

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.29 OF 2007

Chandrashekhar Vithal Parab & Anr. Petitioners.

V/s

The State of Maharashtra & Ors. Respondents.

Mr. N.R. Bubna for the Petitioners.

Mr. P.M. Patil, G.P. for Respondent Nos. 1 to 3.

Mr. A.T. Gade for Intervener.

Mr. A.B. Vagyani for Intervener

Mr. Saraf Aradhya for Intervener.

CORAM: SWATANTER KUMAR, C.J. AND
V.M.KANADE, J.

DATE : 5TH JUNE, 2008.

P.C.:

1. This Writ Petition under Article 226 of the Constitution of India was filed by the Petitioners praying that the State be directed to take appropriate action against the officers guilty of misconduct and corrupt practices in relation to misappropriation of public funds in Forest Department of Sangli District, details of which have been given in the Petition. It was further prayed that the investigation be ordered

to be handed over to CBI and guilty officers be punished in accordance with law.

2. During the pendency of this Petition which was filed in the year 2007, Court has passed various directions and on 28th February, 2008 Court has passed the following order:-

"1. Counsel for the respondents states that preliminary report has been accepted by the Department and charge-sheet have been issued against the Officers concerned, as they are involved in financial embezzlement. The State Government to file an affidavit clearly stating as to whether these officers have been continued to hold the same post or they have been transferred and/or any other action taken against the charged officers. Said affidavit be filed within two weeks from today.

2. Stand over to 27th March, 2008."

Again, on 10th April, 2008, Court passed the following order:-

"1. It is contended on behalf of the

petitioners that in the preliminary fact finding inquiry, it has been established that there has been mismanagement and misappropriation of government funds running into lacs. According to the petitioners, it is a fit case for handing over investigation to CBI by registration of offences under appropriate sections and mere departmental inquiry, which also has been commenced after filing this petition and various orders of the Court, would not serve the ends of justice.

2. The learned Counsel appearing on behalf of the State prays for time to take instructions. Stand over to 05/06/2008."

3. The State Government has filed affidavits as well as stated at the bar that departmental inquiries had been commenced against the erring officers who, as per the departmental records, were guilty of misappropriation and mismanagement of government funds, thus putting the Government to financial loss for their ulterior motives. These departmental inquiries are stated to be in progress. It is submitted that out of 34 suspects, 29 were transferred. The learned Counsel appearing for the State has placed on record a copy of the letter dated 14/5/2008, stating that in addition to departmental inquiries, Department has also directed the Chief Conservator of

Forest, Nagpur to lodge proper complaints with the Police Stations of the concerned jurisdiction and to ensure that the Police investigate properly and fairly.

4. The learned Counsel appearing for the Petitioners submits that despite commencement of the departmental proceedings, the guilty officers have not been transferred and, in fact, they were transferred prior to the commencement of the inquiries and they are still dealing with the public funds.

5. Having heard the learned Counsel for the parties at some length, there is no need for this Court to keep this Petition pending and we dispose of the same with the following directions and the directions that we are passing in the present matter are obviously in the line with the stand taken by the State by filing affidavits and placing the correspondence on record. Even otherwise, these directions would be in consonance with the settled principles of law and would be in the larger public interest.

(i) The departmental proceedings initiated against the said 34 guilty officers shall be completed expeditiously and completion report in relation to all these officers shall be filed in this Court within a period of six months from today.

(ii) Obviously, the departmental inquiries which have been initiated shall be continued in

accordance with law and needless to note that the Department shall provide delinquent officers with adequate opportunity in accordance with rules and service conditions.

(iii) The Chief Conservator of Forest, Nagpur is hereby directed to take immediate steps in furtherance to the letter written by the State Government dated 14th May, 2008, requiring him to register cases with the concerned Police Stations. We direct that the senior responsible Officer of the concerned Police Department shall be appointed as investigating officer who shall, in turn, be assisted by the Police Officer/Official as may be considered appropriate by the competent authority as number of Officers are stated to be involved in these cases of misappropriation and mismanagement in relation to public funds. It is noticed that in para 2 of this letter it had been stated that the Police shall take note of the report submitted by Mr. Samir Sahai. We make it clear that the Police will not be bound by this report and they will be free to carryout appropriate investigation as may be considered fit and proper by the Officer in charge of the investigation.

(iv) It has been brought to our notice that even the

Anti Corruption Bureau (ACB) had also examined this case and submitted a preliminary report dated 13/06/2007 but which could not be completed for want of record. The investigating agency shall be free to conduct the investigation in all aspects and we do hope that the investigation shall be carried out in just and fair manner and free from any influence.

(v) We also direct that within a period of three months, the preliminary investigation shall be completed by the police and if sanction is needed for prosecuting any of the guilty officers, the State Government shall take action and apply its mind to the facts that are placed before them in accordance with law and expeditiously.

6. Petition is disposed of in the above terms. We grant liberty to the Petitioners to submit such documents as they may like to for the purpose of proper investigation before the Investigating Officer. There shall be no order as to costs in the facts and circumstances of the case.

CHIEF JUSTICE

V.M. KANADE, J.

