

(1995) 09 DEL CK 0033

In the Delhi High Court

Case No : Civil Writ Appeal No. 4101 of 1993

Surgical Electronics and Another

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 21-09-1995

Acts Referred:

Citation : (1995) 4 AD 119 : (1995) 60 DLT 359

Hon'ble Judges : D.P Wadhwa, J;Cyriac Joseph, J

Bench : Division Bench

Advocate : M.K. Bajaj, K.T.S. Tulsi, Madan Lokur and P.P. Tripathi, for the Appellant;

Judgement

Cyriac Joseph, J.

(1) This writ petition relates to the alleged irregularities in the implementation of the Government of India's Scheme of Assistance to Disabled Persons for purchase/fitting of aids/appliances (for short, "the Adip Scheme") by the Artificial Limbs Manufacturing Corporation of India, Kanpur (Respondent No. 2). The petitioners are two "Implementing Agencies" nominated by Respondent No. 2. They pray for the intervention of this Court under Article 226 of the Constitution of India to compel the Union of India (Respondent No. 1) to implement an order stated to have been passed on 19.4.1991 by the Minister of State for Welfare and also to restrain Respondent No. 1 from getting the Adip Scheme implemented through Respondent No. 2 and from giving any grant/financial aid to Respondent No. 2 under the said Scheme.

(2) The petitioners have produced a copy of the Adip Scheme. The main objective of this Scheme was to assist needy physically handicapped persons in procuring durable, sophisticated and scientifically manufactured modern standard aids and appliances that could promote their physical, [soda] and psychological rehabilitation. The scheme was to be implemented through centres run by Companies registered under the Companies Act, Registered Societies, Trusts or

any other institutions recognised by the Ministry of Welfare for the purpose. According to the petitioners, the implementation of the Adip Scheme was entrusted to approved agencies including Respondent No. 2 which is a Government of India undertaking, wholly administered and controlled by Union of India (Respondent No. 1). Respondent No. 2 started implementing the Adip Scheme through Limb Fitting Centres and other agencies who can provide limb fitting services, who were selected and nominated as Implementing Agencies. The petitioners have produced a copy of the instructions published by Respondent No. 2 for the purpose of implementing the scheme. The petitioners are two of the Implementing Agencies appointed by Respondent No. 2. It is alleged that even though at the beginning things moved smoothly, with the passage of time. Respondent No. 2 started frustrating the purpose of the scheme and became a den of corruption. Senior officers of Respondent No. 2 and some officials of Respondent No. 1, in connivance with each other, are "siphoning of the major part of the grant/finance in their personal pockets. It is further alleged that when the petitioners came to know about the corruption and malpractices in the offices of the respondents, they started complaining about it to the Ministry and other concerned persons. Members of Parliament raised questions in the Parliament and also sent letters to the Government about the corruption in the offices of the respondents and misuse of Government money. This, according to the petitioners, resulted in the withholding of legitimate dues to the petitioners. The petitioners were also stopped by Respondent No. 2 from implementing the Adip Scheme on flimsy and baseless grounds. It is further alleged that the petitioners were victimised and singled out in the matter of implementing the scheme. Though the petitioners submitted to the Respondent No. 2 bills, in respect of the services rendered by them. Respondent No. 2 did not make the payments inspire of repeated requests and demands. The petitioners were directed by Respondent No. 2 to suspend the implementation of the Adip Scheme since allocated funds had already been fully utilised. Even after Respondent No. 2 received further grants from Respondent No. 1, Respondent No. 2 did not pay the pending bills submitted by the petitioner or give permission to organise programmes under the Adip Scheme. According to the petitioners, the complaints made by agencies like the petitioners and by the Members of Parliament led to the ordering of four inquiries into the allegations of malpractices, corruption, mismanagement and embezzlement of funds in the offices of the respondents. The inquiries were ordered by the Minister in charge of the Ministry of Welfare at the relevant time. It is also stated in the petition that the Cbi is also investigating the matter. According to the petitioners the conclusion of all the inquiries was that some officials of Respondent No. 2 were guilty of corruption, malpractices and mismanagement. Thereupon the Minister of State in the Ministry of Welfare, Government of India, passed an order on 19.4.1991, directing three things:

(I)that the Adip Scheme may be operated directly through Ministry of Welfare by providing funds through Implementing Agencies according to their performance

in the past three years. (ii) that Rules may be framed and suitable deposits obtained from the Implementing Agendas to safeguard against the malpractices by the agencies. (iii) that the Managing Director, the General Manager and the Senior Financial Manager of Respondent No. 2 may be placed under suspension.

