
(2007) 03 AHC CK 0284
In the Allahabad High Court
Case No : Criminal M.W.P. No. 3427 of 2002

G.D. Singh

APPELLANT

Vs

Lok Nath Verma and Others

RESPONDENT

Date of Decision : 08-03-2007

Acts Referred:

Citation : (2007) 2 ACR 1554

Hon'ble Judges : R.N. Misra, J;Amar Saran, J

Bench : Division Bench

Advocate : Devendra Pratap Singh and Sidharth Singh, for the Appellant; A.K. Sand and A.G.A., for the Respondent

Judgement

Amar Saran and R.N. Misra, JJ.—Heard Shri Devendra Pratap Singh for the Petitioner and Shri A. K. Sand, learned Additional Government Advocate for the Respondents.

2. By our earlier order dated 31.1.2007 we had inter alia called for a report from the Director Vigilance about the details and status of the cases, which are pending for sanction with the State Government, the delays, if any, and the levels at which the delays had been occasioned and the reasons for the delays. We had directed that the said information could be presented in a tabular form. In pursuance of the said order, a supplementary-affidavit dated 1.3.2007 has been filed by Shri Diwakar Kumar, Superintendent of Police, Vigilance, which mentions that till 19.2.2007, 77 matters as detailed in Annexure-S.A. 1 are pending before the State Government for prosecution sanction against various accused persons. Furthermore, the Director of Vigilance establishment has received a list which shows that 584 cases are pending till 27.2.2007 before the competent authorities of various departments for grant of sanction, which is annexed as Annexure-S.A. 2.

3. We are dismayed on examining the two annexures and are left wondering whether the vigilance department has been created for facilitating the

prosecution of public servants engaged in corruption and other criminal misconduct or whether the establishment and the cumbersome machinery for grant of sanction for prosecution of the erring Government servants and the different levels at which the matters can be delayed, has been created for sabotaging and scuttling the prosecution of accused public servants, who are prima facie found involved in offences inter alia under the Prevention of Corruption Act.

4. Annexure-S.A. 1 contains cases where enquiries were conducted as far back as 1995 and where enquiries were concluded by the vigilance establishment and the matters are pending with the State Government for prosecution or other action since 1997 and 1998. Thus, in the case of Satyendra Kumar, Member, Sales Tax Tribunal, Ghaziabad, the Government order for vigilance enquiry was dated 2.5.1995 and the conclusion report was submitted to the State Government on 31.1.1999. In the case of Jai Prakash Agrawal, Junior Clerk, Social Welfare Department, Azamgarh and others, the vigilance enquiry was conducted pursuant to a Government Order dated 8.12.1995 and the conclusion report was submitted to the State Government on 21.3.1997. In the case of Shanker Lal Pandey v. Secretary, Bareilly Development Authority and others, the Government Order for vigilance enquiry was dated 10.3.1996 and the conclusion report was submitted to the State Government on 21.3.1997. In the case of Dr. Yashpal Rawal, Medical Officer, P.H.C., Etah, the Government Order for vigilance enquiry was dated 30.5.1996 and the report submitted to Government on 28.3.1998. There are other cases where the vigilance enquiries have taken 9 or 10 years and now the matters are stuck at the level of the State Government.

5. Similar agonizing delays are visible on a perusal of Annexure-S.A. 2, which shows the pendency of matters before the competent authorities in the concerned departments for finally granting sanctions for prosecutions after orders granting previous consents are issued by the vigilance department of the State Government. Thus, in Trap Case No. 214 of 1980 of Jagdish Saran Srivastava, Basil Baki Navis and Suresh Kumar, Sahayak Basil Baki Navis after enquiry, which took 25 years, the matter is pending before the competent authority of the concerned department. In the case of Nand Lal Singh, Deputy Superintendent of Police, Kanpur in Enquiry No. 19 of 1997, the matter is pending before the competent authority for sanction from 13.7.1999. In the case of Indra Prakash Singh, Junior Engineer, World Bank Project, Rural Engineering Service, in C.I.S. Case No. 284 of 1998, the matter is pending before the concerned department from 21.3.2001. In the case of Mohammad Yakub, Divisional Accountant and other accountants and engineers involved in investigation Case No. 92 of 1996 relating to Gorakhpur, the matter is pending for sanction since 28.11.2000 before the competent authority.

