

(2020) 06 UK CK 0029

In the Uttarakhand High Court

Case No : Writ Petition (PIL) No. 191 Of 2019

Sonia Beniwal

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 18-06-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 173(8)
Uttarakhand Audit Act, 2012 — Section 9(5)(b)
High Court Of Uttarakhand P.I.L. Rules, 2010 — Rule 3(4), 3(4)(c)
Constitution Of India, 1950 — Article 226

Citation : (2020) 06 UK CK 0029

Hon'ble Judges : Ramesh Ranganathan, CJ; Ramesh Chandra Khulbe, J

Bench : Division Bench

Advocate : Abhijay Negi, Anil Kumar Bisht, Neeraj Garg, Vikas Pande

Final Decision : Disposed Of

Judgement

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/kujkfâ??k","Hkqxrku dh

xbZ /kujkfâ??k","dksVsku ds vuqlkj

Hkqxrku dh

'krsÂ±","fuÃ"kkZfjr

le; ls

iwoZ

Hkqxrku dh

x;h Ã" kujkf'k

1.,"Silori Fire

Equipments

Co.

Dehradun","Fire

Extinguisher","Bill No.-135

dated

28-03-2013

Amount

197100/-,"197100/-,"25 izfrâ??kr

Lkkekxzh dh

liqnZxh

ds le; rFkk

â??ksâ??k

Installation

ds le;","147750/-

(75 izfrâ??kr

vf/kd

Hkwxrku dh

xb

2.,"Halycon

Power

Controller","Audio visual

Equipments","Bill No.-007

dated 30-03-13

Amount

426712/-,"390000/-,"50 izfrâ??kr

lkekxzh

Dh

LkiqnZxh ds le;

rFkk

â??ksâ??k

Installation

ds le;","176644@&

Â¼50

Ã§fr'kr

vfÃ¨kd

Hkqxrku dh

xÃ?

Ã¨kujkf'kÂ½

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Lak0","QeZ dk uke,"fcy

la[;k/ frfFk","oLrq midj.k,"Ã?0

Lka[;k","Hkqxrku dh

xbZ /kujkfâ??k",

1.,"Strategic

Marketing","SM/2012-

13/PI/1249,

dated

30-03-13",HP-color MFPA4,01,85599/-,

,,,HP All in one Desktop,01,28790/-,

,,,HP Laptop Envy X211G004TU,01,72990/-,

,,,HP Mini Laptop,01,21890/-,

,,,UPS 1 KVA,01,5400/-,

,,,HP Laptop Computer Model: G6,01,46999/-,

,,,Norton Antivirus,01,17250/-,

2.,"Halcyon

Power

Controller","006 dated

30-03-13",Amplifier for wall speaker,01,19750/-,

,,,Wireless collar microphone,01,13000/-,

,,,Wooden podium,01,27000/-,

,,,Network Switch:8 port,01,1300/-,
 ,,,Cable and Connector,"01
 lot",22000/-,
 ,,,Wireless mouse,01,4000/-,
 ,,, "Installation, testing & Commissioning", "01
 Job",15000/-,
 3., "Halycon
 Power
 Contoller", "007 dated
 30-03-13", PA wireless amplifier (Ahuja), 01, 11000/-,
 ,,, "Cable and Connectors, Make: Falcon", 01, 5500/-,
 ,,, Installation testing & Commissioning, "01
 Job", 10000/-,
 4., "Audio
 Systems", "Bill No.-
 10217 Dated
 30.03.2013", "Sennheiser microphone model XSW52
 Head Worn", 01, 25800/-,
 ,,, Bose Processor Model- Control SP-24, 01, 84500/-,
 ,,, Wooden Podium Make Custom, 01, 26750/-,
 ,,, Infiniter wireless mouse, 01, 4000/-,
 ,,, "Cable, connectors, ceiling mouse kit", "01
 Job", 24000/-,
 ,,, "Installation, testing and commissioning", "01
 Job", 20000/-,
 5., "Ashmi
 Enviro
 Services", "18, Dated -
 28-03-13", Dosing Pump, 01, 17621/-,
 ,,, Raw Water Tank (1000 Lit), 02, 8810/-,

