(2007) 10 AP CK 0079

In the Andhra Pradesh High Court

Case No : Writ Petition No. 21721 of 2005

Zilla Vikalangula Sangam APPELLANT

Vs

Government of India and Others RESPONDENT

Date of Decision : 10-10-2007

Acts Referred:

General Financial Rules, 1963 — Rule 149(1)
Penal Code, 1860 (IPC) — Section 409, 420, 477(A)
Prevention of Corruption Act, 1988 — Section 13(1)

Citation : (2008) 1 ALT 180

Hon'ble Judges : P.S. Narayana, J

Bench : Single Bench

Advocate : Seetharam Chaparla and K. Gani Reddy, for the Appellant; Assistant Solicitor General and A. Rajasekhar Reddy and Govt. Pleader, for Women and Child Welfare for Respondent Nos. 2 and 3, for the Respondent

Final Decision : Allowed

Judgement

P.S. Narayana, J.—This writ petition is filed by Zilla Vikalangula Sangham, represented by its President T. Saidamma, seeking a writ of Mandamus declaring the action of the 1sl respondent in putting the petitioner organization on blacklist, vide proceedings File No. 12/1(4)/2000-2001-SD(NGO), dated 20.04.2001, and continuing the same on blacklist despite the enquiry report submitted by the 2nd and 3rd respondents mentioning that the activities of the petitioner organization for Street Children are satisfactory and the same is eligible for receiving grant-in-aid, vide their proceedings Lr. No. 3953/J3/A2/ 2002-1, dated 27.05.2002 and Lr. No. P3/112/ 2002, dated 06.06.2002, respectively, as illegal, arbitrary and violative of constitutional provisions.

2. Sri Seetharam Chaparla, the learned Counsel, representing Sri K. Gani Reddy, the learned Counsel for the writ petitioner had taken this Court through the contents of affidavit filed in support of the writ petition, the respective counter-affidavits filed by the 1st respondent and the respondents 2 and 3 and also the

contents of the reply affidavit and would comment that in the light of the facts and circumstances, the impugned order cannot be sustained. The learned Counsel also would contend that even otherwise the so-called allegations in relation to the credentials of the petitioner organization are only based upon assumptions and presumptions and absolutely there is no acceptable or valid material in relation thereto. The learned Counsel also would maintain that the so-called non-government Organization Nodal agency has no right to inspect the petitioner organization of Street Children Project for the simple reason that the said Nodal Agency is also running the similar project of street children and the same is being controlled by the 1st respondent. The learned Counsel also would maintain that the Two-Man Committee categorically stated that the activities of the Street Children Project of the petitioner organization are found satisfactory and the said organization is entitled to the grant-in-aid. The learned Counsel also would maintain that, having directed the State Government authorities to conduct enquiry into the matter and having received the enquiry report, absolutely there is no justification on the part of the 1st respondent in delaying the sanction of grant-in-aid and also continuing the petitioner on the blacklist. The learned Counsel also would maintain that the petitioner society is not involved in any criminal case and the so-called criminal case had been filed against the former President and by that it cannot be said that the petitioner society should be continued to be kept under the blacklist. The learned Counsel also would further maintain that the District Collector himself sanctioned the loan and the concerned authorities, after taking into consideration the enquiry report, had released the grant-in-aid and, in the light of the same, it can be taken that the petitioner society had been deleted from the blacklist. The learned Counsel also would further maintain that the concerned authorities, having directed the petitioner to withdraw the writ petition and having promised to release the grant-in-aid and having released the grant-in-aid, are now estopped from contending otherwise taking a stand that the petitioner is under the blacklist. The learned Counsel also placed strong reliance on a decision in Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others, .

3. Per contra, the learned Assistant Solicitor General, representing the 1s'' respondent, had taken this Court through the counter-affidavit filed by the 1sl respondent and would maintain that in the light of the specific stand taken by the 1st respondent, the writ petition is liable to be dismissed. The learned Assistant Solicitor General also would maintain that the petitioner organization is continuing under the blacklist and Anti Corruption Bureau of Government of A.P., having detected that the petitioner organization had falsified record and misused the Government funds, had filed F.I.R. in the Special Court of Anti Corruption Bureau, Vijayawada. It is also stated that the Writ Petition No. 23845 of 2002 filed by the petitioner organization against the said F.I.R. No. 15/ACB-VJA/2000 on the file of the Special Court of Anti Corruption Bureau, Vijayawada, is pending disposal. As per Rule 149(1) of the General Financial Rules, sanctioning authorities should ensure that no grants are sanctioned where there is a

reasonable suspicion or suggestion of corrupt practices unless the bodies concerned are cleared of the allegations. The learned Assistant Solicitor General also would maintain that the Anti Corruption Bureau has registered a criminal case, vide No. 15/ACB-VJA/2000, u/s 13(1) (e) and (d) of Prevention of Corruption Act, 1988 and under Sections 409, 420 and 477(A) of the Indian Penal Code against the Ex-President of the petitioner organization for acquiring disproportionate assets to his known source of income by cheating, by breach of trust and by diverting Government funds under various welfare schemes for destitute disabled and handicapped children given by State and Central Government and has amassed wealth by way of cash and immovable properties. The learned Assistant Solicitor General also would maintain that the 1st respondent Ministry cannot ignore the earlier detailed correspondence of State Government regarding the organization being involved in the Anti Corruption Bureau case and it cannot also ignore the fact that the State Government had specifically withdrawn the earlier recommendation of grant-in-aid, vide letters dated 28.04.2003 and 28.05.2003, in view of the pending Anti Corruption Bureau case against the organization. The learned Assistant Solicitor General also would maintain that the petitioner organization, according to the inspection report, had offered " bribe and such a claim would amount to an attempt to manipulate and use of the dubious methods to force Government of India to de-blacklist the organization and sanction grant-in-aid to the organization. Hence, in the light of the same, the learned Assistant Solicitor General would contend that the writ petition, being devoid of merit, is liable to be dismissed.

4. The learned Government Pleader for Women and Child Welfare had taken this Court through the contents of the counter-affidavit filed by respondents 2 and 3 and would maintain that in the light of the nature of allegations being very serious, the writ petition, being devoid of merit, is liable to be dismissed.

Heard the counsel on record and perused the material available on record.

5. It is averred in the affidavit filed in support of the writ petition that the petitioner is a society established and incorporated under the Provisions of the Societies Registration Act, 1860, vide Registration No. 79/1980, with the objective of encouragement to the handicapped for getting education, to work for unity and to create equality in the society for better development and strong formation of the Nation. The aims and objectives of the petitioner society include establishment of educational institutions for imparting education to the physically handicapped, deaf and dumb, adult education, education for the child labour etc. The petitioner is also providing shelter to street children. Thus, the petitioner is an institution, which is catering to the needs of the handicapped persons by way of establishing organizations like Street Children Project, School for the Deaf and Residential School-cum-Vocational Training Centre for the disabled. It is also further stated that the Organization of Street Children Project has been in receipt of financial assistance from the Ministry of Social Justice and Empowerment, Government of India. It is further stated that the Nodal Agency of this Ministry

has inspected the Projects and alleged to have raised some doubts about the credentials of the organization and observed that it was not running the Centre as envisaged in the scheme. Basing upon the said report, the 1sl respondent has issued a show cause notice on 11-10-2000 calling upon the explanation from the organization as to why the organization should not be blacklisted. Thereupon, the petitioner submitted detailed explanation, dated 20.10.2003, stating that the allegations contended in the notice, dated 11.10.2000, are false and incorrect. The petitioner has explained each of the allegations stating that the petitioner has been conducting its affairs as per the guidelines of the 1st respondent. Despite the satisfactory explanation of the petitioner, the 1st respondent, by its letter, dated 20.04.2001, vide File No. 12/1 (4)/2000-2001-SD (NGO), decided to put the organization in the blacklist. It is also further stated that the Nodal Agency, which is said to have inspected the petitioner''s Street Children Project, is not at all competent authority to inspect the same, inasmuch as the so-called Nodal Agency is nothing but a Non-Governmental Organization. It is unfair on part of the respondents to act upon mere doubts without there being any valid material, so as to warrant the blacklisting of the organization. It is also stated that in the instant case, the 1st respondent, without applying his mind to the implications of blacklisting of organization, which is looking after Street Children who are entirely depending upon the grant-in-aid sanctioned by the concerned authorities, blacklisted the organization. Questioning the same, the petitioner society filed W.P. No. 9578 of 2001 before the Hon''ble High Court and the same was admitted. At that juncture, the 1st respondent asked the 2nd respondent to inspect and submit the report with regard to both the handicapped and street children projects of the organization in order to decide the release of the grants for the above stated projects. In pursuance of the above directions, the 2nd respondent, by its Memo No. 8450/ DW A2/2000-2001, dated 08.04.2002, directed the 3rd respondent as well as the Commissioner, Disabled Welfare, to get the inspection conducted and submit report within a fortnight. Accordingly, the 3rd respondent herein, vide its Memo No. P3/112/2002, dated 12.04.2002, appointed Two-Man Committee to enquire into the truthfulness of the so-called allegations which constituted basis for blacklisting the organization. It is also further stated that in pursuance of the directions issued by the 3rd respondent, the Two-Man Committee inspected the organization and found that the entire activities of the organization are satisfactory and submitted the report to the 3rd respondent. The 3rd respondent, having found the entire enquiry report satisfactory, submitted the same to the 2nd respondent and recommended, vide proceedings Lr. No. P3/112/2002, dated 06.05.2002, for sanction of grant-in-aid to the Organization for the years 2000-2001 and f 2001 -2002.