The petitioners have produced as Annexure "N" what is purported to be a copy of the above mentioned order dated 19.4.1991. According to the petitioners, even though the said order dated 19.4.1991 of the Minister of State was later on adopted by the Ministry of Welfare, Government of India, it was not implemented due to the nexus between the corrupt officials of Respondent No. 2 and of those in Ministry of Welfare. It is further stated that after the petitioners and other persons made great efforts to get the order dated 19.4.1991 implemented, one of the three directions has been implemented inasmuch as the petitioners, the Managing Director and the General Manager of Respondent No. 2 have been placed under suspension in March/April, 1993 and the Senior Financial Manager has himself resigned. The other two directions in the order dated 19.4.1991 are yet to be implemented.

(3) The petitioners have also made some personal allegations against Respondent No. 3, Shri Mukhtiar Singh, Private Secretary to the Minister, Ministry of Welfare, Government of India. It is alleged that Respondent No. 3 is one of the officers in the Ministry of Welfare who were responsible for the corruption, malpractices, mismanagement, etc., in the offices of the respondents. The petitioners also hold him responsible for withholding the legitimate dues of the petitioners and for not allowing them to implement the Adip Scheme. It is further alleged that Respondent No. 3 has openly said that he would ruin the petitioners and would not allow them to receive their legitimate dues or to start implementation of the Adip Scheme.

(4) This Court issued notice to the respondents to show-cause as to why rule nisi be not issued. All the three respondents have filed counter affidavit/replies to the show-cause notice.

(5) In the counter affidavit filed on behalf of Respondent No. 1 a preliminary objection has been raised regarding the maintainability of the writ petition in view of the action of petitioners in filing "a photocopy of an official noting unauthorisedly obtained from a Government file". According to Respondent No. 1, the petitioners have resorted to illegal, unethical and undesirable practice and have thereby disentitled themselves from claiming any relief in equity jurisdiction under Article 226 of the Constitution of India. It is also alleged that the petitioners have violated the provisions of the Official Secrets Act. It is further stated that the petitioners had submitted allegedly false and fraudulent bills for the period from 26.12.1990 to 9.3.1991 and that it was brought to the notice of Respondent No. 1 who referred the matter to the Central Bureau of Investigation. The present writ petition is merely a counter blast to thwart investigation into criminal offences which might be revealed against the petitioner by the CBI. The petitioner by making wild allegations is only trying to

deflect the attention away from the Cbi probe. It is also contended that since the petitioner has approached this Court with an oblique motive, the present writ petition ought to be dismissed.

(6) It is also averred in the counter affidavit that Respondent No. 1 has already taken stern measures against the officials of Respondent No. 2 against whom a prima facie case of misconduct was made out and has also initiated criminal action through the CBI. Regarding implementation of the note dated 19.4.1991 of the Minister of State, it is contended that the file did not end with the note dated 19.4.1991. The matter has been examined at various levels and departments. All decisions taken in this behalf at all levels including at the level of the Welfare Minister have been faithfully implemented. The allegation made by the petitioner that the note dated 19.4.1991 was not implemented due to deep rooted nexus between corrupt officials of the 2nd respondent and the Ministry of Welfare is vehemently denied, describing it as totally baseless and false.