,,,Electronic Sensor,01,6167/-,
 ,,,RO Water stand,01,6167/-,
 ,,,Installation,,10000/-,
 6.,"Uttarakhan
 d Traders","2207,
 Dated-30-3-
 13","Kent Grand Plus (RO+UV+UF+TDS
 Controller) with 8 lit. Storage.",01,17000/-,
 7.,"Wave
 Solution","Bill not
 available",Payroll and Fee Management software,01,50000/-,
 8.,"Silori Fire
 Equipment
 Co.
 Dehradun","135/ 28-
 03/2013",Supply of 5kg ABC Fire Extinguisher,17,54000/-,
 ,,,Supply of Co2 4.5kg Fire Extinguisher,01,6850/-,
 ,,,,dqy
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affected if it fails to intervene. As the afore-extracted allegations are serious, and cannot be brushed aside, we are satisfied that an inquiry should be" ,,,,,,

caused into these allegations, and action taken pursuant thereto in accordance with law." ,,,,,,

12. In the present case, the allegations relate to mis-appropriation and mis-utilization of public funds. As this Court can even treat letters addressed to" ,,,,,,

it, or newspaper reports, as Writ Petitions filed in public interest, we see no reason not to cause an inquiry into these serious allegations merely" ,,,,,,

because a criminal investigation has been caused in the matter, and a Final Report is said to have been filed by the Investigating Officer." ,,,,,,

13. Even if the Uttarakhand Audit Act, 2012 does not apply to the Society of which the fifth respondent is the Secretary, mis-utilization of public funds" ,,,,,,

would, undoubtedly, require an inquiry to be caused, and action taken pursuant

thereto in accordance with law. Accepting the submission of Mr." ,,,,,,

Neeraj Garg, learned counsel for the fifth respondent, that, in the absence of a specific provision either in the Uttarakhand Audit Act, 2012 or" ,,,,,,

elsewhere, no inquiry can be caused, would enable persons, in charge of establishments which receive public funds, to misappropriate such funds and" ,,,,,,

yet claim immunity from inquiry, and action being taken pursuant thereto." ,,,,,,

14. We may not be understood as having expressed any opinion, on whether or not the findings in the Inquiry Report are true, as it does appear that" ,,,,,,

both the earlier Audit Report and the findings of the Inquiry Committee were recorded behind the back of the fifth and the sixth respondents, and" ,,,,,,

without giving them an opportunity of being heard. ,,,,,,

15. Since respondents 5 and 6 are entitled to put forth their case, and to contend that the findings in the Inquiry Report are not true, it is but appropriate" ,,,,,,

that, before any action is directed to be taken against them, they be given an opportunity of being heard, and to rebut the findings recorded both in the" ,,,,,,

Audit Report and in the Inquiry Report. In summary proceedings, under Article 226 of the Constitution, this Court would not take upon itself the task" ,,,,,,

of examining the truth or otherwise of the allegations regarding mis-utilization or mis-appropriation of public funds, as these are all matters for the" ,,,,,,

Government to enquire into, and take action thereafter in accordance with law. We see no reason, therefore, to examine the rival contentions on" ,,,,,,

merits. ,,,,,,

16. We were initially inclined to direct the Director, Higher Education to take action in accordance with law, within a specified time frame, after" ,,,,,,

affording an opportunity of being heard to both respondents 5 and 6. Since Mr. Neeraj Garg, learned counsel for the fifth respondent, states that the" ,,,,,,

Director, Higher Education is not the competent authority, we direct the first respondent-Principal Secretary, Higher Education to give both" ,,,,,,

respondents 5 and 6 an opportunity to rebut the findings of the Inquiry Report, and place such material as they deem fit in support of their claim that" ,,,,,,

these allegations are false; and then pass a reasoned order dealing with the contentions urged on behalf of respondents 5 and 6. ,,,,,,

17. In case the first respondent is satisfied, thereafter, that action is required to be taken, he shall then take necessary action in accordance with law." ,,,,,,

The entire exercise culminating in a reasoned order being passed, and action

being initiated thereafter, shall be completed with utmost expedition and," ,,,,,,
in any event, within four months from the date of production of a certified copy
of this order." ,,,,,,

18. The Writ Petition is, accordingly, disposed of. No costs." ,,,,,,