6. Basing on the enquiry report and recommendation given by the 3rd respondent, the 2nd respondent, having found satisfactory about the inspection and enquiry report, has forwarded the same to the 16l respondent and recommended for sanction of grant-in-aid of Rs. 13,15,000/- and to continue the same for each year. It is also further stated that when the petitioner society

pursuing for the above said grants, the 1st respondent informed orally that the society has to withdraw the Writ Petition No. 9578 of 2001 filed before this Court before receipt of the grants, and believing the version of the 1st respondent, the petitioner society has withdrawn the said writ petition. But, unfortunately, the 1st respondent, having promised as aforesaid, has not taken any action till today and no amounts of grant-in-aid were sanctioned with regard to Street Children Project, which is nothing but illegal and arbitrary, and the petitioner society, which is in legitimate expectation of grant-in-aid, is facing lot of problems and hardship on account of adamant and indifferent attitude of the 1st respondent towards the Street Children. It is also averred that, having sanctioned grant-in-aid for the year 2002-2003 of an amount of Rs. 26,19,000/- for running Residential School-cum-Vocational Training Centre for Disabled, (sic) is no justification on the part of the 1st respondent to deny the same for the year 2003-2004 without there being any valid reason whatsoever. It is further averred that the 2nd respondent has already, vide its letter N0.2975/DW.A2/2004, dated 05.06.2004, recommended to the 1st respondent for sanction of an amount of Rs. 38,40,694/- for running the Residential School-cum-Vocational Training Centre. Despite of it, the 1st respondent till today has not sanctioned any grants for the organization, causing great hardship to the petitioner society in general and the disabled and street children in particular, who are depending upon the society for bread and butter. It is also further stated that the action of the 1st respondent in not sanctioning recommended grants and still continuing the petitioner organization on blacklist is illegal, arbitrary and violative of constitutional provisions. Questioning the same, the petitioner filed W.P. No. 3366 of 2005 before this Court and this Court was pleased to dispose of the same by directing the concerned authorities to consider the proposals sent by the 2nd respondent therein for the purpose of releasing grant-in-aid to the petitioner society. Further, it is averred that against the aforesaid backdrop of the facts and circumstances of the case, the 1st respondent, vide his proceedings dated 13.09.2005 in File No. 6-7/2004-C, instead of considering the recommendations for sanction of grant-in-aid of Rs. 13,50,000/-, by taking into enquiry report into consideration and having given consent before this Court to consider the recommendations for release of grant-in-aid, intentionally avoided the same on the ground that the petitioner society was involved in the anti corruption case and, therefore, it is necessary to know the stage of the case before releasing of the grant-in-aid. It is further stated that it is unfortunate the concerned authorities are coming forward with new grounds, which are not all relevant and concerned with the petitioner society, in order to deny the grant-in-aid to the petitioner. There is no case against the petitioner society much less any anti corruption case and that flowing out of the schemes, to the disabled it is unfair and there is no justification on the part of the concerned authorities in attributing mala fides and creating suspicious circumstances around the petitioner society, which is genuinely rendering service to the disabled and street children, and the same is also reflecting in the enquiry report. It is also further stated that the respondents, on the one hand stating that the petitioner society is blacklisted and, therefore, funds cannot be released, on the other hand, are stating that, the petitioner society involved in Anti Corruption Case.

7. The basis on which the petitioner society was blacklisted is totally different and has nothing to do with anti corruption case, which is foisted against the former President at the instance of his rival N.G.O., and that either the petitioner society or its President has never been involved in the so-called criminal case No. 15/ACB/VJA/ 2000, dated 29.09.2000. It is also further averred that the so-called criminal case against the former President of the petitioner society, which is filed at the instance of his rival N.G.O. one Smt. Pamavathi, and either the said criminal case or the former President has nothing to do with the petitioner society. Therefore, the concerned authorities cannot be permitted to say that the petitioner society involved in criminal case. Further, the statement of the 1sl respondent is full of contradictions and at variance with material on record inasmuch as on the one hand it categorically stated that basing on the report of the N.G.Os., the petitioner society was blacklisted and, immediately thereafter the 1st respondent itself has constituted enquiry committee to enquire into the activities of the society and invited report. Instead of taking , into consideration the above said report, while releasing grant-in-aid by way of deleting the petitioner society from the blacklist, the 1st respondent again dragging the petitioner society into Criminal Case, so as to deprive the society from getting the grant-in-aid and thereby depriving of the benefit, which are flowing out of the schemes, to the disabled persons and street children. Further, it is also stated that the enquiry committee, which is constituted by the 1sl respondent, has gone into the activities of the petitioner society and submitted detailed report saying that the petitioner society is maintaining properly all accounts and looking after the street children by providing al necessary amenities and recommended necessary grants forthwith. Further, the District Collector has been .sanctioning loan of Rs. 3,00,000/- per month /towards maintenance of the petitioner society, under the reimbursement basis, after receipt of grant-in-aid from Government of India and constituted a Committee to look after the activities of the society. The enquiry report and the fact that the District Collector himself sanctioning loan to the petitioner society categorically prove that the credentials of the society are above suspicion and genuine and that the petitioner society is in urgent need of grant-in-aid so as to provide decent and sufficient care to the disabled persons and street children. It is also further averred that as a matter of fact, since the petitioner society was sanctioned grant-in-aid subsequent to blacklisting of the society, by taking into the enquiry report, it can be safely said that the petitioner society is deemed to have been deleted from the blacklist. Even otherwise, it is at the instance of the 1st respondent''s assurance that the earlier writ petitions were withdrawn and after withdrawn only, the aforesaid grants were) released. While that being so, it is unfair and unjust on the part of the concerned authorities to again reiterate that the petitioner society is still in the blacklist.

8. A counter-affidavit is filed by the 1sl respondent and the same is sworn by the

Under Secretary (CW-II), Ministry of Women and Child Development, Government of India. It is averred in paragraph 3 of the said counter-affidavit that the contention1 of the petitioner in paragraph 2 of the affidavit filed in support of the writ petition stating that an enquiry commission was appointed by the 1st respondent is denied. It is also stated that the 1sl respondent had requested the 2nd respondent, vide letter dated 22.03.2002, to get the projects of both handicapped and street children run by the organization inspected. Accordingly, a Memorandum, dated 08.04.2002, was addressed by the Principal Secretary, Woman Development, Child Welfare and Disabled Welfare (DW) Department, Government of Andhra Pradesh, to the Commissioner, Disabled Welfare, Hyderabad, and Commissioner, Juvenile Welfare and Correctional Services, requesting to get the projects of both handicapped and street children respectively inspected and send a detailed report as desired by the Government of India within a fortnight. It is also stated that the facts of the case along with the reasons for refusing grant-in-aid to the petitioner organization had been given in the order, dated 13.09.2005, issued by the respondent Ministry, and the contents of the said order may be relevant for the present purpose and the same are hereunder:

By Speed Post No. 6-7/2004-CW Government of India Ministry of Social Justice and Empowerment Shastri Bhawan, New Delhi-110001 Dated the September 13,2005

To

The President Zilla Viklangula Sangam, Vinukonda-522 647, Guntur District (Andhra Pradesh).

Subject:- Request for sanction of grant-in-aid for running street children project for the years 2000-2001 and 2001-2002-Writ Petition No. 3386 of 2005 in the Hon''ble High Court of Judicature of Andhra Pradesh at Hyderabad.

Sir,

The Zilla Vikalangula Sangam, Guntur (Andhra Pradesh), a non-Governmental organization, filed a Writ Petition No. 3386 of 2005 in the Hon''ble High Court of Judicature of Andhra Pradesh at Hyderabad praying for:

(a) setting aside the Ministry of Social Justice and Empowerment letter No. 12/1 (4)/2000-01 -SD(NGO) dated 20.4.2001 blacklisting the petitioner organization; and

(b) directing the Ministry to sanction grant-in-aid for the years 2000-2001 and 2001 -2002 as recommended by the Government of Andhra Pradesh vide their letter No. 3953/J-3/A2/ 2002-1 dated 27.5.2002 pending disposal of the writ petition.

The Hon''ble High Court passed the Order dated 16.6.2005 which reads as under:

It is no more in dispute that the second respondent recommended the proposal to the first respondent under letter No. 3953/J3/A2/2002-1 dated 27.05.2002. The text of the letter reads as follows:

I forward herewith the project proposal of Zilla Vikalangula Sangam Vinukonda along with inspection report of Superintendent, Government observation Home for Boys, Vijayawada and District Probation Officer, Grade-I, Guntur for sanction of Grant-in-aid of Rs. 13,50,000/- (Rupees thirteen lakhs fifteen thousand only) after deducting 10% organization contribution to other with information in part-II proforma and recommend the same for consideration under the scheme of welfare of street children for the each year 2000-2001 and 2001-2002.

It seems the first respondent has not taken any action on the recommendation made by the second respondent. In such a situation, the writ petition can be disposed of giving a direction to the first respondent to consider the proposal sent by the second respondent with regard to the sanction of Grant-in-aid to the petitioner-organisation for the years 2000-2001 and 2001-2002. The first respondent has to pass appropriate orders on the proposal sent by the second respondent within three months from the date of receipt of a copy of this order and communicate the same to the petitioner-organisation.

In this petition, the Government of India, Ministry of Social Justice and Empowerment, New Delhi, the Government of Andhra Pradesh, Ministry of Women and Child Development, Disabled Welfare Secretariat, Hyderabad and the Commissioner Zonal Welfare Correctional Services and Welfare of Street Children, Hyderabad are the first, second and third respondents respectively.

2. The facts of the case are given below:

(i) The Ministry of Social Justice and Empowerment sanctioned the following grants-in-aid to the Zilla Viklangula Sangam under the "Scheme of Integrated Programme for Street Children" for running the project titled ''Centre for Street Children''.

Year Amount

1998-1999 Rs. 4,31,340.00

1999-2000 Rs. 13,50,000.00

(for 500 children) Before releasing the grant for the year 2000-01, an inspection was carried out to ascertain the achievements and performance during the previous years. The inspection was carried out on 2.7.2000 by a representative of Childline India Foundation which ahs been authorized by the Ministry as the Nodal Agency to conduct the inspections and evaluate the projects for street children. The inspection report was received from CIF in the first week of October, 2000. The report contained unfavourable remarks including after 5th standard and presence of only 50 children as against the sanctioned strength of 500 children. The findings of the inspection report were communicated to the Organisation in the form of a Show Cause Notice vide the Ministry''s letter No.