(7) In the reply affidavit of the 2nd respondent also, strong exception is taken to the filing of Annexure "N", which is stated to be a photocopy of a noting on a confidential and privileged file. It is contended that such a document cannot be made the foundation for a writ petition. Regarding the non-payment of the bills submitted by the petitioners, it is stated in the reply affidavit that there were serious doubt about the genuineness and bonafides of those bills. It was doubted that the bills were fraudulent. The petitioners were the distributors of the 2nd respondent for the various aids and appliances for disabled persons. It was seriously doubted that a substantial quantity of the aids and appliances taken from the 2nd respondent were sold to the handicapped persons by the petitioners for full value instead of selling them at subsidised rates. Thereafter, fraudulent claims were made for subsidy. The reply affidavit also refers to the enquiry by-the Cbi into the fraudulent nature of the bills submitted by the petitioners. It is also alleged that the object of the writ petition is to thwart the Cbi enquiry. It is further contended that the dispute between the petitioner and the 2nd respondent is a civil dispute raising highly disputed questions of fact for which evidence will necessary have to be taken. Hence, according to the 2nd respondent the writ petition is not maintainable.

(8) It is also contended by the 2nd respondent that whether or not the Adip Scheme should be implemented or whether the scheme should be done by the 1st respondent or by the 2nd respondent is a matter of policy decision and it does not confer any justiciable right upon the petitioners. Respondent No. 2 has vehemently denied the charges of corruption and malpractices against it and its officers. In reply to the allegations relating to non-payment of dues to the petitioners, the 2nd respondent has taken the stand that the bills and claims remaining unpaid are those whose genuineness is doubted and is under scrutiny and investigation. The reply affidavit contains details indicating the allegedly fraudulent claims made by the petitioners.

(9) In the counter affidavit filed by Respondent No. 3, he has categorically

denied a)l the allegations against him contained in the writ petition. According to him, the allegations are vague and totally false.

(10) The petitioners have filed rejoinders to each of the reply/counter affidavits, filed by Respondent Nos. 1,2 and 3. In the rejoinder affidavit, the petitioners have mainly reiterated and clarified their stand in the petition.

(11) Before we proceed further the controversy over the filing of Annexure "N" has to be resolved. In their counter affidavits. Respondents I and 2 have stated that Annexure "N" is a photocopy of a note recorded in the Government file by the Minister of State, Ministry of Welfare on 19.4.1991 and that by filing photocopy of an official noting unauthorisedly obtained "from a Government file amounts to violation of the provisions of the Official Secrets Act. Respondents I and 2 have also stated that they reserved their right to take action against the petitioners in this regard. In the rejoinder affidavit filed by the petitioners in reply to the counter affidavit filed by Respondent No. 1, they have denied the allegation that they had unauthorisedly obtained copy of the official noting from a Government file. According to the petitioners, the document produced as Annexure "N" is "the decision passed by the Minister of Welfare and the same is not secret". It is further stated that the petitioners received the typed paper containing the decision dated 19.4.1991 passed by the Hon"ble Minister of Welfare by post, the photocopy of which has been filed by the petitioners along with the writ petition as Annexure "N".

(12) The respondents have not denied the existence or correctness of the noting dated 19X1991 of the Minister of State in the relevant Government file. In fact, from the Government file placed before us, we find that what has been produced as Annexure "N" is a correct reproduction of the contents of the note dated 19.4.1991 (barring some minor variations). But what has been produced is not a photostat copy of the relevant page in the Government file. It is not necessary to decide whether the petitioners have violated the provisions of the Official Secrets Act by filing Annexure "N" document, because, there is no prayer to take or cause action against the petitioners under the Official Secrets Act. If respondents are of the view that the petitioners have violated the provisions of the Official Secrets Act, it is up to them to take appropriate action in the matter.

(13) However, it needs to be examined whether Respondents 1 and 2 are justified in contending that the conduct of the petitioners in filing Annexure-N document disentitles them for any relief in this writ petition. As already pointed out, though Annexure-N document is not a photostat copy of the relevant page in the Government file, it is almost a verbatim copy of a noting in the notes file of the Government. It is not a copy of any order issued by the Government. It is not copy of something published or communicated to the petitioners or to anyone else. The noting was not meant for publication or communication. The petitioners are not persons who can claim access to the relevant Government file. The persons who have access to or deal with the Government file are not expected to or authorised to make copies of such nothings and supply to others.

