM by the respondent No. 3 Dr. G.P. Phondke are also set out in the writ petition and which for the reasons recorded herein below, are not required to be detailed herein;

(vi) that expeditious implementation of Dr. Sangal Committee's Report in full is necessary in view of serious and grave findings of the Committee regarding the malfunctioning of the premier public institution.

2. Following reliefs are claimed in the petition:

(a) allow this writ petition and issue suitable directions to the respondents for restoration of the copy right and data base of "Wealth of India"/"Bharat Ki Sampada" to NISCOM from a private society namely AHEAD and for resumption of the publication of "Wealth of India" / "Bharat Ki Sampada" in NISCOM;

(b) direct the respondents to release the copy of the report of the One-Man Fact Finding Committee headed by Mr. D.K. Sangal on the irregularities in National Institute of Science Communication, to the public;

(c) direct the respondent No. 1 to prosecute respondent No. 3 for criminal breach of trust and offences under the Prevention of Corruption Act for his acts of abusing his position as the Director of NISCOM to transfer the entire database of NISCOM to his private Society called AHEAD;

(d) direct the respondents No. 1 & 2 to initiate disciplinary proceedings under the conduct rules against respondent No. 3 and other senior officials who have been found guilty of serious misconduct by the enquiry committee report of Mr. D.K. Sangal.

3. Notice of the petition was issued. On 23rd December, 1999, the counsel for CSIR informed that a decision had been taken to withdraw membership of NISCOM from AHEAD and that steps would be taken to initiate departmental proceedings against some of the officers in terms of Dr. Sangal Committee's Report. On 19th September, 2000, the Additional Solicitor General appearing for CSIR again stated that departmental action has been initiated against certain officers and further stated that copyright of the journal "Bharat Ki Sampada" remains with NISCOM. Vide order dated 17th November, 2004, copy of Dr.

Sangal Committee's Report was directed to be placed on record. The order dated 14th September, 2005 records that the respondents had taken action against 18 officials and penalty had also been imposed on them. The matter was however adjourned for the respondents to inform the action which had been taken against the respondent No. 3 Dr. G.P. Phondke. The matter has been languishing thereafter.

4. Today, the counsel for the petitioners has stated that if the counsel for the respondents makes a statement that the copyright and database of "Wealth of India"/ "Bharat Ki Sampada" is still with NISCOM, the petitioners would be satisfied and the prayer (a) aforesaid in the writ petition would not survive.

5. The counsel for the respondent No. 2 CSIR reiterates that the copyright and database is still with NISCOM and thus there is no need for taking any action for retrieval thereof from AHEAD.

6. Accordingly, prayer (a) in the writ petition stands satisfied.

7. As far as prayer (b) supra in the writ petition is concerned, Dr. Sangal Committee's Report has already been made public and the counsel for the petitioners also states that the said relief stands granted and does not survive.

8. Similarly, prayer (d) in the writ petition for direction to the UOI and CSIR to initiate disciplinary proceedings under the Conduct Rules stands satisfied, inasmuch as the said proceedings were initiated.

9. Thus, only prayer (c) supra remains in the writ petition i.e. for direction to prosecute the respondent No. 3 Dr. G.P. Phondke. Admittedly, no First Information Report (FIR) has been lodged. The counsel for the respondent No. 2 CSIR informs that the appointment of the respondent No. 3 Dr. G.P. Phondke was contractual and thus disciplinary proceedings against him were not possible and whatever action was permissible under the said contractual appointment has been taken. He further states that the FIR was not lodged since the material was not found to be sufficient.

10. The counsel for the petitioners confines the direction under prayer (c) in the writ petition to forwarding of Dr. Sangal Committee's Report to the Central Vigilance Commission (CVC) for its opinion and for lodging of the FIR if the CVC on the basis of the said report is of such opinion.

11. The said course of action is agreeable to the counsel for the respondent No. 2 CSIR.

12. Accordingly, the respondent No. 2 CSIR is directed to forward a copy of the fact finding report of Dr. D.K. Sangal to the CVC within four weeks along with the accompaniment and annexures if any and to thereafter, within one week of the request therefor being received, supply to CVC such further information as may be required by the CVC for rendering an opinion in the matter. The CVC is requested to, at the earliest and in any case within six months of the receipt of

the report from the respondent No. 2 CSIR, render an opinion on the feasibility of lodging an FIR against the respondent No. 3 Dr. G.P. Phondke and/or of the offence if any made out. The respondent No. 2 CSIR is further directed to abide by the opinion so rendered by the CVC. With the aforesaid directions, the petition is disposed of.

No costs.