6. These are just a few illustrative cases, which we have randomly picked up from the list. However, we find that delays appear to be occasioned at several levels. First at the level when the orders are passed for vigilance enquiry or

investigation by the State Government after considerable delay. Then a very long time elapses for the conclusion of the enquiry or investigation by the vigilance establishment. Thereafter after the vigilance establishment submits its enquiry/ investigation report to the vigilance department of the State Government, the matter remains pending at that level for a long period of time. Thereafter, if the State Government agrees to give previous consent and the matter is forwarded to the competent authority of the concerned department, the matter again languishes for further prolonged periods of time before the competent departmental authorities which must eventually grant the sanction for prosecutions. After that delays can be conceived at the level of filing of charge-sheets and the inordinate slow disposal of trials in these cases.

7. The net result is that the persons who are prima facie found involved or caught in cases of bribe taking or corruption or other criminal misconduct remain at large for long periods of time and sometimes they are not even removed from their posts and continue to engage in nefarious activities causing grave loss to the public exchequer and shake public confidence in the commitment of the State to meet the legitimate expectations of citizens who approach public servants for different services, but who receive the indelible message that unless the public servant is illegally gratified, they can never obtain expeditious or favourable orders in their matters. This causes great disillusionment and anger in the minds of the general public. It also generates a vicious cycle of non-cooperation with public authorities, an expectation that rules can be by-passed and that out of turn benefits can be taken, and that there is no need for payment of due taxes and fees, if one is prepared to bribe the concerned officials. This can only result in eventual break down of civic life and our social order.

8. We, therefore, think that an ad interim mandamus be issued directing the Chief Secretary to bring out a circular within two weeks directing the concerned competent authorities of various departments competent to pass orders on the applications for sanctioning prosecutions, and the vigilance establishment and departments to positively ensure that all pending cases where sanctions for prosecutions are sought are disposed of within 3 months. A period of three months for the said exercise should be the maximum period permissible for disposal of future cases where sanctions for prosecution of public servants is being sought.

9. We direct the State Government to submit a compliance report of this order and the progress made in positively concluding the investigation/enquiries by the vigilance establishment and grant of sanctions by the State Governments and the concerned departmental competent authorities within six weeks.

10. As there is some ambiguity in Annexure-S.A. 1 as it does not specify as to whether all the 77 cases mentioned in the list relate to cases where sanction for prosecution has been suggested by the vigilance department or whether they also include cases where departmental enquiry or closure of cases has been recommended, it is directed that on the next date of listing the Director Vigilance

shall furnish details about all the cases as required above.

11. It has been sagely observed by the Apex Court in *State of Madhya Pradesh and Others Vs. Shri Ram Singh*, , that corruption is proving a cancer for our society. The law report observes as follows in paragraph 7:

Corruption in a civilised society is a disease like cancer, which if not detected in time is sure to malignise the polity of country leading to disastrous consequences. It is termed as plague which is not only contagious but if not controlled spreads like a fire in a jungle. Its virus is compared with H.I.V. leading to A.I.D.S., being incurable. It has also been termed as Royal thievery. The socio-political system exposed to such a dreaded communicable disease is likely to crumble under its own weight. Corruption is opposed to democracy and social order, being not only anti people, but aimed and targeted against them. It affects the economy and destroys the cultural heritage. Unless nipped in the bud at the earliest, it is likely to cause turbulence shaking of the socio-economic-political system in an otherwise healthy, wealthy, effective and vibrating society.

12. We therefore make it clear that this Court shall take a very serious view of any non-compliance with this order at any level and any failure to complete the proceedings for sanctioning prosecution within three months as directed by this Court shall invite the censure of this Court and we may hold the particular officer concerned personally liable for contempt of this Court's orders.

13. As in the case of the Petitioner a final report has been submitted and only departmental enquiry ordered and learned Counsel for the Petitioner submits that he does not want to press this writ petition, this writ petition is accordingly dismissed so far as Petitioner is concerned.

14. However, as we are now monitoring the matter of sanctioning of prosecutions in enquiries/ investigations conducted by the vigilance establishment, on subsequent dates this writ petition shall be listed under the heading: "In re: In the matter of sanctions for prosecution in vigilance matters" and the name of counsel for the Petitioner Shri D. P. Singh shall not be shown in the list on the next date of listing.

15. List this case on 26.4.2007 for further orders/hearing and for obtaining compliance reports from the State Government and the Director of Vigilance.

16. A copy of this order shall be given to the learned Additional Government Advocate within a week for compliance.