
(2021) 08 KL CK 0175
In the High Court Of Kerala
Case No : Writ Petition (C) No.5982 Of 2021

Sabu Alex

APPELLANT

Vs

Director, Vigilance And Anti Corruption Bureau Directorate

RESPONDENT

Date of Decision : 27-08-2021

Acts Referred:

Code of Criminal Procedure 1973 — Section 190, 200

Citation : (2021) 08 KL CK 0175

Hon'ble Judges : R. Narayana Pisharadi, J

Bench : Single Bench

Advocate : R.V.Sreejith, G.Maheswary, A Rajesh

Final Decision : Dismissed

Judgement

R.Narayana Pisharadi, J

1. The writ petitioner is said to be a person who has retired after service in the Factories and Boilers Department.

2. The petitioner made Ext.P2 complaint to the Director, Vigilance and Anti-Corruption Bureau (VACB). The allegation in the complaint was that the

Director of Factories and Boilers settled ten complaints of major factories without allowing those matters to reach the competent court through

appropriate proceedings.

3. On the basis of Ext.P2 complaint made by the petitioner, a surprise check was conducted by the VACB at the Directorate of Factories and Boilers.

The Inspector of the VACB, who conducted the surprise check, submitted Ext.P8 report, stating that no irregularity could be found out in the disposal

of the ten cases mentioned in Ext.P2 complaint.

4. Aggrieved by Ext.P8 report, the petitioner has filed this writ petition, seeking

the following reliefs:

i) Issue a writ of certiorari or any other appropriate writ, order or direction, calling for the records leading to Exhibit P8 and quash the same.

ii) To issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondent to discard Exhibit P8 and conduct a fresh enquiry on

Exhibit P1 application as expeditiously as possible, at any rate within a time frame to be fixed by the Hon'ble Court.

and

iii) grant such other reliefs as this Hon'ble Court deems fit and proper in the circumstances of this case including the cost of this Writ Petition.

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It appears that the reference made to Ext.P1 application in the second relief above is a mistake and that what is actually referred to therein is Ext.P2

complaint.

5. Heard learned counsel for the petitioner and the learned Public Prosecutor.

6. It is not clear from Ext.P2 complaint what kind of action against the fourth respondent (the Director of Factories and Boilers) was sought by the

petitioner. There is no specific allegation in Ext.P2 complaint that the fourth respondent had committed any offence under the Prevention of

Corruption Act, 1988.

7. The petitioner has no case that he was a party to any of the ten cases referred to in Ext.P2 complaint. This writ petition is not filed as a public

interest litigation.

8. If the petitioner has got a grievance that the Director, VACB did not take proper action on Ext.P2 complaint with regard to commission of any

cognizable offence by the fourth respondent (the Director of Factories and Boilers), his remedy was not to rush to the High Court and to file a writ

petition against the Director of the VACB. He should have taken appropriate action against the fourth respondent under the Code of Criminal

Procedure, 1973 (for short 'the Code').

9. When information with regard to the commission of cognizable offence is laid with the police but no action in that behalf is taken, the

complainant/aggrieved person has right under Section 190 read with Section 200 of the Code to lay the complaint before the Magistrate having

jurisdiction to take cognizance of the offence. Instead of adopting or availing that procedure, he is not entitled to approach the High Court by filing a

writ petition and seeking a direction to conduct an investigation into the complaint filed by him before the police (See All India Institute of Medical

Sciences Employees Union v. Union of India: (1996) 11 SCC 582, Aleque Padamsee v. Union of India: (2007) 6 SCC 171, Sakiri Vasu v. State of U.P

: AIR 2008 SC 907, Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage : (2016) 6 SCC 277 and M. Subramaniam v. S. Janaki : (2020) 16 SCC

728).

10. The entire law on the above issue has been discussed by this Court in Jude Joseph v. Director General of Police : (2021 (3) KHC 441).

11. For the reasons stated above, the petitioner is not entitled to get any relief in this writ petition.

12. Consequently, the writ petition is dismissed in limine.