
(1999) 10 MP CK 0001

In the Madhya Pradesh High Court

Case No : Writ Petition No. 781 of 1999

Suneel Kumar Jain

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 15-10-1999

Acts Referred:

Madhya Pradesh Lokayukt Evam Up-Lokayukt Adhiniyam, 1981 — Section 17

Citation : (2000) 2 MPLJ 434

Hon'ble Judges : Faizanuddin, J

Bench : Single Bench

Advocate : S.B. Mishra, with J.P. Mishra, for the Appellant;

Final Decision : Dismissed

Judgement

Fakhruddin, J.

The petitioner who is an employee of the State Government, has filed this petition against: (i) the State of Madhya Pradesh through the Secretary, Ministry of Forests; (ii) the Conservator of Forests, Bhopal Circle, Bhopal; (iii) the Divisional Forest Officer (General) District Vidisha; (iv) Lokayukt Sanghathan of Madhya Pradesh, Bhopal; (v) N.S. Bhandari, Sub-Divisional Forest Officer, Vidisha (presently posted as S.D.F.O. (Production) at Mandla, M.P.) and (vi) C.N. Pachori, Vanpal, Forest Division, Vidisha.

In para 3 of the petition, it is contended that the petitioner is aggrieved by the action of the private respondents in tampering with the evidence and "challan" papers of the criminal case registered by the petitioner and in helping the "culprits" to get them discharged, and is also aggrieved by the action of the respondents in not taking any action against the "culprits" in the matter despite submission of representations in this behalf along with relevant documents.

The petitioner in the petition has contended that on 11-4-1997 in the night at 02.00 hours POR was registered by him against one Jahangeer Khan s/o Sabir Kuli Khan and 6 others and made seizure of tractor trolley and Neel Gai. It is

contended that investigation of the case was made by Shri R.D. Sharma, Vanpal and on his proceeding on leave, it was made by C.N. Pachori, respondent No. 6. It is also contended that one Asgar Ali had applied for release of the seized tractor trolley on "Supurdginama." Learned Judicial Magistrate First Class, Vidisha, passed an order on 18-6-1997 directing release of the tractor trolley on "Supurdginama" on his furnishing personal bond in the sum of Rs. 3,00,000/- . The Forest Department challenged this order before the Sessions Judge in Criminal Revision No. 93/97, decided on 4-9-1997, wherein the order passed by the Judicial Magistrate First Class, Vidisha, was set aside. The petitioner submits that thereafter the "Challan" (Annexure P/11) was filed. It is contended that the trial Court discharged the accused at the stage of charge. The discharge order has not been filed with the petition. In para 5. XIII the petitioner contended that he made detailed representations to the respondents including the Lokayukt of Madhya Pradesh, copy whereof has been filed and marked as Annexure P/12. The petitioner further submits that the original documents were destroyed and the accused were saved by the authorities of the department and thereby breach of public trust has been committed and fraud has been played upon the Court of law yet from top to bottom the authorities have not taken any action. It is prayed that a writ be issued directing the first respondent and the Lokayukt Sanghathan of Madhya Pradesh to hold an enquiry into the matter and to initiate criminal and civil proceedings against them in the matter, to direct the respondents to reopen the case registered by the petitioner and to command the fifth and sixth respondents to produce original "challan" papers in the trial Court.

Shri S.B. Mishra, learned Senior Advocate appearing for the petitioner was asked to address as to why the Lokayukt Sanghathan of Madhya Pradesh has been made a party. His attention was drawn to the statute, namely, the Madhya Pradesh Lokayukt and Up-Lokayukt Adhiniyam, 1981 (for short, the "Act") enacted by the State Legislature. In exercise of the powers conferred u/s 17 of the Act the Madhya Pradesh Lokayukt and Up-Lokayukt (Investigation) Rules, 1982 (for short, the "Rules") have been framed. The procedure for filing complaint is given in Rule 6 of the Rules. Rule 6 of the Rules is quoted below:

"6. Complaint. --(i) A complaint shall be signed by the complainant and shall be made in Form I and in case the complaint is against a Minister or Secretary, it shall be accompanied by an affidavit in Form II in support of its contents. In case of complaints against other categories of public servants, the complainant is required to submit affidavit in Form II only if directed to do so by the Lokayukt or the Up-Lokayukt.

(ii) A complaint may be presented to the Secretary to the Lokayukt or be sent under registered cover.

