
(2012) 10 RAJ CK 0039
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6355 of 2012

Suo Moto

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 10-10-2012

Acts Referred:

Citation : (2012) 10 RAJ CK 0039

Hon'ble Judges : Vineet Kothari, J;Dinesh Maheshwari, J

Bench : Division Bench

Advocate : Ashok Chhangani, Mr. Pankaj Sharma and Mr. Vipul Singhvi, for the Appellant; G.R. Punia and AAG with Mr. Mahendra Choudhary, Assistant to AAG, Mr. R.S. Saluja, Jodhpur, Mr. Narpat Singh, Additional DCP, Jodhpur, Mr. Karni Singh, ACP (Traffic-East), Jodhpur, Mr. Ratan Lahoti, Commissioner, JDA, Jodhpur, Mr. Harji Lal Atal, Secretary, JDA Jodhpur, Mr. M.S. Rawal, Director Engineering, JDA Jodhpur, Ms. Shashi Sharma, Dy. Commissioner, JDA, Jodhpur, Mr. Jugal Kishore Meena, Commissioner, Jodhpur, Mr. M.L. Nehra, Commissioner, Officiating CEO, Jodhpur, Mr. Mahesh Sharma, Superintending Engineer, Jodhpur, Mr. Jagdish Amravat, DTO, Jodhpur, Mr. Bhanwar Lal, Additional RTO, Jodhpur, Mr. Sanjeev Mathur, Executive Engineer-City, PWD, Jodhpur, Mr. Yogesh Mathur, Kanhaiyalal Chouhan, Arvind Kumar Mathur, Rakesh Parihar, Alok Malviya, Executive Engineer(s), JDA, Jodhpur, Mr. T.S. Rawal, Director, PHED, Jodhpur, Mr. T.C. Chhajerh, Superintending Engineer, PWD, Jodhpur, Mr. Mahesh Sharma, Superintending Engineer, Jodhpur and Mr. K.L. Mathur, Superintending Engineer, National Highway, Jodhpur, for the Respondent

Final Decision : Dismissed

Judgement

1. Upon taking up of this matter, the learned amicus curiae Mr. Pankaj Sharma submitted that after the yesterday's hearing, some of the police officers present in the Court did attempt to confer with him as regards the things that transpired before the Court. Upon our taking exception on any of the officer trying to over-reach and to confer with the amicus curiae, an officer of the Court, Mr. Karni Singh, ACP (Traffic-East), Jodhpur and Mr. Narpat Singh, Additional DCP, Jodhpur have stated their apologies in writing before us. The apologies are taken on

record. Passing of appropriate orders in this regard is deferred and shall be considered on the next date. Upon our taking exceptions that the promises as made before the Court repeatedly have not been kept and requisite work has not been executed as would appear from all the reports, whether made by the Departments concerned or by the amicus curiae and upon our taking further exception on the fact that even the meeting of Jodhpur Traffic Control Board was held only on 28.09.2012 after earlier date of hearing i.e., 13.08.2012 when assurance was given before the Court for executing the work before 8th October 2012, Mr. Ratan Lahoti, Commissioner, JDA, Jodhpur has made submissions that though no minutes were drawn but meetings were held by the Jodhpur Traffic Control Board on weekly basis. Upon our still expressing serious reservation on the failure on the part of the Departments in executing the work concerned, the Commissioner, JDA has placed before us the minutes of the meeting held today itself at 10:30 a.m. in his Chambers.

2. Per the said minutes, in the first place, it has been admitted that as per the orders of this Court in DBCWP No. 6073/1993, width of Pal Road is required to be maintained at 200 ft. It has further been resolved about execution of all the relevant work with strict quality control and for that matter, a Committee comprising of four senior engineering officers has been constituted which is as under:-

(1) Mr. T.S. Rawal, Director, PHED, Jodhpur

(2). Mr. T.C. Chhajerh, Superintending Engineer, PWD, Jodhpur

(3). Mr. Mahesh Sharma, Superintending Engineer, Municipal Corporation, Jodhpur

(4). Mr. K.L. Mathur, Superintending Engineer, National Highway, Jodhpur

3. All the aforesaid officers are present in the Court. The Commissioner, JDA and the officers present in the Court assure that the major part of the work concerned shall be accomplished with all quality control by the last week of this month.

4. As regards the complaint cases said to have been filed by the Municipal Corporation, Jodhpur in its report, the submissions appear to be vague and uncertain. The Municipal Corporation is required to state all specific particulars as regards such complaint cases, their status and the progress.

5. It is submitted that the road work within jurisdiction of the Municipal Corporation is also going on. The requirement of putting information boards on every particular road as per the order passed yesterday equally applies to all the authorities including the Municipal Corporation; and in relation to every single road where the work is being executed by the authorities, whosoever they be, "information boards" should be put in any case by the end of this day and compliance ought to be reported by tomorrow in writing.

