

(2007) 12 MP CK 0025
In the Madhya Pradesh High Court

Ramashankar Bharadwaj

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 14-12-2007

Acts Referred:

Citation : (2008) ILR (MP) 449 : (2008) 2 MPHT 83 : (2008) 1 MPLJ 439

Hon'ble Judges : A.P. Shrivastava, J;A.K. Gohil, J

Bench : Division Bench

Judgement

A.K. Gohil, J.

Petitioner, who is a public spirited person, social worker and a former MLA from Sheopure, has filed this Probono Publico Petition stating therein that under the scheme of Sarva Shiksha Abhiyan, which was implemented in the State of Madhya Pradesh, the Collectors were appointed as District Mission Director, to provide free education to the children up to 14 years of age and for the betterment and upliftment of the education in District Sheopure, Collector Sheopure has made purchases of 61 Scot Duplicating Machines, 5 Digital Scanner-cum-Printer Digital Duplicator Machines, 5 Computer Interface, 1 Digital Scanner-cum-Printer Digital Duplicator Machine, 1 Computer Interface, 6 Colour Drums for RD Machine, 6 Scot Hot and Cold Roll to Roll Laminating Machines and 6 Scot Data Bind Electrically Operate Heavy Duty Plastic Comb Document Binding Machines, total costing Rs. 57,47,204/-. Those machines were purchased without calling for tenders and without appointing purchase committee, without examining the rates to be quoted by different competitors and the aforesaid machines were purchased from respondent No. 5-Company by Collector, Sheopure and in purchasing the machines no procedure was applied or followed. The purchase orders were passed by the Collector and undue benefit has been given to the Company. The useless machines were supplied, which are not in a workable condition, they are old machines and a fraud has been played with the Government funds. Therefore, the petitioner prayed that the work order be cancelled and machineries be returned back and amount be recovered or the

matter be referred to CBI for enquiry and Competent Authority be directed to take appropriate action against the Collector, Sheopure and he should be removed from that post.

In reply, stand of the State was that the Collector was busy in other work, therefore, he could not properly supervise and there was a coccus of Dr. Suraj Nagar, the then District Project Co-ordinator, Anil Singh Kushwaha, Man Singh Parmar and Dinesh Singh Jadon, they were involved in misutilisation of the public funds, they were also involved in the entire scam and approval of the Collector was obtained on the note-sheet in good faith. When the matter came to his notice, he directed to initiate the legal action against the said four persons. They have been suspended and charge-sheeted. The said four persons also filed petitions challenging their suspension orders but from this reply it appears that the State has not taken any stern action against the erring persons.

In the aforesaid matter this Court on 15-5-2007 directed the Commissioner, Gwalior Division, Gwalior to hold an inquiry against the aforesaid officers and submit the report. In compliance of this Court's order the Commissioner has submitted its report dated 6-11-2007. According to this report, the learned Commissioner has found all the officers guilty. Since the original record was not placed before the Commissioner, therefore, pin-pointed responsibility could not be fixed, but it is mentioned that uptil now no payment of the material purchased has been made to the Company, therefore, it was found that at present the State has not suffered any loss but if the payment is made then certainly the State would suffer heavy loss.

After hearing and from perusal of the aforesaid report of the learned Commissioner, Gwalior Division, Gwalior, it appears that the learned Commissioner has made a detailed inquiry into the matter and has recorded its finding independently and has found Shri Mahendra Singh Bhilala, the then Collector, Sheopure, Shri Suraj Nagar, the then District Project Co-ordinator, Shri Anil Pratap Singh Kushwaha, Asstt. Project Co-ordinator - Finance, Shri Man Singh Parmar, Asstt. Project Co-ordinator - Academic and Shri Dinesh Singh Jadon, Assistant, involved in the aforesaid supplies. The report of the learned Commissioner is an eye-opener in the matter of functioning by the District Collector and other officers under Sarva Shiksha Abhiyan Scheme.

1 Therefore, in view of the aforesaid report, this petition is disposed of with the following directions:

(i) that, a copy of the Commissioner's report be forwarded to the State Government for taking appropriate action against all the erring officers;

(ii) that, the respondents or the State Government shall not make any payment to the respondent No. 5-Company. The State shall be free to return the goods/machineries or may direct the Company to recover the aforesaid amount from the aforesaid officers personally, as the State Exchequer should not be burdened for purchase of such rotten machineries;

(iii) that, the Competent Authority under the State Government, i.e., Principal Secretary of the concerned department will ensure timely and proper disciplinary action against the erring officers including referring the matter to the EOW for inquiry and proper action against them, in accordance with law, within a period of three months;

(iv) that, it is made clear that in future no prime posting shall be given to the erring officers in the district or in any other department in which finance is involved;

(v) that, after taking appropriate action the Principal Secretary of the concerned department shall also submit the compliance report in the Court within four months;

(vi) that, it is expected that the Government will establish a machinery to supervise all these schemes and to monitor the functions of the officers appointed for implementation of the schemes and proper rules and guidelines shall also be framed so that the funds allotted under those schemes may be utilised properly, benefits are received by the beneficiaries and their mis-utilisation is prevented;

(vii) that, it is also expected that the Government will review functions of the officers under Sarva Shiksha Abhiyan Scheme and will ensure that the scheme if beneficial to the masses will continue and shall be managed in the best possible manner so that its fruit may reach to the needy persons;

While disposing off this Public Interest Litigation, we would like to place on record our deep appreciation to Dr. Komal Singh, Commissioner, Gwalior Division, Gwalior, who has conducted independent, fact finding inquiry and submitted its report well in time and assist the Court with full ability and in the best possible manner. A copy of this order be forwarded to the State Government as well as Commissioner, Gwalior Division, Gwalior for action and record.