12/1(4)/ 2000-2001 -SD dated 11.10.2000. The explanation given by the Organisation was not found to be satisfactory. It was, therefore, decided to suspend further grant-in-aid to the petitioner-organisation and the decision was communicated to it with an endorsement to the Government of Andhra Pradesh vide Ministry''s letter No. 22-1(4)/ 2000-01-SD dated 30.1.2001.

(ii) A number of organizations including the petitioner-organisation which were not running the projects in consonance with the "Scheme of Integrated Programme for Street Children" were simultaneously blacklisted. This position was communicated to the petitioner-organisation vide the Ministry''s letter No. 22-1 (4)/2000-01 -SD dated 20.4.2001. The petitioner-organisation filed a Writ Petition No. 9578/2001 before the Hon''ble High Court praying for withdrawal of blacklist order dated 20.4.2001 blacklisting it. Subsequently, the petitioner-organisation sought the permission of the Hon''ble Court to withdraw the petition and the case was dismissed as withdrawn on 2.8.2002.

(iii) The petitioner-organisation was also given grant-in-aid by this Ministry for Residential School and Vocational Training Centre for Orthopaedically Handicapped Persons. On 18.10.2000, this Ministry received a communication from the Anti-Corruption Bureau of the Government of Andhra Pradesh seeking certain documents/details of financial assistance released to the organization in connection with a criminal case No. 15/ACB/VJA/2000 dated 29.9.2000 filed against the petitioner-organisation. The case relates to the breach of trust, diversion of Government funds through cheating and misappropriation, etc.

(iv) In February 2002, the President of the Organisation met the then Secretary (SJ&E) and requested for release of grant-in-aid to the organization. The State Government was requested to get the project of the NGO inspected vide this Ministry''s letter dated 22.3.2002. The District Magistrate, Guntur who was asked by the State Government to conduct the inspection requested the State Government to reject the application of the organization in view of the fact that Anti Corruption Bureau has already filed a case. The Government of Andhra Pradesh informed this Ministry on 28.5.2003 that the Anti Corruption Bureau in its investigation found that the organization falsified the records and grabbed the Union Government Funds, acquired assets, disproportionate to non-sources of income of the President of the Organisation.

(v) In the meantime, the Government of Andhra Pradesh vide its letter dated 27.5.2002 recommended for sanction of grant-in-aid of Rs. 13,50,000/- after deducting 20% organisation''s contribution on the basis of the inspection report of Superintendent, Government Observation Home for Boys, Vijayawada and District Probation Officer Grade-I, Guntur. The letter was examined in File No. 12-01(o6)/ 2002-03-SD(NGO). It was decided at the appropriate level to find out the position of the case with the Anti Corruption Bureau so that a final view could be taken early. The Government of Andhra Pradesh was, therefore, requested vide this Ministry''s letter dated 9.1.2003 followed by reminders on 27.1.2004, 25.10.2004. The Government of Andhra Pradesh replied on 7.12.2004 stating that the report of the Bureau will be sent to the Government of India shortly. The State Government was requested on 11.4.2005 followed by reminders dated 16.5.2005 and 2.8.2005 to expedite the report.

3. Rule 149(1) of General Financial Rules provides that the sanctioning authority is required to ensure that no grants are sanctioned where there is a reasonable suspicion or suggestion of corrupt practices unless the bodies concerned are cleared of the allegations. Therefore, after careful consideration the decision communicated to the Zilla Sangam vide this Ministry''s letter No. 12/1 (4)/ 2000-01-SD(NGO) dated 20.4.2001 is reiterated. This also disposes of your letter No. Nil dated 07.07.2005.

Yours faithfully (J.S. Kochher) Director

9. It is also averred in paragraph 5 of the counter-affidavit that it is not denied that the petitioner organization was in receipt of financial assistance to its project title "Shelter for Street Children", under Scheme for Welfare of Street Children. The respondent Ministry first assisted the petitioner organization in the year 1998-99 and sanctioned Rs. 4,31,340/-for 300 children. For the next financial year 1999-2000, the respondent Ministry had, vide its letter No. 12/1(12)/99-2000-SD, dated 11.10.1999, sanctioned Rs. 13.50 lakhs for 500 children and the said amount was released in two equal installments i.e. on 11.10.1999 and 08.03.2000 respectively. It is also further stated that during the financial year 2000-01, a proposal was received from the petitioner organization for financial assistance under the scheme for their project. In order to ascertain the performance during the previous year with reference to the various programme components of the scheme, an inspection was ordered into the organization including the petitioner organization by the respondent Ministry through its Nodal Agency - Childline India Foundation, Mumbai. The Childline India Foundation, Mumbai, was directed by the Respondent Ministry to conduct these inspections. At the same time, all the concerned organizations were directed to co-operate with the nodal agency''s team and make available all information and documents that were required by the team for inspection. Copies of the authorization letter were circulated to all the Secretaries of the Social Welfare Department/Women and Child Development Department of all the State Governments/Union Territory Administrations. It is further averred in paragraph 7 of the counter-affidavit that Childline India Foundation having been authorized by the respondent Ministry carried out inspections of nearly 110 organizations, who were in receipt of financial assistance underthe scheme. As per the report furnished by the Childline India Foundation, petitioner organization was inspected on 02.07.2000. A copy of the inspection report is placed before this Court as Annexure-II and some of the important findings included in the inspection report are as under:-

(i) There was offer of bribe to inspecting authority.

(ii) From interaction with the staff it was evident that they worked as teachers and not as street educators. There was no involvement by the staff in any of the decisions or planning.

(iii) Though it was a working day there were around 50 children in the classes against much higher sanctioned strength.

10. It is also stated that the inspection report recommended for immediate stoppage of grant-in-aid to the petitioner organization. Accordingly, the petitioner organization requested to give its explanation with supporting documents within fifteen days vide respondent Ministry''s letter No. 12/1 (4) 2000-2001 -SD dated 11.10.2000. It is further stated that the explanation given by the petitioner organization, vide its letter dated 20.10.2000, was examined in the respondent Ministry and found to be not very convincing. Moreover, the allegation that the petitioner organization had offered the bribe was viewed with the gravity it deserved and, accordingly, it was decided by the respondent Ministry to suspend grant to the petitioner organization and the same was communicated to it vide letter 12/1 (4)2000-2001 -SD dated 30.01.2001, endorsing a copy to the Secretary, Social Welfare Department, Government of Andhra Pradesh i.e., respondent No. 2. The same was followed by a decision taken by the competent authority to blacklist the petitioner organization. The order of blacklisting was communicated to the petitioner organization vide letter 12/1 (4)2000-2001-SD dated 20.04.2001. Further, it is averred in paragraph 9 of the counter-affidavit that it is denied that the nodal agency appointed by the respondent Ministry for inspecting the project run by the petitioner organization is not competent to do the same. While it is agreed that nodal agency is a Non-Governmental Organisation, it is stated that this agency enjoys a special status in the sense that the Secretary of the respondent Ministry is the ex-officio Chairperson of its Governing Board. Besides, the Governing Board also has two Joint Secretaries as its Members. The Chief Secretary, Government of Maharashtra and other Government officials are also nominated on the Board and participate in its decision making process for the welfare of children. The nodal agency is also responsible for implementing the childline services across the country for children in distress and maintaining its quality control. The agency has been entrusted with inspecting all street children projects since 2000-01 and has been carrying out this assignment efficiently in inspecting more than 100 NGOs every year. Further, it is also denied that the respondent Ministry acted on mere doubts without there being any valid material in blacklisting the petitioner organization. The respondent Ministry while blacklisting took into view the adverse report on the basis of the inspection followed by unsatisfactory explanation of the petitioner organization. Further, in paragraph 10, the filing of W.P. No. 9578 of 2001 is admitted. It is also further admitted that the 1st respondent Ministry asked the 2nd respondent to get the projects of both street children and handicapped inspected. It is further stated that the 2nd respondent, in turn directed the concerned officers to get me inspection done and send a detailed inspection report. In paragraph 11 of the counter-affidavit, it is stated that it is not denied that the Women Development, Child Welfare and Disabled Welfare

(JJ) Department, Government of Andhra Pradesh, vide its Letter No. 3953/JJ/A2/2002-1 dated 27.05.2002, forwarded the project proposal of the petitioner organization along with the inspection report of Superintendent, Government Observation Home for Boys, Vijayawada and District Probation Officer, Grade 1,Guntur, for sanctioning grant-in-aid of Rs. 13.50 lakhs after deducting 10% contribution by the NGO and recommended the same for consideration under the scheme of Welfare of Street Children for each of the year 2000-01 and 2001-02. It is, however, denied that the 1s'' respondent had informed, either orally or in writing, the society to withdraw the Writ Petition No. 9578 of 2001. It is also further stated in paragraph 12 of the counter-affidavit that the letter of the State Government recommending sanction of grant-in-aid was examined in the Ministry and it was decided at the appropriate level to find out the position of the case with the Anti-Corruption Bureau of Government of Andhra Pradesh against the petitioner organization. In this regard, it is stated that earlier, on 18.10.2000, this Ministry had received a communication from Anti-Corruption Bureau seeking certain documents/details of financial assistance released to the organization in connection with a criminal case No. 15/ACB/ VJA/2000 dated 29.09.2000 filed against the petitioner organization. The case relates to breach of trust, diversion of Government''s funds through cheating, misappropriation of funds etc. It is also stated that as per Rule 149(1) of General Financial Rules, sanctioning authorities should ensure that no grants are sanctioned where there is a reasonable suspicion or suggestion of corrupt-practices unless the bodies concerned are cleared of allegations.