6. So far the application (IA No. 13195/2012) seeking modification of the part of

the order dated 13.08.2012 whereby it was specifically made clear that none of the officers, who were present before the Court on 25.07.2012 and were present on 13.08.2012 representing different authorities/departments shall be transferred without seeking specific orders from the Court is concerned, it needs hardly any emphasis that such an order was passed in the given set of circumstances where it was pointed out by the amicus curiae during the course of hearing that a few persons before the Court on earlier occasion who made assurances before the Court have since been transferred to different posts. In this matter, where assurances have been taken on record and those assurances were yet to be fulfilled, we were clearly of the view that neither the Government can be permitted to change such officers nor officers could leave the posting and thereby rather frustrate the assurances and to leave all their duties qua this particular matter to be taken care of by any other incumbent and they being not answerable to assurances made before the Court. On that date, after this Court's expression of dissatisfaction and reservation, the Government passed the orders putting the officers back in additional charge who had earlier been transferred and we put on record appreciation that the Court's anxiety was properly understood by the Government.

7. For the submissions which are now sought to be made on behalf of the Government, again, this Court is constrained to express reservation that when specific assurances have been made for carrying out the public utility works and those assurances are yet to be fulfilled by the concerned officers, as to why at all, there would be an anxiety with the Government to change the manning of the posts concerned. This Court reiterates the order dated 13.08.2012 and we are clearly of the view that until promises are fulfilled, the officers present before the Court, who are directly answerable for the assurances made, which practically amounts to an undertaking before the Court, cannot be permitted to shy away from their duties and responsibilities. As per the submissions made, if at all the work is under progress, obviously the officer would be assumed to be in the process of fulfilling the promises made. There appears no reason that there could be any other administrative exigency more than the service to the public at large for which, all the Government officers are supposed to be acting as public servants. In any case, when assurances have specifically been made to the Court and the persons are said to be in process of total or at least substantial fulfillment of those assurances, the attempt to change the officers neither sounds to reason nor could be appreciated.

8. It may, of course, be observed that on 10.9.2012 in this very matter, the Court did consider an application moved on behalf of Mr. Karni Singh, ACP (Traffic-East), Jodhpur for being relieved, as he was said to have earned incentive promotion; and this Court did grant the application subject to the observations that he would be relieved only upon his successor joining and with the further observation that the reliever would also be answerable to all the aspects related with this matter when joining in place of him and for that matter, it was also made clear that if anything of shortcoming or laxity would be found on the part

of the present incumbent, appropriate orders would be considered, if necessary. So far other officers are concerned, as at present, when we find that the assurances made before this Court on 13.08.2012 have not been fulfilled and substantial part of public utility work, so as to ensure smooth flow of traffic in Jodhpur, is yet to be done, we see no reason as to why any order be passed permitting any officer or incumbent to be relieved. The application, as at present, stands rejected.

9. However, it is made clear in relation to Mr. Narpat Singh, who had in fact appeared earlier as link officer in place of DCP (Traffic) that if any request is to be made for being relieved, it shall be permissible for him to move proper application that shall be considered in accordance with law.

10. As regards, Jodhpur Traffic Control Board, we are thoroughly dissatisfied with the manner of its functioning. But then, if at all, the promises made to this Court and the statutory duties are to be fulfilled by the Board, it is required to be made effective and functional to be worth its name as a "Functional Board". The incomplete attendance in the meeting of the Traffic Control Board on 28.09.2012 leaves too many things to be desired and the impression is that several of the authorities, particularly who have not attended the meeting, are not serious of the work of Traffic Control Board.

11. Having regard to the circumstances, we consider it appropriate to direct that the Commissioner, JDA, who is the Chairperson of the Traffic Control Board shall mandatorily convene the meetings of the Traffic Control Board every Friday starting from 12th instant on weekly basis at 4:30 p.m. in his Chambers without fail; and he may convene the meetings even earlier than that, if so required. As regards the composition of the Traffic Control Board, we consider it proper to observe that all the members ought to attend the meetings including the District Magistrate or his nominee, the Commissioner of Police, Jodhpur or his nominee, and so also the Chief Executive Officer of Municipal Corporation or his nominee.

12. It is informed that two persons to be nominated have not been nominated to the Board. While leaving it open for the Chairperson of the Authority to nominate such persons at the earliest but having regard to the circumstances of the case and the requirement of the public utility work, we consider it proper to direct that until further orders of this Court, in such meetings of Traffic Control Board, Jodhpur, at least two special invitees shall be there to assist and advise the Board in properly taking its decision.

13. The learned counsel Mr. R.S. Saluja, who is otherwise representing the Municipal Corporation, shall be one of those special invitees and Mr. L.K. Purohit, the learned counsel of this Court shall be the other special invitee in such meetings. Though reluctantly, we defer this matter; to be taken up on 0.11.2012.

Put up on 02.11.2012.