If they do so, it is an act of indiscipline and a serious violation of their Conduct Rules. Thus, what is produced by the petitioners is an unauthorisedly made copy of a noting in the Government file meant only for internal use. The legality or propriety in producing such a document to form the basis for the writ petition is the issue raised by the respondents. The petitioners have stated that they got a typed copy of the noting dated 19.4.1991 by post. Though this statement can be taken only with a pinch of salt, for the purpose of this case we are not considering how the petitioners came into possession of the document. There may be different ways of getting unauthorisedly taken copies of the nothings in a Government file. The real question is whether one should be permitted to produce such unauthorised copies and to rely on them in a writ petition. We have no doubt in our mind that it should not be permitted. The Court cannot encourage or approve of such violation of discipline and Conduct Rules by Government officials in making unauthorised copies from Government files and supplying to interested parties. Permission to produce such documents will amount to at least indirectly encouraging the interested parties to somehow get hold of unauthorisedly made copies from Government file. It will be a premium on the indiscipline and misconduct of unscrupulous Government officials who oblige such interested parties. It is an accepted principle that one who invokes the discretionary jurisdiction of the High Court under Article 226 of the Constitution should approach the Court with clean hands. Refusal to entertain persons who manage to get unauthorisedly made copies from Government file and produce them to form the basis of the writ petition, is only an extension of the above mentioned principle. We consider that such a strong and strict attitude by Courts is necessary in larger public interest also. Permissiveness has permeated every walk of life. Commitment to time honoured values and adherence to ethical code of conduct are not virtues for many people. There are not many takers for the proposition that end will not justify the means. There is a growing tendency to condone any lapse or deviation under one pretext or the other. It is high time that this dangerous trend in the society is arrested and discipline and ethical conduct are insisted on and enforced. Hence we are intended to hold that the conduct of the petitioners in producing Annexure-N document should disentitle them to any relief in the writ petition.

(14) We may not be understood to have taken the view that a party is not entitled to make use of any information which comes in his way and which will support and strengthen his case before the Court. He is entitled to do so but there is a way of doing it. If there is some noting or decision in the Government file which the party wants to rely on, he should allege and assert in the petition that such a noting or decision is there in the file and if the Government refutes the allegation, the party can request the Court to call for the records and to verify the truth. This has been the way it was being done. But unfortunately it is being deviated from. condensation of such deviations can send wrong signals. Hence prudence prompts us not to condone such deviation on the part of the petitioners.

(15) However, in the peculiar facts of this case we shall examine the case of the petitioners on merits as well.

(16) Though the petitioners have alleged that amounts due to them from Respondent No. 2 as per bills submitted by them have not been paid, there is no prayer in the writ petition with regard to the non-payment of the dues to the petitioners. Respondents 1 and 2 have stated in their counter affidavits that payments in respect of certain bills have not been made in view of the serious doubts about the genuineness and bonafides of the bills. It is suspected that the petitioners have made fraudulent claims for subsidy under the Adip Scheme. It is specifically averred by Respondents 1 and 2 that the matter has been referred to the Cbi for investigation. It is also to be noted that the dispute relating to the nonpayment of the bills submitted by the petitioners is essentially a civil dispute which necessitates adjudication by deciding disputed questions of fact after taking evidence. Having regard to all these aspects, we do not consider it necessary or proper to further examine the allegations regarding the non-payment of bills submitted by the petitioners.