11. Further, it is stated in paragraph 13 of the counter-affidavit that the 2nd respondent, vide his letter No. 3300/ DW.A2/2003, dated 31.3.2003, had recommended grant-in-aid of Rs. 32,29,848/-for the project of Residential School-cum-Vocational Training Centre for Disabled run by the petitioner organization. The said letter, dated 31.3.2003, reads as hereunder:

Government of Andhra Pradesh Women Devp. Child Welfare & Disabled Welfare (DW) Dept Letter No. 3300/DW.A2/2003, Dated: 31-3-2003

From

The Prl. Secretary to Government,

WDCW&DW Department,

A.P. Secretariat,

Hyderabad. To

The Secretary to Government of India,

Ministry of Social Justice &

Empowerment,

Shastri Bhavan,

New Delhi (w.e.)

Sir,

Sub:- WDCW&DW Department -Disabled Welfare - Renewal application of Zilla Vikalangula Sangham, Vinukonda, Guntur District for sanction of G.I.A. for the year 2002-2003 for project of Residential School cum Vocational Training Centre for Disabled - Proposals to Government of India-Forwarded -Reg.

Ref:-1. From the Commissioner, Disabled Welfare, Hyderabad, Lr. No. ON.S.VIII/8447/2002-2003, dt. Nil.

0-0-0

I forward herewith the renewal application of Zilla Vikalangula Sangham, Vinukonda, Guntur District for sanction of an amount of Rs. 32,29,848 (Rupees thirty two lakhs twenty nine thousand eight hundred and forty eight only) after deduction of 10% organization share from Government of India during 2002-2003 for Project of

Residential School cum Vocational Training Centre for Disabled. The information in Part-ll proforma is enclosed.

2. I recommend the same for consideration.

Yours faithfully for PRL. Secretary to Government

However, the respondent No. 2 later requested respondent No. 1 to treat his recommendation for grant-in-aid to the petitioner organization as cancelled, as a case filed by Anti Corruption Bureau is pending against the organization, and to release funds instead to the District Collector, Guntur, vide his letter dated 28.04.2003. The said letter, dated 28.04.2003, reads as under:

Government of Andhra Pradesh Women Devp. Child Welfare & Disabled Welfare (DW) Dept. Letter No. 3300/DW.A2/2003 Dt: 28-04-2003

From:

The Prl. Secretary to Government

Women Dev. Child Welfare and

Disabled Welfare Department,

A.P. Secretariat,

Hyderabad.

To

The Secretary to Government of India,

Ministry of Social Justice &

Empowerment,

Shastri Bhavan,

New Delhi.

Sir,

Sub:- W.D.C.W. & D.W. Department -Guntur District application of Zilla Vikalangula Sangam Vinukonda - Sanction of Grant-in-aid -Regarding.

Ref:-1. From Undersecretary to Govt. of India, Ministry of Social Justice & Empowerment Lr. No. 22-1(15)/ 2000-DW-IIDt:2.3.2002.

2. From the District Collector, Guntur Lr. No. RC.140/2000/A, dt. 18-3-2003.

3. From the Commissioner, D.W.Lr. No. O.N.S.VIII/8447/2002-2003,dt:28-3-2003.

4. From the Prl. Secretary to Govt. W.D.C. W. & D.W. Deptt., Lr. No. 3300/ DW.A2/2003, dt.29-3-2003

-ooOoo-

I am to invite your attention to the references cited and to state that in the letter 1sl cited, the Ministry has requested the State Government to get the Projects both for handicapped and Street Children inspected, and that a decision on the issue of release of grants or otherwise can be taken after the receipt of inspection report.

2. I am to inform that in the letter 2nd cited, the District Collector, Guntur has reported that he has constituted a committee with the Officials to look after the organization till the regular funds are released. Further, the District Collector has requested to provide an amount of Rs. 3.00 lakhs per month to meet the expenditure in connection with providing of Food and Shelter to the inmates of the Non- Governmental Organisations.

3. In view of the above and as a case filed by the anti Corruption Bureau is still pending against the organization, I request you not to release any amount to the Non-Governmental Organisation instead I request you to provide an amount of Rs. 3.00 lakhs per month to the District Collector, Guntur, to meet the expenditure in connection with Food and Shelter to the inmates, of the institution.

4. The recommendation sent in this office letter of even number dt.29-3-2003 may be treated as cancelled. The funds may be released only to the District Collector, Guntur for running the institution.

Yours faithfully For PRL Secretary to Government

Respondent No. 2, vide, his letter dated 28.5.2003, in response to the Ministry''s letter No. 22-1 (15)/2000-DD II, dated 09.05.2003, informed the Ministry that the recommendation in favour of the NGO was wrongly given and the same may be treated as withdrawn.

The letter, dated 28.5.2003, reads as hereunder:

Government of Andhra Pradesh Women Devp. Child Welfare & Disabled Welfare (DW) Dept. Letter No. 3300/DW.A2/2003 Dt: 28-05-2003

From:

The Prl. Secretary to Government

W.D.C.W & D.W. Department,

A.P. Secretariat,

Hyderabad.

To

The Under Secretary to Govt. of India,

Ministry of Social Justice &

Empowerment,

Shastri Bhavan,

New Delhi.

Sir,

Sub:- W.D.C.W. & D.W. Department -Disabled Welfare - Zilla Vikalangula Sangham, Vinukonda, Application for sanction of Grant-in-aid -Regarding.

Ref:-1. From the Under Secretary to GOI, Min. of Social Justice & Empowerment, New Delhi, Lr. No. 22-1(15)/2000-DD-ll Dt.9.5.2003.

2. Govt. Lr.No:3300/DW.A2/2003, dt: 28-04-2003.

3. From the Director General. A.C.B., A.P., Hyderabad, Lr. No. 147/ RCA-VGT/2000, dt: 22-04-2003.

-ooOoo-

I am to invite your attention to the reference 1 and 2nd cited and to inform you as follows:-

2. The State Government reiterates its decision in the letter No. 3300/ DW.A2/2003, dt.28-04-2003. The recommendation in favour of the N.G.O. was wrongly given and the same may be treated as withdrawn.

3. The A.C.B. in its investigation so far has found that the N.G.O has falsified records and grabbed the funds of the central Government and acquired assets dis-proportionate to his known sources of income.

4. The investigation is under progress and is yet to be completed.

5. It was only in order to reduce the * hardship of the inmates of the Home that the Central Government was requested to release the Grant-in-aid to , the District Collector, Guntur for the use of the Home.

6. In view of the irregularities detected by A.C.B., the Grant-in-aid to other organization run by Shri Yedukondalu are also not recommended.

Yours faithfully for Prl. Secretary to Government

The letter, dated 09.05.2003, reads as hereunder:

Confidential

No. 22-1(15)/2000-DD-ll Government of India Ministry of Social Justice and Empowerment DD-II Section Shastri Bhawan, New Delhi, dated the 9th May, 2003

To

The Principal Secretary to Government,

Women Development Child Welfare &

Disabled

Welfare Deptt., A.P. Secretariat,

Andhra Pradesh,

Hyderabad.

Sir,

I am directed to refer to your letter N0.3300/DW.A2/2003 dated 31.3.2003 recommending grant in aid to Zilla Vikalangula Sangham for their project Residential School cum Vocational training Cetnre for Disabled for the year 2002-03 and this Ministry''s letter of even number dated 21.4.2003. In this regard attention is invited to the following:

(i) The NGO''s has been receiving assistance for 2 projects namely School for HH and Residential School cum VTC for Disabled. No mention has been made about the other project relating to HH. The recommendation is for the year 2002-03 only and the grant is under suspension from 2000-2001.

(ii) It may be recalled that a criminal complaint had been lodged against President of the Society by Anti Corruption Bureau on account of misappropriation of Govt. funds under the scheme of Govt. of India. It is not clear if the President has been cleared of the charges by the Anti Corruption Bureau. Neither the recommendation or Inspection report say anything specific regarding the latest status of the criminal complaint. In one of the interim orders of the High Court has directed completion of investigation within a specified time frame.

(iii) The State Govt. report does not certain any views on the issue of utilization of the grants given earlier which is reported to have been misutilised. This needs detailed report particularly in view of the inspection report of Assistant Director Disabled, Guntur of 3.11.2000 and letter No. 26/2000A dated 27.4.2002 of the then District Magistrate and Collector, Guntur.

(iv) Copies of the resolution of the General Body have been enclosed indicating change in the Executive Committee. A perusal of the document-enclosures of resolution accompanying the applications, letter handed over to Secretary with copies of Resolutions, title of the various petitions filed at different times - in this respect suggests that the name of the President has been changed frequently to suit specific needs. It is also not clear if the changes in the Executive Committee etc. has been filed with the appropriate State Govt. authority and has been taken on record. It has been seen that is Shri D. Yedukondalu who has been pursuing the grant application and in the absence of details offull address etc. in the resolutions, it is apprehended that changes are only dejure and not defacto. The Ministry is of the view that unless and until the entire Executive Committee including Shri D. Yedukondalu and its associates is changed or alternatively Anti Corruption Bureau clears Shri Yedukondalu of the allegations there would be always a risk in funding the project.

(v) It is seen from the Inspection Report accompanying the recommendation that a number of deficiencies have been pointed out in the report. It is not clear if these deficiencies have been removed or if the State Govt. are satisfied that corrective action has been taken for removing the deficiencies.

(vi) The organization which had filed the petition challenging the order of blacklisting but the same has also been withdrawn. This would mean that the organization still stands blacklisted. A representation for deblacklisting has not been disposed off and a reference had been made to the Home Department of Govt. of AP for the latest status on investigation by ACB.

