

(2014) 12 GUJ CK 0085
In the Gujarat High Court
Case No : Writ Petition (PIL) No. 144 of 2013

Naranbhai Rajabhai Bheda

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 01-12-2014

Acts Referred:

Citation : (2015) CriLJ 956

Hon'ble Judges : V.M. Sahai, Acting C.J.; R.P. Dholaria, J

Bench : Division Bench

Advocate : Vijay H. Nangesh, Advocates for the Appellant; Vandan Baxi, A.G.P. and H.S. Munshaw, Advocates for the Respondent

Judgement

R.P. Dholaria, J.—We have heard Mr. Vijay Nangesh, learned advocate for the petitioner, Mr. Vandan Baxi, learned Assistant Government Pleader for the respondents Nos. 1 to 4 and 7, Mr. H.S. Munshaw, learned advocate for the respondents Nos. 5 to 6. The petitioner, by way of Writ Petition in the nature of Public Interest Litigation, claimed following reliefs:

"A. Your Lordships be pleased to issue a writ of mandamus or any other appropriate writ, order or direction to take appropriate action against the concerned person/respondents for misappropriate amount and direct CBI or CID (Crime) Gujarat State to reinvestigate the FIR being CR No. 14 of 2012 registered at Porbandar Police Station in the interest of Justice.

B. Your Lordships be pleased to issue a writ of mandamus or any other appropriate writ, order or direction to direct higher rank of the officer to check works done by the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 in Village Bhoddar, Tal. Ranavav, Dist. Porbandar and take appropriate action against the concerned persons in the interest of justice.

C. Your Lordships be pleased, pending admission and final hearing and disposal of this the petition, to give appropriate direction to respondent authority to check all the works done under the Mahatma Gandhi National Rural Employment

Guarantee Act, 2005, in Village Bhoddar, Tal. Ranavav, Dist. Porbandar and place report before this Hon''ble Court in the interest of justice.

D. Your Lordships be pleased to direct the respondent authority to recover public money from concerned persons/officers in the interest of justice.

E. Your Lordships be pleased to direct the respondent authority to produce record and other details and works under the Mahatma Gandhi National Rural Employment Guarantee Act, 2005, in Village Bhoddar, Tal. Ranavav, Dist. Porbandar in the interest of justice.

F. Your Lordships be pleased to direct the respondent authority to decide application of the petitioner dated 2.11.2012, (Annex. G) within some reasonable time and take action against the responsible person in the interest of justice.

G. Your Lordships be pleased to grant such other and further relief(s) as deemed fit in the interest of justice."

2. On issuance of notice, on behalf of the respondents, Shri Ranchodbhai Hadiya, Deputy Superintendent of Police in the Porbandar Rural (Division), has filed affidavit-in-reply. Paras, 5, 6 and 7 of the same, disclose as under:

"5. I am filing the affidavit-in-reply in compliance of the Hon''ble Court's order dated 27.09.2013 and 13.11.2013, I am placing on record the details of the investigation and status as on today of the C.R. No. 114 of 2012.

6. I say and submit that an FIR was lodged by the Taluka Development Officer, Ranavav on 05.03.2012 disclosing the fraud of Rs. 2,533.28, against 4 accused, i.e. the Sarpanch, Talati-cum-Mantri, Technical Assistant and Muster Clerk. Thereafter, detailed investigation was carried out. In the investigation, total 8 accused were identified including the above four, one of which was the Post Master. The total fraud as identified after the investigation is Rs. 7,53,717/- and the charge-sheet was filed to the said effect on 15.01.2013. The copy of the charge-sheet is annexed herewith and marked as Annexure-I.

7. I say and submit that the approximate population of the village is 2200 and all efforts were made to collect as much data as possible during the course of investigation so that the real culprits could be found. Therefore, the FIR which was only pertaining to Rs. 2,533.28 fraud came to be charge-sheeted for Rs. 7,53,717/- against 8 accused in total. I therefore, say and submit that proper and detailed investigation has taken place and even the Sarpanch was charge-sheeted."

3. On going through the aforesaid material on record, the main grievance of the petitioner is that, while carrying NAREGA Scheme, the villagers as well as local authorities have committed wide range of fraud and mis-appropriated the huge government funds for their own use. As narrated above, the complaint is already lodged before the Police Station Ranavav, District Porbandar and an FIR is registered being Crime Register I-14 of 2012 and the investigation is carried out

and on completion of investigation, 8 persons are charge-sheeted. It is also submitted that trial is also likely to be commenced within a short period.

4. Whenever the law has taken its own due course regarding the happening of the incident and criminal machinery has already set into the motion, therefore, no further directions are required from this Court as the criminal proceedings are going on before the competent Court regarding the allegations made in the present petition.

5. In this view of the matter, we deem it proper to observe without going into the merits of the case, as the proceedings are initiated before the criminal Court, this petition is not maintainable and deserves to be dismissed. Hence, the present petition stands dismissed.