(17) Even though no relief is sought against the 3rd respondent who is imploded by name, personal allegations are made against him. It is alleged that he is responsible for the corruption, malpractices, mismanagement and embezzlement of funds in the offices of respondents 1 and 2 and for withholding the legitimate dues to the petitioners. The 3rd respondent has filed an affidavit categorically denying all the allegations against him. The petitioners have not produced sufficient and necessary materials to enable this Court to take cognizance of and to act upon the charges leveled against Respondent No. 3. The allegations contained in paragraph 17 of the writ petition are too vague and not specific. They lack necessary details and particulars. The basis for the allegation is not disclosed or indicated. The petitioners do not claim personal or direct knowledge in the matter. There is no material to substantiate the allegations. The only material relied on by the petitioners is a newspaper report produced as Annexure "O" (English translation is Annexure "P"). The newspaper or its reporter does not take the responsibility for the allegations. The report is based on a letter stated to have been written by the President of the Alimco Workers Union to the Department of Personnel, Public Grievances and Pensions containing certain allegations against Respondent No. 3. We do not consider it proper or safe to give any credence to the allegations made by the petitioners against Respondent No. 3, merely on the basis of the said newspaper report. Moreover the petitioners have not stated what they expect or want this Court to do against Respondent No. 3. It is unfortunate that the petitioners chose to make serious allegations against a responsible official of the Government without making any effort to substantiate the allegations and without making necessary pleadings and specific prayers. If one chooses to make serious personal allegations against another in a writ petition, one should be prepared to take the responsibility to substantiate them or at least to make serious efforts in that direction. We have not considered the allegations against Respondent No. 3 on merits and we are

not exonerating him also. We are only expressing our displeasure at the conduct of the petitioners in making allegations in a casual and irresponsible manner. If the petitioners are genuinely aggrieved or seriously concerned about the alleged misconduct or misdeeds of Respondent No. 3, there are lawful methods of revolting against it. In this writ petition, based on the available materials, pleadings and prayers, no action is called for with regard to the allegations against Respondent No. 3.

(18) Now we shall deal with the reliefs sought in this writ petition. The first prayer in the writ petition is for direction to Respondent No. 1 to implement Annexure "N" order dated 19.4.1991 passed by the Minister in toto. What is produced as Annexure "N" is not copy of any Government order which binds any parties and which can be got implemented or enforced through Court. It is only a noting in the Government file. Any Government order issued on the basis of the noting dated 19.4.1991 has not been produced. The 1st respondent has categorically stated in its counter affidavit that the file did not end with the note dated 19.4.1991 and that the matter had been examined at various levels and in depth. It is also indicated that the matter had gone up to the level of the Minister for Welfare. We have perused the relevant Government file which was made available by the learned Standing Counsel for Respondent No. 1. We find that the noting made in the file by the Minister of State for Welfare on 19.4.1991 was only the recording of his views regarding the action to be taken in the matter under consideration. It was not the final decision or order of the Government. In compliance with the Rules of Business in the Government, the file was circulated to the Minister for Welfare (the Prime Minister) and there were further developments in the matter. Hence, it has to be taken that the noting recorded by the Minister of State in the file on 19.4.1991 was only the expression of his views in the matter during the decision making process in the Government. It was just a noting in the file and not the final decision or the order of Government. The noting dated 19.4.1991 cannot be treated as an order of the Government liable to be enforced or implemented under compulsion of the Court. The said note does not confer on the petitioners any enforceable right. Hence we cannot issue any direction to Respondent No. 1 to implement any or all of the directions in the noting dated 19.4.1991.

(19) In *State of Kerala Vs. Smt. A. Lakshmikutty and others*, , the Supreme Court considered the question whether a decision of the Council of Ministers announced to the press by the Chief Minister and published in the newspapers can be said to be an order of the State Government. According to the Hon'ble Supreme Court, whatever the Council of Ministers may say in regard to a particular matter does not become an action of the State Government till the advice of the Ministers is accepted or deemed to be accepted by the Head of the State. Unless and until the decision taken by the Council of Ministers is translated into action by the issue of a notification expressed in the name of the Governor as required by the Article 166(1) of the Constitution, it cannot be said to be an order of the State Government. Until then, the decision of the Council of

Ministers is only a tentative one and is liable to be reconsidered. The Supreme Court has also pointed out that before an advice of the Council of Ministers amounts to an order of State Government, there are two requirements to be fulfilled, namely, (1) the order of the State Government had to be expressed in the name of the Governor as required by Article 166(1), and (2) it has to be communicated to the persons concerned. In *State of Bihar and Others Vs. Kripalu Shankar and Others*, the Court observed as under:-

"THE nothings in a notes file do not have behind them the sanction of law as an effective order. It is only an expression of a feeling by the concerned officer on the subject under review".