(vii) It is seen from the copies of correspondence enclosed with the recommendation that the Collector and District Magistrate of Guntur vide letter No. RC. 140/2000/A dated 18.3.2003, has requested for an assistance of Rs. 3.00 lacs from Commissioner of Disabled Welfare suggesting that the project of the Disabled is being perhaps currently managed through assistance from Commissioner, Disabled Welfare. The Ministry would require further details on this, including the expenses included in this amount keeping in view the factors such as the amount the organization was getting earlier, the lower size of beneficiaries and perhaps the non continuance of hearing handicapped school etc, to deliberate on the running of the project through local committee consisting of State Govt. in the interest of beneficiaries.

2. In view of the position explained above the Ministry of the view that a decision can be taken only after a categorical report on each of the above issues clearly indicating that there are no irregularities and that grants given earlier has been

utilized fully and for the purpose for which it was meant for. We have also to finalise a counter in Writ Petition No. 23845 of 2002 and we intend to take a stand on the above lines in the affidavit. A copy of the affidavit would be sent after it is finalized.

Yours faithfully (P.K. Ravi) Under Secretary to the Govt. of India

12. It is also further stated that it was only in order to reduce the hardship of the inmates of the home the Central Government was requested to release the grant-in-aid to the District Collector, Guntur for the use of the home. In compliance with the order dated 29.8.2003 of the Hon''ble High Court in W.P.M.P. No. 29928 of 2003, even though the petitioner organization is under blacklist and a criminal case against the President of the organization for misappropriation of government funds has been filed in the Special Court of ACB, Respondent No. 1 with the approval of competent authority decided to sanction eligible grant-in-aid for 2002-03 for the project Residential School cum VTC for OH run by the petitioner Organisation and to disburse the sanctioned amount to the District Collector, Guntur. Accordingly, a sum of Rs. 26,19,000/- was sanctioned vide letter No. 22(1)(15)/2000-DD-II, dated 05.02.2004. The said letter, dated 05.02.2004, reads as hereunder:

22(1)(15)/2000-ddll Government of India Ministry of Social Justice and Empowerment

(DD-NGO Division)

Room No. 622, ''A'' Wing, 6th floor, Shastri Bhawan, New Delhi-100001 Dated: 05/02/2004

To

The Pay & Accounts Officer,

Ministry of Social Justice and

Empowerment,

Shastri Bhawan, New Delhi -110 001.

Sir,

I am directed to convey the sanction of the President for a grant in aid amount of Rs. 26,19,000/- (Rupees Twenty Six Lacs Nineteen Thousand only) for the year 2002-03 and to the release of Rs. 26,19,000/- (Rupees Twenty Six Lacs Nineteen Thousand only) to Zilla Vikalangula Sangam, Guntur, Andhra Pradesh as 1st and 2nd instalment in the year 2003-04 in respect of their project titled Residential School cum VTC for OH at Guntur.

2. Time Limit:

(a) The amount of Rs. 26,19,000/-(Twenty Six Lacs Nineteen Thousand only) will be paid to the organization before 31st march 2004.

(b) The non-recurring grant is to be spent within 12 months from the date of sanction of grant. The utilization certificate for non-recurring and recurring grant along with the Audited Statement will be submitted by the grantee to the Ministry within 15 months from the date of sanction of grant.

3. Unspent Balance:

(a) Certified that the unspent balance of Rs. 0 from the grant sanctioned during

the previous year has been surrendered/ has been adjusted in this year''s grant.

(b) Unspent balance from this grant/ installment will be adjusted from the subsequent grant.

4. Certified that this sanction has been noted at S.No:976 in the Register of Grants.

5. The Drawing & Disbursement Officer of this Ministry is authorized to draw an amount of Rs. 26,19,000/- (Rupees Twenty Six Lacs Nineteen Thousand only) for disbursement to the District Collector, Guntur through a Demand Draft/Cheque.

6. The expenditure is debitable to Major Head 2235 Minor Head 101 - Welfare of Handicap, 10- Other Scheme, 10., 16 Scheme to Promote Voluntary Action for persons with Disabilities, 10.16.31 -Grant-in-aid under Demand No. 85-2003-2004(Plan).

7. The grant-in-aid sanctioned underthe additional power delegated to the Ministry vide Ministry of Finance'' Office Memorandum No. F.10 (a) E (Coord.) 62 dt. 1st June, 1962. The sanction letter is issued with the concurrence of Internal Finance Division vide Dy. No. 4832/ DS(F), dated 2.01.2004.

Yours faithfully, (P.A. Raghavan) Under Secretary to the Government of India

It is also stated that the demand draft for the amount was sent to District Collector, Guntur vide letter No. 22 (1) (15) 2000-DD-ll, dated 05.03.2004. It is also further stated that the respondent No. 2 had recommended for grant-in-aid of Rs. 38,40.694/- to the petitioner organization vide his letter No. 2975/DW-A2/ 2004, dated 5.6.2004, and the said letter reads as hereunder:

Government of Andhra Pradesh Women Devp. Child Welfare & Disabled Welfare (DW) Dept. Letter No. 2975 / DW.A2/2004 DLQ5i06r2Q04

From:

Ajoyendra Pyal, I.A.S.,

Prl. Secretary to Government,

W.D.C.W. & D.W. Department

Disabled Welfare Department,

A.P. Secretariat,

Hyderabad.

To

The Secretary to Government of India,

Ministry of Social Justice &

Empowerment,

Shastri Bhavan,

New Delhi (w.e.)

Sir,

Sub:- WDCW&DW Department -Disabled Welfare - Renewal -Application of Zilla Vikalangula Sangam, Vinukonda, Guntur District for Sanction of G.I.A. for the year 2003-04 for Running the Residential School Cum Vocational Training Center for Disabled Proposals to Government of India-Forwarded -Regading.

Ref:- From the Commissioner, Disabled Welfare, Hyderabad, Letter No. ON.SVIII/2911/2003-04 dt.27.05.2004.

-ooOoo-

I forward herewith the Renewal application of Zilla Vikalangula Sangam, Vinukonda, Guntur District, for sanction of an amount of Rs. 38,40,694/- (Rupees Thirty eight lakhs forty thousand six hundred and ninety four only) after deduction of 10% Organization shares from Government of India during 2003-04 for running the Residential School Cum Vocational Training Center for Disabled. The information in Part - II proforma is enclosed.

2. I recommend the same for consideration.

Yours faithfully Mohd Alirafath for Prl. Secretary to Government

13. It is also stated that the petitioner organization is continuing under the blacklist and Anti-Corruption Bureau of Government of Andhra Pradesh had detected that the petitioner organization had falsified record and misused the Government funds and had filed FIR in the Special Court of ACB. It is also further stated that the W.P. No. 23845 of 2002 filed by the petitioner organization against FIR No. 15/ACB-VJA/2000 on the file of Special Court, Anti-Corruption Bureau, Vijayawada, is pending in this High Court. As per Rule 149(1) of General Financial Rules, sanctioning authorities should ensure that no grants are sanctioned where there is a reasonable suspicion or suggestion of corrupt-practices unless the bodies concerned are cleared of the allegations. Under the scheme named ''Scheme to promote voluntary Action for Persons with Disabilities'' renamed as "Deendayal Disabled Rehabilitation Scheme", implemented by respondent No. 1 through voluntary organizations/Non-

Government organizations, grant-in-aid was provided to \\ such organizations working for the welfare of Persons with Disabilities. The grant would be discontinued to such organizations when the unsatisfactory implementation of the project and misappropriation of grant by the concerned organization is detected. There was no provision under the scheme to sanction and release grant-in-aid in favour of State Government or District authorities. As such, for the project "Residential School-cum-VTC for disabled" of the petitioner organization, no fund could be placed at the disposal of District Collector as was done in a peculiar circumstances for the year 2002-03. In the case of petitioner organization, the ACB had already detected misuse/ misappropriation of Government funds and the matter is in the Courts of law. In those circumstances, no further grant could be considered for release to the petitioner organization in view of "the provision of General Financial Rules mentioned above, till it is cleared of the alleged misuse of Government funds. It is also further averred that the ACB had registered a criminal case vide No. 15/ACB-VJ A/2000 u/s 13(1)(e) and (d) of Prevention of Corruption Act, 1988 and under Sections 409, 420 and 477(A) of IPC against the ex-President of the petitioner organization for acquiring assets disproportionate to his known sources of income by cheating, breach of trust and diverting Government funds under various welfare schemes for destitute disabled and handicapped children given by State and Central Government and has amassed wealth by way of cash and immovable properties. Funds were sanctioned and released for implementing various projects for disabled children and street children to the petitioner organization by respondent No. 1 and its misuse by the ex-President of the organization is a serious crime and the petitioner organization with new Managing committee cannot claim that it is not involved in the alleged misuse of Government funds till this allegation is cleared by Special Court of ACB and the Hon''ble High Court. The letter, dated 28.05.2003, from respondent No. 2 would show the reasons for non-recommendation of grant-in-aid to the petitioner organization and the said letter is exhibited as Annexure V, which reads as hereunder:

Government of Andhra Pradesh Women Devp. Child Welfare & Disabled Welfare (DW) Dept. Letter No. 3300/DW.A2/2003 Dt: 28-05-2003

From:

The Prl. Secretary to Government

W.D.C.W & D.W. Department,

A.P. Secretariat,

Hyderabad.

To

The Under Secretary to Govt. of India,

Ministry of Social Justice & Empowerment, Shastri Bhavan,

New Delhi.

Sir,

Sub:- W.D.C.W. & D.W. Department -Disabled Welfare - Zilla Vikalangula Sangham, Vinukonda, Application for sanction of Grant-in-aid Regarding.

Ref:-1. From the Under Secretary to GOI Min. of Social Justice & Empowerment, New Delhi, Lr. No. 22-1(15)/2000-DD-ll Dt.9.5.2003.

