

(2016) 06 MP CK 0018
In the Madhya Pradesh High Court
Case No : Writ Petition No. 7093 of 2016

Rajkumar Choudhary

APPELLANT

Vs

State of Madhya Pradesh and others

RESPONDENT

Date of Decision : 16-06-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 3 MPLJ 131

Hon'ble Judges : Shri Rajendra Menon, Acting C.J. and Anurag Shrivastava, J.

Bench : Division Bench

Advocate : Shri Atulanand Awasthy, learned Counsel, for the Appellant; Shri Samdarshi Tiwari, learned Additional Advocate General, for the Respondent

Final Decision : Disposed Off

Judgement

1. Grievance in this Public Interest Litigation is to the fact that respondent No. 6 is a Medical Officer in Civil Hospital Gangev, District Rewa and the allegations made in the writ petition is that respondent No. 6 is misusing his office, is not carrying out duties of Medical Officer properly, is indulging in carrying out actions contrary to the statutory provisions particularly, in violation to the requirement of Medical Termination of Pregnancy Act, 1971 and also in contravention to the requirement of M.P. Drugs (Control) Act, 1949.

2. Inter alia contending that various complaints have been made and in spite of the complaint no action has been taken, this petition has been filed probono and the grievance is that respondents are not taking any action.

3. That apart, it is pointed out that earlier also petitioner had filed a writ petition before this Court in public interest being W.P. No.2308/2010 decided on 12.07.2010 vide Annexure P-1. Even though petitioner was granted liberty to represent to the Principal, Secretary, Health and Family Welfare department and he submitted representation, nothing is done and as respondent is still indulging in the activities, as alleged in the petition, this writ petition has been filed.

4. Shri Samdarshi Tiwari, learned Deputy Advocate General on advance notice, points out that on 12.7.2010, when the matter was taken-up this Court had made an observation that for the relief claimed in the petition a Public Interest Litigation is not maintainable.

5. However, Shri Atulanand Awasthy, learned counsel for the petitioner argued that aforesaid observation was made in the backdrop of relief claimed in the year 2010, praying for transfer of respondent No. 6 to another place and for taking departmental action against him.

6. Having heard learned counsel for the parties and on going through the averments made in the writ petition, we find that except for making vague allegations that respondent No. 7 is indulging in various illegal activities no specific assertion is made to prima facie demonstrate the modus operandi of respondent No. 7. Material documents available on record annexure P-2 to P-10 are certain medical report, prescription and complaint made by petitioner without any specific detail with regard to modus operandi and manner in which the illegality has been committed by respondent No. 7. That being so, in the absence of there being any prima facie material to show any misappropriation or misuse of authorities, we are not inclined to issue any direction in the matter.

7. That apart, if the activities of respondent No. 6 falls in the category of misconduct, misappropriation or any offence punishable under the Prevention of Corruption Act or the criminal law, petitioner has to make a complaint in this regard to Vigilance Organization of State Government, namely the Lokayukt or Economic Offences Wing, apart from the Secretary of Department concerned and these authorities as allotted with statutory power to look into grievance of petitioner, in case a proper complaint in the prescribed form along with affidavit and particulars are made.

8. Accordingly, as in this writ petition proper material and pleadings to demonstrate existence of a prima facie case of misappropriation or misconduct are not available, we are not inclined to issue any mandamus. Instead interest of justice would be met in case petitioner is granted liberty to file a detailed complaint with specific assertion and details of the allegation against respondent No. 6 before the Economic Offence Wing of the State Government or the Lokayukt Organization, so also the Principal Secretary of the Department concerned and we are sure that on such a complaint being made, the authorities will look into the matter.

9. Accordingly, granting liberty to the petitioner to take up the matter in accordance to law by filing a proper complaint with the aforesaid authorities, this petition stands disposed of.

10. Certified copy as per rules.