In *Bachhittar Singh Vs. The State of Punjab*, the Hon^{ble} Supreme Court held thus:

"THE business of State is a complicated one and has necessarily to be conducted through the agency of a large number of officials and authorities. The constitution Therefore requires and so did the Rules of Business framed by the Rajpramukh of Pepsu provide, that the action must be taken by the authority concerned in the name of the Rajpramukh. It is not till this formality is observed that the action can be regarded as that of the State or here, by the Rajpramukh. We may further observe that, constitutionally speaking, the Minister is no more than an adviser and that the head of the State, the Governor or Rajpramukh, is to act with the aid and advice of his Council of Ministers. Therefore until such advice is accepted by the Governor whatever the Minister or the Council of Ministers say in regard to a particular matter does not become the action of the State until the advice of the Council of Ministers is accepted or deemed to be accepted by the Head of the State. Indeed, it is possible that after expressing one opinion about a particular matter at a particular stage a Minister of the Council of Ministers may express quite a different opinion, one which may be completely opposed to the earlier opinion. Which of them can be regarded as the "order" of the State Government? Therefore, to make the opinion amount to a decision of the Government it must be communicated to the person concerned."

In *State of Punjab Vs. Amar Singh Harika*, , while dealing with an order of dismissal, the Supreme Court held:-

"IT is plain that the mere passing of an order of dismissal would not be effective unless it is published and communicated to the officer concerned. If the appointing authority passed an order of dismissal, but does not communicate it to the officer concerned, theoretically it is possible that unlike in the case of a judicial order pronounced in Court, the authority may change its mind and decide to modify its order. It may be that in some cases, the authority may feel that the ends of justice would be met by demoting the officer concerned rather than dismissing him. An order of dismissal passed by the appropriate authority and kept with itself, cannot be said to take effect unless the officer concerned knows about the said order and it is otherwise communicated to all the parties

concerned."

(20) The above cited judgments of the Hon"ble Supreme Court strengthen our view that what is contained in Annexure "N" is only a noting in the notes file and not an order of the Government which can be got implemented or enforced with the aid of an order of this Court under Article 226 of the Constitution of India. There is no order as such of the Government as claimed by the petitioners. The petitioners have no enforceable legal right to insist that the 1st respondent should implement the nothings made by the Minister of State in the Government file. The prayer of the petitioners is, Therefore, liable to be rejected.

(21) The petitioners have a contention that by not implementing the order dated 19.4.1991 of the Minister in toto, the rights of the petitioners to carry on their occupation, trade and business as guaranteed under Article 19(I)(g) and their rights of equality before law as guaranteed under Article 14 of the Constitution of India have been violated. We are not impressed by this contention. The petitioners have not explained how the non-implementation of, "the order dated 19.4.1991" will violate their rights under Article 14 and Article 19(I)(g) of the Constitution. It is on record that the non-payment of certain bills submitted by the petitioners was due to serious doubts about their genuineness and bona fides. It has also been stated by respondents 1 and 2 that the matter had been referred to Cbi for investigation. The discontinuance of allotment to the petitioners by respondent No. 2 also has to be viewed in this background. We are not satisfied that any of the fundamental rights of the petitioners has been violated.

(22) Even according to the petitioners, the noting dated 19.4.1991 contains three decisions and the third decision relating to the suspension of the 3 officers of Respondent No. 2 Stands implemented. The other two directions relate to the operation of the Adip Scheme directly through the Ministry of Welfare by providing funds to Implementing Agendas and the framing of Rules and obtaining suitable deposits from Implementing Agencies to safeguard against malpractices by those agencies. Both are in the realm of policy matters in which this Court cannot and should not normally interfere. It is not for this Court to decide and dictate to the Government whether the Adip Scheme should be operated directly through Ministry of Welfare or through agencies like Respondent No. 2. It is also not for this Court to advise or compel the Government to frame any rules. Nor is it the function of this Court to offer suggestions on how to safeguard against the malpractices in the implementation of the scheme. These are matters well within the domain of the Executive Government and this Court should not venture to over step the limits of its jurisdiction and function.