2. Govt. Lr.No:3300/DW.A2/2003, dt: 28-04-2003.

3. From the Director General, A.C.B., A.P., Hyderabad, Lr. No. 147/RCA-VGT/2000, dt: 22-04-2003.

-ooOoo-

I am to invite your attention to the reference 1 and 2nd cited and to inform you as follows:-

2. The State Government reiterates its decision in the letter No. 3300/ DW.A2/2003, dt:28-04-2003. The recommendation in favour of the N.G.O. was wrongly given and the same may be treated as withdrawn.

3. The A.C.B. in its investigation so far has found that the N.G.O has falsified records and grabbed the funds of the central Government and acquired assets dis-proportionate to his known sources of income.

4. The investigation is under progress and is yet to be completed.

5. It was only in order to reduce the hardship of the inmates of the Home that the Central Government was requested to release the Grant-in-aid to the District Collector, Guntur for the use of the Home.

6. In view of the irregularities detected by A.C.B., the Grant-in-aid to other organization run by Shri Yedukondalu are also not recommended.

Yours faithfully for Prl. Secretary to GOVERNMENT

14. It is also stated that the respondent Ministry had not constituted any enquiry committee from the Central Government, instead respondent No. 2 was requested to get the projects of both for handicapped and street children inspected vide letter No. 22-01 (15)/ 2000-DD-ll, dated 22.03.2002. It is further stated that, however, in view of the communication from respondent No. 2 vide his letter dated 28.5.2003, none of the projects of the petitioner organization had been recommended for grant-in-aid in view of irregularities detected by ACB. It is also further stated that till the petitioner organization is cleared of alleged misuse of Government funds, it has no right to request for Government funds in the name of physically challenged, hearing impaired persons and to make allegations against the respondent No. 1 quoting the Persons with Disabilities

Act, 1995. It is also further stated in paragraph 18 of the counter-affidavit that the Ministry is in receipt of the letter dated 08.10.2005 from Home Department, Government of Andhra Pradesh drawing attention to the order dated 23.09.2005 passed by the Special Judge, ACB Court, Vijayawada that the President/Zilla Vikalangula Sangam, Vinukonda, Gunturare not arrayed or accused in the case in Cr. No. 15/ACB-VJA-2000. It is further stated that, however, the respondent Ministry cannot ignore the earlier detailed correspondence of State Government regarding the organization/President being involved in the Anti-Corruption Bureau and it cannot also be ignored that the State Government had specially withdrawn its earlier recommendation of grant-in-aid, vide their letters dated 28.04.2003 and 28.05.2003, in view of the pending Anti-Corruption Bureau case against the organization. It is also further stated that another important documentary evidence indicating involvement of the organization is the counter-affidavit filed by the Investigating Officer in the case Crime No. 15/ACB-VJA/2000 on behalf of the Anti-Corruption Bureau in the Writ Petition No. 23845 of 2002 and the same had been annexed to the counter-affidavit as Annexure-X. Rule 149(1) of the Government General Financial Rules had been relied upon. It is also stated in paragraph 19 of the counter-affidavit that at the time of filing this writ petition, the Ministry of Social Justice and Empowerment, Government of India, was mandated to deal with matter relating to welfare of Disabled Persons and Children including Sanction of grant-in-aid under different schemes like scheme for care and protection of street children etc., However, consequent to the issue of the Notification No. 1/22/1/2006-Cab, dt. 16.02.2006, by the Cabinet Secretariat, Government of India, matters regarding Child Welfare had been mandated to be under the jurisdiction of the Ministry of Women and Child Development, Government of India. The matters regarding welfare of disabled persons still remains with the Ministry of Social Justice and Empowerment, Government of India and the notification of the Cabinet Secretariat, Government of India is annexed as Annexure-XI. It is also further stated that the contention of the petitioner organisation for declaring the action of the respondents as illegal, arbitrary and violative of constitutional provisions and also contrary to the principles of natural justice and fair play is all false and incorrect, hence, denied. It is also stated that in view of the complaints against the petitioner organization, de-blacklisting the organization is unsustainable. Further, the . petitioner organization, according to the inspection report, had offered bribe. Such a claim amounts to an attempt to manipulate and use of dubious methods to force Government of India to de-blacklist the organization and sanction grant-in-aid to the organisation. All other allegations made by the petitioner are denied as false and correct. Hence, ultimately, it was prayed that the writ petition is liable to be dismissed.

15. In the counter-affidavit filed by respondents 2 and 3, it is stated that the scheme for the welfare of street children has been sponsored by the Government of India, and 90% of project cost will be provided by the Government of India and remaining 10% shall be borne by the Non-Governmental Organization. As

per the guidelines issued by the Government of India, on receipt of an application for grant-in-aid, inspection will be undertaken by the department of Juvenile Welfare Correctional Services and Welfare of Street Children and, on the basis of inspection report, the proposal will be processed and sent to respondent No. 1 through respondent No. 2 and grants will be released to selected organizations in two equal half-yearly installments by respondent No. 1. It is also stated that the 3rd respondent is not concerned with the above organization. It is further stated that the 1st respondent, vide Lr. No. 22/1(15)/2000-DD-ll, dated 22.03.2002, requested the 2nd respondent to get both the projects i.e. for handicapped and street children inspected, so that a decision on issue of release of grant or otherwise can be taken after the receipt of inspection report. Accordingly, the 2nd respondent, in Memo No. 8450/DW.A2/ 2000, dated 08.04.2002, requested the Commissioner, Disabled Welfare, Hyderabad, and the 3rd respondent to get the projects of both for handicapped and street children inspected and send a detailed report. These respondents have conducted inspection regarding the street children project of the Non-Governmental Organization. It is also further stated that the 3rd respondent, in Memo NO. P3/112/02, dated 12.04.2002, requested Superintendent, Observation Home for Boys, Vijayawada, and District Probation Officer, Gr-I, Guntur, to submit inspection report on the organization. They have inspected the organization on 21.04.2002 and submitted the inspection report in Lr. No. 11D/2002/339, dated 23.04.2002, duly recommending grant-in-aid for the years 2000-01 and 2001-02. The 3rd respondent, in the Lr. No. P3/112/02, dated 06.05.2002, forwarded the proposal of the organization along with inspection report to the 2nd respondent for necessary action. The 2nd respondent forwarded the proposals to the 1st respondent, vide Lr. No. 3953/JJ/A2/02-1, dated 27.05.2002, duly recommending, and orders of sanction, if any, by the 1S| respondent are not received by the 3rd respondent. Further, it is stated that the writ petition is not maintainable as already there is a direction in W.P. No. 3386 of 2005, dated 16.06.2005, to the 1sl respondent to pass appropriate orders on the proposal sent by the 2nd respondent within three months from the date of receipt of the order. Hence, the dismissal of the writ petition had been prayed for.

The letter, dated 22.03.2002, addressed by the 1st respondent to the 2nd respondent reads as hereunder:

No. 22-1 (15)/2000-DD-ll Government of India Ministry of Social Justice & Empowerment DD-II Section

Shastri Bhawan, New Delhi, Dated the 22nd March, 2002.

To

The Secretary,

Department Women Development,

Child Welfare and Disabled,

Government of Andhra Pradesh,

Andhra Pradesh.

Subject:- Grant-in-aid to projects of Zilla Vikalangula Sangam, Vinukonda - regarding.

* * *

Sir,

I am directed to refer to the correspondence resting with your letter No. S.VIII/2791/2001, dated 25.07.2001, and this Ministry''s letter of even number, dated 10.9.2001, on the subject mentioned above Shri D. Yedukondalu, the President of the organization had met Secretary (SJ&E) and pleaded for release of grants to the organization in the interest of the disabled children. He had also reportedly brought these children to Delhi. Keeping in view the interest of the children it has been decided to request the State Govt./ Commissioner for Disabled to get the projects of both for handicapped and street children inspected. If the State Govt. so desires a representative of the Ministry can associate with the inspection. A decision on the issue of release of grants or otherwise can be taken after the receipt of inspection report.

Yours faithfully, Sd/- (P.K. Ravi) Under Secretary to the Govt. of India

The letter, dated 08.04.2002, in Memo NO. 8450/DW.A2/2000-1, reads as under:

Government of Andhra Pradesh Women Development Child Welfare & Disabled Welfare (D.W.) Department

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Memo No. 8450/DW.A2/2000-1

Dated:8-4-2002

Sub:- DW-GIA to Projects of Zilla Vikalangula Sangam, Vinukonda -Inspection Report-called for- Reg.

Ref:- From the GOI, Lr. No. 22-1(19)/ 2000-DD-ll,dt. 22-3-2002.

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A copy of the letter cited is sent herewith to the Commissioner, Disabled Welfare and Commissioner, Juvenile Welfare & Correctional Services. They are requested to get the Projects of both for Handicapped and Street Children respectively inspected and send detailed reports as desired by the Government of India within a fortnight.

Jannath Hussain Prl. Secretary to Govt.

Likewise, the letter, dated 12.04.2002, in Memo No. P3/112/2002, reads as hereunder:

Office of the Commissioner, Juvenile Welfare, Correctional Services & Welfare of Street Children, A.P., Hyderabad.

Memo NQ.P3/112/2002.

Dated: 12.4.2002.

Sub:- Department of Juvenile Welfare, Correctional Services and Welfare of Street Children - Project of Zilla Vikalangula Sangam, Vikalangula - Grant in aid under the scheme of Welfare of Street Children - Inspection Report called for-Reg.

Ref:- Govt.Memo No. 8450/DW. A2/2000-1, dated 8.4.2002 along with Lr. No. 22-1 (15)/2000- DD II from Under Secretary to Govt. of India addressed to the Secretary WD. CW. DW Department.

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Copies of the reference cited are herewith enclosed. The following Officers are requested to verify whether the Organization Zilla Vikalangula Sangam, Vinukonda is running any street children project (Not Handicapped) at the location mentioned in the Govt. of India letter if the said organization is running Street Children Project obtain application for grant in aid in duplicate and furnish the same along with inspection report in (3) sets within in (5) days from the date of receipt of this communication so as to send report to the Government.

i) Sri S.Ch. Ramakrishna Reddy, Superintendent,

Govt. Observation Home for Boys, Vijayawada.

ii) Sri V. Siva Prasada Rao, D.P.O. Gr.1., Guntur.

