
(2009) 11 KAR CK 0079
In the Karnataka High Court
Case No : Writ Petition No. 19696 of 1999

H.T. Somashekara Reddy

APPELLANT

Vs

State of Karnataka and Another

RESPONDENT

Date of Decision : 09-11-2009

Acts Referred:

Citation : (2011) 3 KarLJ 310

Hon'ble Judges : P.D. Dinakaran, C.J.; Mohan Shantanagoudar, J

Bench : Division Bench

Advocate : K.G. Nayak, for the Appellant; B. Veerappa, A.G.A. and A.S. Mahesha, for the Respondent

Judgement

Mohan Shantanagoudar, J.—No representation on behalf of the parties. However, this Court went through the material on record.

2. By filing this public interest litigation, the Petitioner seeks direction for investigation by an Investing Agency of CBI relating to the facts found in the report of the Estimate Committee and the findings given by the Comptroller and Auditor General of Accounts. He has also sought for recovery of extra expenditure spent on the project by the concerned persons responsible for causing such loss.

3. Upper Krishna Project is mainly an irrigation project. According to the Petitioner, if necessary the water is used to generate power also. In the initial stages of project, the first Respondent through its Public Works and Irrigation Department, executed the work through the contractors and its own machinery. Having regard to the magnitude of the project, the work was executed through contractors, who must be duly registered with the Government as Classes 1 and 2 contractors prescribed under Public Works Department. Petitioner submits that the State Government allotted work to the contractors under "piece work contracts". A House Committee was constituted to look into the allegations relating to the work of the project. The report consists of 57 pages stated to be

containing details of misappropriation, misapplication and defalcation of funds to the extent of several crores of rupees. Certain details of misappropriation and misapplication, have been mentioned in the writ petition. Based on those allegations, the Petitioner sought for aforementioned direction, i.e., the matter be investigated by CBI.

4. Since the disputed questions of facts are to be adjudicated, the same cannot be done effectively in this public interest litigation. This Court cannot act as a fact finding authority while exercising writ jurisdiction. The first Respondent is the appropriate person to enquire into such matters after securing the necessary material. Thus, this Court is of the opinion that the interest of justice will be met if the Petitioner is directed to file his representation before the first Respondent - Chief Secretary of State of Karnataka, containing all relevant particulars so as to enable the first Respondent to enquire into and take appropriate action in the matter. By the said process, no prejudice or injustice will be caused to any of the parties, including the Petitioner. Accordingly, the following order is made:

Petitioner is permitted to file his representation containing adequate particulars, before the first Respondent, within six weeks from this day. If such a representation is made, the same shall be considered by the first Respondent in accordance with law, within four months thereafter.

Petition is disposed of accordingly.