(23) The only other prayer in the writ petition is to prohibit Respondent No. 1 from getting the Adip Scheme implemented through Respondent No. 2 and from giving any grant/financial aid to Respondent No. 2 under the scheme. It would appear from the pleadings in the case that this prayer is made in view of the serious allegations made against Respondent No. 2 and its officers in respect of

the implementation of the scheme. One allegation relates to the non-payment of the bills submitted by the petitioners. We have already adverted to this aspect earlier and have noticed that the non-payment of the bills is stated to be due to serious doubts regarding the genuineness and bonafides of the bills. We have also noticed that the fraudulent claims made by the petitioners have been referred to the Cbi for investigation. In these circumstances, the non-payment of the bills submitted by the petitioners cannot be made a ground for prohibiting Respondent No. 1 from getting the scheme implemented through Respondent No. 2. Another allegation against Respondent No. 2 relates to the alleged corruption, malpractices, mismanagement, embezzlement of funds etc., in the office of the 2nd respondent. The materials before the Court indicate that complaints in this regard were made to the Respondent No. 1 by even Members of Parliament and that the Government have responded to such complaints by ordering various enquiries and by taking action against the erring officials. The Government have already taken certain steps in the matter. There is no reason to think that the Government will not take further follow up action. The petitioners themselves have stated in paragraph 14 of the writ petition that, four enquiries were conducted as ordered by the respective Ministers and that now the Cbi is also investigating the matter. The petitioners have also stated that the Managing Director and General Manager of Respondent No. 2 had been placed under suspension in March/April 1993. Hence, this is not a case where there was inaction or indifference on the part of the Government so as to invite the interference of this Court. The petitioners have not proved any refusal or failure on the part of the Government in discharging its statutory duties or functions. It is for the 1st respondent. Union of India to decide as to what action should be taken against the persons and officials found guilty in the enquiry ordered by Government or in the investigations conducted by the CBI. There is no reason to presume that the Government will not act in accordance with law and in public interest.

(24) Similarly, it is for the Government to decide whether the situation emerging from the various enquiries and the investigations, warrants the exclusion of the 2nd respondent from the implementation of the Adip Scheme. The Government is expected to take a decision in the matter after applying its mind to all the relevant aspects. We have no reason to think that the Government will not take sufficient and necessary care in the proper implementation of its own scheme and for preventing the embezzlement of Government funds.

(25) Thus, in this case there is no infringement of any of the fundamental rights of the petitioners. There is also no violation of any legal or statutory right of the petitioners. The petitioners have not proved any refusal or failure on the part of the respondents to discharge any statutory or legal duty. They could not also convince us about the need for interference by this Court to protect public interest or to prevent any injustice. In this context it may be observed that even though the petitioners do not describe the writ petition as a public interest litigation, the reliefs sought in the petition convey a different message inasmuch

as the prayers are in the nature of a public interest litigation. At the same time the writ petition discloses the personal grievances of the two petitioners against the respondents as well as the possible personal gains for the petitioners if the reliefs are granted. It is also obvious that the petitioners have an axe to grind against respondent No. 2 in view of the non-payment of certain bills submitted by them the discontinuance of allotment to them, and the reference of the matter regarding the fraudulent bills to the Cbi for investigation. In such circumstances a public interest litigation may not be maintainable at the instance of the two petitioners herein.

(26) In view of what has been stated above, we hold that the petitioners are not entitled to any relief in the writ petition and that the same is liable to be dismissed. Accordingly, the writ petition is dismissed with costs. Counsel fee Rs. 2500.00 . Rule is discharged.