Sd/-C. Dothanga, Commissioner

16. Further, the letter, dated 23.04.2002, reads ''as hereunder:

From

Sri S. Ch. Ramakrishna Reddy

Superintendent,

Govt. Observation Home

for Boys,

Vijayawada-8.

Lr. No. 11 D/2002/339, Dt: 23.04.2002

Sub: Department of Juvenile Welfare, Correctional Services and Welfare of Street Children -Project of Zilla Vikalangula Sangham, Vinukonda-Grant-in-Aid under the scheme of Welfare of Street Children - Submission of Inspection Report-Regarding.

Ref:1. Memo No. P3/112/2002, dated 12.4.2002 of the Commissioner of Juvenile Welfare Correctional Services and Welfare of Street Children, A.P., Hyderabad.

***

As regards the subject cited, I herewith submit the inspection report on the functioning of Zilla Vikalangula Sangham, Vinukonda in triplicate for renewal of Grant-in-aid for the financial years 2000-2001 and 2001-2002.

I also herewith submit the applications in duplicate obtained from the Zilla Vikalangula Sangham, Vinukonda for sanction of grants-in-aid for the financial years 2000-2001 and 2001-2002.

This is submitted for favour of information and necessary action.

Yours faithfully, Sd/- Superintendent, Govt. Observation Home for Boys, Vijayawada.

To

The Commissioner,

Juvenile Welfare

Correctional Services

and Welfare of Street

Children, A.P.,

Hyderabad-24.

The proforma for inspection report for Street Children Scheme for certain years also had been enclosed. Additional material papers also had been placed.

The letter, dated 25.10.2004, reads as hereunder:

No. 12/01 (06)/2002-03-SD(NGO) Government of India Ministry of Social Justice & Empowerment

Shastri Bhavan, New Delhi, Dated October 25,2004.

To

The Secretary,

Department of Home Affairs,

Government of Andhra Pradesh,

Secretariat, Hyderabad (A.P.).

Subject: Sanction of grant-in-aid to the Zilla Vikalangula Sangam, Vinukonda, Guntur (A.P.) for running street children project.

Sir,

I am directed to invite a reference to this Ministry''s letter dated 9.1.03 and subsequent reminder thereto 27.1.04 (copies enclosed for ready reference) requesting for the final report of the Anti Corruption Bureau relating to the case registered against Zilla Vikalangula Sangam, Guntur (A.P.). Since the organization is pursuing the matter for de-blacklisting and release of further grant-in-aid, it is requested that the decision and report of the Anti Corruption Bureau relating to his case may please be intimated to this Ministry at the earliest to enable this Ministry to take a view in the matter.

Yours faithfully, (Savita Prabhakar) Under Secretary to the Govt. of India.

Further, the letter, dated 08.10.2005, in letter No. 203/SC.A1/2004-2, reads as hereunder:

Government of Andhra Pradesh Home (SC.A) Department Letter No. 203/ SC.A1/2004-2 Dated:08.10.2005

From:

Sri A.K. Srivastava, IPS.,

Principal Secretary to Government,

Home (SC.A) Dept.,

A.P. Secretariat, Hyderabad.

To

The Secretary,

Ministry of Social Justice &

Empowerment,

Government of India,

New Delhi (w.e.).

Sir,

Sub: Zilla Vikalangula Sangam, Vinukonda, Guntur, A.P. running street children Project -Representation of T. Saidamma, President of the Organisation for de-blacklisting of the Organisation by the GOI - Forwarded.

Ref: 1. From Ministry of Social Justice & Empowerment, GOI Lr. No. 12/01/ (06)/ 2002-03-SD (NGO), dt.9.1.03, 27.01.04, & 25.10.04.

2. From Principal Secretary to Govt., Home (SC.A) Dept, Lr. No. 203/ SC.A1/2004-4,dt.7.12.2004.

3. From Ministry of Social Justices Empowerment, GOI, Lr. No. 6-7/

2004-CW, Dt.11.4.05, 15.7.05, 2.8.05, 13.9.05 & 14.9.05.

4. From the President, Zilla Vikalangula Sangam, Vinukonda, Guntur, A.P., Representation dt. 6.10.2005.

* * *

I am directed to invite your attention to the references 1sl to 3rd cited and to inform that T. Saidamma, President, Zilla Vikalangula Sangam, Vinukonda, Guntur, A.P., has represented that their organisation has been running Residential School cum Vocational Training Center for disabled persons and street children project for the last 15 years with the aid of Ministry of Social Justice & Empowerment, Government of India.

The said organisation had several times requested the Government of India for release of Grant in Aid to their Organisation to run the Project. The Zilla Vikalangula Sangam, Vinukonda, Guntur are under the apprehension that the Government of India could not release the Grant because of the ACB raid and the case booked against the former President of the Organisation.

It was brought to the notice of the Government that the Zilla Vikalangula Sangam, Vinukonda, Guntur District filed a CFR in the Court of lllrd Addl.Dist. Judge cum Special Judge, ACB Court, Vijayawada for a copy of FIR to know the truth in Cr. No. 15/ACB-VJA/2000. The Special Judge, ACB Court, Vijayawada, in his order dt.23.9.2005 of CFR Nos. 1185 & 1186, observed that the President/ Zilla Vikalangula Sangam, Vinukonda, Guntur are not arrayed or accused in the case in Cr. No. 15/ACB-VJA/2000. Hence they are not entitled for supply of certified copy of FIR which shows that there is no criminal case against the Zilla Vikalangula Sangam, Vinukonda, Guntur or its President Kum T. Saidamma.

The President, Zilla Vikalangula Sangam, Vinukonda, Guntur, A.P., has, therefore, requested that in view of the above order of Special Judge, ACB Court, Vijayawada, their organisation be de-blacklisted to enable them to run their project in the interest of street children and disabled.

The representation of the Organisation along with its enclosures thereto are forwarded herewith for consideration.

Yours faithfully, For Principal Secretary to Government

17. A reply affidavit was filed by the petitioner wherein it was averred that it is relevant to take note of some crucial undisputed facts i.e. Enquiry Committee, as requested by respondent No. 1, enquired into the affairs of the projects of both handicapped and street children run by the petitioner society and accordingly submitted a report in the year 2002, whereby whereunder the activities of the society in respect of the above project found satisfactory. The said enquiry committee was appointed after the petitioner society was blacklisted basing on N.G.Os report. In other words, in the light of the enquiry report, which found the petitioner society''s activities satisfactory, submitted by the 2nd respondent to the 1st respondent, has wiped out the basis on which the petitioner society was blacklisted. The another crucial undisputed fact is that the so-called A.C.B. Case

was registered against the then President of the organization, but not against the organization and the same is evident from the final report, which was submitted by Prl. Secretary, Home Department, Government of A.P., on 08.10.2005. Therefore, there is an ocean of difference between the President the society and the society itself. In the instant case, the organization, which is running effectively in order to transform the street children into full-pledged respectable citizens of India, cannot be penalized for the so-called irregularities, which were said to have been committed by the Ex-President of the society. It is also stated in paragraph 3 of the reply affidavit that the enquiry commission need not be appointed by respondent No. 1, once he delegated the powers to the 2nd respondent. In the instant case, the enquiry committee was appointed at the instance of the 1st respondent, which is unfair, and there is no justification on the part of the 1st respondent for having invited enquiry report and, without denying the genuineness of the same, continuing the petitioner society under the blacklist. It is also further stated that there is difference between refusing the grant-in-aid and continuing the petitioner society under blacklist, and to refuse grant-in-aid, the petitioner society need not be put under blacklist. The discretion lies with the concerned authorities to grant grant-in-aid or not, but, continuing the petitioner society under blacklist unilaterally involves fundamental rights of the petitioner. Therefore, the concerned authorities cannot be allowed to continue the petitioner society under the blacklist, more particularly, where there is a report founding the activities of the petitioner society satisfactory. It is also further stated in reply to paragraphs 5 and 6 of the counter-affidavit filed by the 1st respondent that the respondents, no doubt, released the amounts as they stated and to that effect audit was also being done for every year by the Auditor General of India. It is further stated that it is not out of place to mention that they never found any discrepancies and irregularities in audit reports. It is utterly false to say that all the concerned organizations were directed to cooperate with nodal agency teams and make available all information documents that were required by the teams for inspection and that there is no single letter addressed to the society in this connection. It is also further stated that the so-called report furnished by the Childline India Foundation, which is like any other N.G.O., cannot be treated as a gospel truth, for the simple reason that no official authorities have accompanied with its employees. It is also stated that the respondents, by assuming and presuming things, arrived at wrong conclusions as if the petitioner society offered bribe to inspecting authority and that nowhere in the entire report, it was stated by the inspecting authority that it was offered bribe by the petitioner society. In the absence of such a statement or evidence to that effect, it cannot be said that the petitioner society offered bribe to the inspecting authority. If is further stated that there were no guidelines at that time from the Government to involve the staff in decision making and planning process of the project and, therefore, the allegation that there was no involvement of the staff in any decision or planning does not hold water.