No complaint at all as prescribed under Rule 6 of the Rules had been made to the Lokayukt. In para 5.XIII the allegation is only to the effect that the petitioner made detailed representations to the respondents including the Lokayukt of Madhya Pradesh vide Annexure P/12. Learned Senior Advocate was pointedly

asked as to whether any complaint as prescribed under Rule 6 of the Rules has been made to the Lokayukt. The Learned Counsel persisted in his reply that the representation was made. The representation cannot be treated as complaint required to be made filed under Rule 6 *ibid*.

A perusal of Annexure P/12 shows that it is addressed to: (i) the Principal, Secretary, Forest Department, Government of Madhya Pradesh, Mantralaya, Bhopal; (ii) the Conservator of Forests, Bhopal Circle, Bhopal; (iii) the Divisional Forest Officer (General), District Vidisha, and (iv) Lokayukt Sanghthan, Madhya Pradesh, Bhopal. There is no averment in the petition as to whether the representation was sent by ordinary post or by registered post. No postal receipt or postal acknowledgment has been filed.

Lokayukt Sanghthan in the State of Madhya Pradesh is an institution in itself. The persons holding the office of Lokayukt and Up-Lokayukt have status, they discharge their functions as per the Act, the Rules and the relevant law. It is noticed that the petitioner has not treated the Lokayukt Sanghthan with respect and even while forwarding the representation (Annexure P/12) the Lokayukt Sanghthan has been casually mentioned. The mere mention of the name of the Lokayukt Sanghthan, the manner in which the representation has been made and the averments made in the petition go to show that the petitioner has not shown due regard to the institution of Lokayukt. The process of the Court for issuance of writ cannot be abused in such a manner against any institution.

On the petitioner's own showing the "challan" was filed before the Court as mentioned in para 5. XII. The trial Court discharged the accused at the stage of framing of the charge itself. The petitioner has not filed a copy of the discharge order. The petitioner, on the other hand, has alleged in Ground B that fraud has been played upon the Court of law and the State as well, and in order to save the "culprits" the entire record was destroyed by the respondents in a very planned and calculated manner and they have succeeded in getting the accused discharged at the stage of framing of the charge itself, which goes to show that the authorities from top to bottom are hands in glove with the "culprits". In Ground D it has been alleged that false "challan" papers were filed before the Court below to enable the "culprits" to play their game for getting them discharged at the stage of the charge itself, and this goes to show that the authorities are not having clean hands and if enquiry is not made by independent body then truth cannot prevail. In ground E it is stated that it is a known factor that international smugglers operate in the State of Madhya Pradesh and the animals are killed and their leather and other parts of the body and their mummies are sold in the international markets at a very high rate and this is happening at the instance and with the help of the respondent officials, and thus it is contended that national heritage is being destroyed by corrupt officials and the honest officials like the petitioner are placed under suspension.

A perusal of the facts and grounds of the petition shows that the petitioner has used words "culprits", "corrupt officials", etc. against the respondents. The

petitioner has made reckless accusations against the respondents. Such pleadings are not only obnoxious but vexatious. Against respondents Nos. 1, 2, 3 and 4 absolutely there are no allegations. In any case nothing has been alleged against the Lokayukt Sanghthan. The grounds of the petition are not only general but scandalous also. The allegations are not made against any particular respondents. Nothing has been demonstrated to show that the Lokayukt Sanghthan is in any way concerned. In fact, what is stated in the Grounds, especially Grounds A, B, D and E, is indicative of the fact that the petition has been recklessly drafted.

During the course of arguments, attention of the learned Senior Counsel was drawn to these pleadings and the Learned Counsel was asked to explain but he could not offer any plausible explanation. The Counsel, however, expressed that he is very sorry. The counsel also stated that he had not settled the pleadings, which has been done by the junior lawyer filing the petition.

An Advocate in our set-up practices not only law, but also the science of the correct use of the language. The words are indeed his tools with which he works. His is accordingly a word-bound profession. The language he uses must, therefore, be precise, dignified, respectful and persuasive, free from injudicious annoyance or offence. Being entrusted with the duty and privilege of securing for his client justice according to law an Advocate is entitled to appropriate freedom and scope in criticising the actions of authorities/public servants, but this privilege does not extend to imputing extraneous unjudicial motives to the authorities/public servants which cannot be substantiated or held to be reasonably justified on the record. Being an officer of the Court it is the duty of the Advocate to uphold the dignity and prestige of the institution to which he belongs. It is also his professional privilege and duty to criticise consistently with his loyalty to his client's cause, which he is engaged to plead in accordance with law.

Having considered the entire material or record, in the opinion of this Court the petition deserves to be and is hereby dismissed with costs which is quantified at Rs. 1,000/- payable to the State.