18. Further, it is utterly false to say that there were around 50 children in the

classes against much higher strength. The Inspecting Officer did not visit the project location i.e. building of the Street Children Project, but he stayed in the premises of the office for 15 minutes and went away neither seeing project location nor interacting with the children. Therefore, the report in this regard is baseless, cannot be believed and should not have been acted upon by the concerned authorities. It is also further stated that the stand of the petitioner that nodal agency is not a competent authority is vindicated by the fact that an employee of the Childline N.G.O. Society inspected the petitioner society without any authorization from the competent authorities. It is further stated that it is utterly false to say that petitioner organization had offered bribe and had the petitioner society really offered bribe, the inspecting authority should have registered a case against the petitioner society for offering bribe. In the absence of taking such steps and any trustworthy evidence to that effect, it is highly deplorable on the part of the 1st respondent to harping on offering bribe, without there being any legal basis. It is further stated that it is true that on the basis of the report submitted by the Childline N.G.O., petitioner society was blacklisted and that the very same authorities, who said to have asked the Childline N.G.O. to inspect the petitioner society, had also requested the 2nd respondent to enquire into the affairs of the society and that the 2nd respondent, having enquired into the same, submitted a report stating that the activities of the petitioner society are satisfactory. The fact that the same authorities immediately asked the 2nd respondent to enquire into the affairs of the society goes to show that they doubted the report submitted by the Childline N.G.O and therefore they requested the 2nd respondent to get the truthfulness of the affairs of the society. The moment enquiry report was submitted by the 2nd respondent, it is the bounden duty of the 1st respondent to de-blacklist the petitioner society, inasmuch as the basis on which it was blacklisted was wiped out by the enquiry report submitted by the 2nd respondent. Therefore, continuing the petitioner society under blacklist is nothing but illegal and violative of fundamental rights of the petitioner society. It is also stated that the respondents are fair enough to accept that the nodal agency, which inspected the petitioner organization, is a Non-Governmental Organization. The inspection of organizations are being taken place periodically from time to time and whenever the concerned authorities decide to inspect the organizations, they are supposed to pass necessary orders, giving authorization to the concerned nodal agency to inspect the organization. In the instant case, no such authorization was given to the subject nodal agency, which inspected the petitioner society without accompanied by any official and without showing any authorization letter, and when the same was brought to the notice of the concerned authorities, they are fair enough to realize their lapses in conducting inspection of the petitioner society by Childline Foundation of India, and they, immediately, requested the 2nd respondent to conduct enquiry into the activities of the petitioner society. Accordingly, a report was submitted by the 2nd respondent stating that the activities of the petitioner society are satisfactory. Further, in reply affidavit, at paragraphs 8, 9 and 10, it is stated that the respondents are fair enough to accept that they themselves asked the 2nd respondent to get the projects of both the Street Children and Handicapped inspected. Further it is stated that it is, utterly false to say that the respondents have not informed the petitioner society even orally to withdraw the Writ Petition No. 9578 of 2600A Further, it is utterly false to say that a Criminal Case No. 15/ ACB/VJ A/2000, dated 29.09.2000, was filed against the petitioner organization. The same was evident from the letter, dated 08.10.2005, addressed by the Prl. Secretary, Home Department, Government of A.P., to the 1st respondent. The so-called Anti Corruption case has nothing to do with the petitioner organization and, when the organization is still looking after the Street Children Project, it is totally unfair and there is no justification on the part of the concerned authorities to say that criminal cases are pending against the Organization. It is further stated that a Committee constituted by the District Collector has been looking after the activities of the petitioner society. Further, when there is no criminal case much less for cheating or breach of trust against the organization, the question of applying Rule 149(1) of the General Financial Rules does not arise. It is also stated that the respondents are being confused with the case registered against the petitioner society and that there is lot of difference between the Presidents and their organizations. There is no case as such pending against the petitioner organization. The 2nd respondent in the interest of street children directed the concerned authorities to release the funds to the District Collector and, accordingly, funds were being released to the committee constituted by the District Collector. This fact itself shows that the petitioner society is genuinely utilizing the grants for the welfare of the street children and handicapped and if really there is no" such strength as submitted by earlier Childline Foundation of India, N.G.O., the 2nd respondent would not have granted such huge amounts. It is further stated that it is totally unfair on the part of the respondents linking the blacklist to the Anti Corruption Case, which is alleged to have been pending against the Ex-President of the society.

19. The respondents on the one hand are saying that the petitioner society is under blacklist and on the other hand they are saying that there is an Anti Corruption Case against the Ex-President of the society. The basis on which the petitioner society is being blacklisted is entirely different from Anti Corruption Case filed against the Ex-President of the petitioner organization. It is also further stated that it is not the case of the respondents that since Anti Corruption Case is pending against the Ex-President of the society, the petitioner society was blacklisted. The basis on which the petitioner society was blacklisted is wiped out in the light of the fact that in the enquiry report submitted by the 2nd respondent it is found that the activities of the petitioner society are satisfactory. Therefore, the respondents released grant-in-aid and while releasing the same, they were fully aware that an Anti Corruption Case is pending against the Ex-President, but not against the petitioner society. It is also further stated that having granted grant-in-aid to the committee constituted by the District Collector, it is totally unfair and there is no justification to stop the same and that it is the street children and handicapped, who have been suffering for lack of

proper amenities and maintenance. Thus, the very purpose of bringing the street children and handicapped children into full-fledged citizens is being defeated. It is also further stated that it is one thing to say that the petitioner society was blacklisted on the ground that the N.G.O., Childline Foundation of India submitted a report against the petitioner society. It is altogether different to say that the petitioner society was blacklisted on account of Anti Corruption Case pending against the organization. It is further stated that the so-called former report submitted by the Childline Foundation of India, N.G.O., was wiped out by the report submitted by the 2nd respondent, which found that the activities of the petitioner organization are satisfactory. Therefore, continuing the petitioner society under blacklist is totally illegal, against all canons of fair play and natural justice. Further, if really, any ACB case is pending against the petitioner society, the respondents are bound to give notice and then initiate action against the society. In the instant case, admittedly, it has not been done. Therefore, the respondents cannot be allowed to continue the petitioner organization under blacklist. Further, it is stated that it is utterly false to say that the petitioner organization had falsified the Government records and misused the Government funds. As a matter of fact, there are specific guidelines under the scheme that if any organization misused the funds, the concerned authorities are at liberty to recover the same at the rate of 6% interest, after following due process of law. In the instant case, it is not the case of the respondents that they gave a notice saying that the funds are misused by the organization. They never issued any such notice and, on the other hand, the officials sent by the 1st respondent to audit the accounts of the petitioner society found them satisfactory. It is also further stated that it is not the question of provisions when the future of the street children and handicapped children is involved. The concerned authorities taking the realities into consideration made such an arrangement, but, unfortunately, the respondents are repeating the falsehood saying that there is an ACB case pending against the Ex-President of the petitioner organization. It is also further stated that now the respondents accepted that there is ACB case against the Ex-President of the petitioner organization, but not against the petitioner organization, but it is misconceived to say that unless and until the case against the Ex-President of the petitioner society is decided, the petitioner society cannot be freed from the allegations. It is also stated that it is totally false to say that the grant-in-aid recommended by the 2nd respondent was closed. It is further stated that the enquiry committee was constituted by the 2nd respondent at the instance of the 1st respondent only and the petitioner organization had not misused any Government funds and it has been running the project by taking loans from the Government and banks and the same can be recovered as and when the grants-in-aid were released. In paragraphs 14 and 15 of the reply affidavit also, certain averments were made in reply to paragraphs 18, 19, 20 and 21 of the counter-affidavit filed by the 1st respondent.

20 .In the light of the averments made in the affidavit filed in support of the writ petition, the counter-affidavit filed by the 1st respondent, the counter-affidavit

filed by the respondents 2 and 3 and the elaborate reply affidavit filed in answer to the averments made in the counter-affidavit of the 1st respondent, several of the facts are not in serious controversy.

21. The learned Counsel representing the writ petitioner had drawn the attention of this Court to the initial grounds on which originally the action had been initiated and would maintain that the additional supplemental facts, which have been averred in the counter-'' j affidavit of the 1st respondent, are not the grounds on which originally the petitioner organization was blacklisted. The learned Counsel also would contend that, having appointed an enquiry committee, having invited certain favourable findings and observations, having made the writ petitioner to withdraw the earlier writ petition and having provided funds, again contending that the petitioner continues to be under the blacklist cannot be sustained. The learned Counsel also would maintain that such additional grounds cannot be supplemented in the counter-affidavit. The learned Counsel placed strong reliance on Mohinder Singh Gill''s case (1 supra), whereunder the apex Court observed that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to Court on account of a challenge, get validated by additional grounds later brought out. A decision in Commissioner of Police, Bombay Vs. Gordhandas Bhanji, had been relied upon. There cannot be any quarrel relating to the said proposition.

22. On a careful analysis of the events and also the correspondence, which had been referred to supra, in detail, the series of successive events cannot be in serious controversy. No doubt, in relation to the withdrawal of the prior writ petition, specific stand was taken by the 1st respondent that no such oral instructions at least had been given. Rule 149 of the General Financial Rules had been specifically referred to and further the pendency of the criminal case also had been referred to, no doubt, as against the Ex-President of the petitioner organization.

23. On a careful analysis of the facts and circumstances, it is true that the allegations made against the functioning of the petitioner organization appear to be serious and the petitioner organization is coming up with an explanation that the Ex-President, as a person, had involved in all those activities and the petitioner organization, as such, represented by the present human agency, cannot be continued under the blacklisting, especially, in the light of the enquiry report submitted by the enquiry committee recording certain positive and favourable findings. It is also true that several of the additional grounds, which are pleaded in the counter-affidavit of the 1st respondent, which were not made the basis initially, cannot be taken into serious consideration, since it would amount to supplementing the allegations relating to which no show cause notice had been issued and no explanation as such had been called for to explain the

stand of the petitioner organization and so far such allegations are concerned, the same would be in violation of the principles of natural justice.

24. Hence, in the facts and circumstances -of the case and, especially, in the light of the serious allegations made in the counter-affidavit of the 1st respondent, the proceedings challenged in this writ petition, resulting in the blacklisting of the petitioner organization as such, are hereby quashed. But, however, it is made clear that the respondents are at liberty to take appropriate action in accordance with law in relation to several of the serious allegations made, which were not made the foundation of the present action.

The writ petition is, accordingly, allowed to the extent indicated above. No order as to costs.