

(2011) 05 JH CK 0026

Jharkhand High Court

Case No: Writ Petition (PIL) No. 1530 of 2009

Yuva Shakti Manch

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: May 9, 2011

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 82, 83
- Penal Code, 1860 (IPC) - Section 109, 120B, 201, 403, 406

Hon'ble Judges: R.K. Merathia, J; Prakash Tatia, J

Bench: Division Bench

Judgement

1. This Public Interest Litigation is going on since 2009. Several orders have been passed by this Court taking serious view and on 9th October, 2009 this Court directed the Director General of Police (Vigilance) to make a thorough enquiry and submit report regarding misappropriation of public fund which was meant for construction of schools. Again on 5th October, 2010 when the matter was taken up, this Court issued notice of contempt to the Director General of Police (Vigilance) as to why he should be not punished for non compliance of the order dated 9th October, 2009. The D.G.P. (vigilance) was directed to appear before this Court on 6.10.2010 and on 6.10.2010 the D.G.P. (Vigilance) was not in a position to answer any inquiry of the Court and the matter was adjourned and on 24th November, 2010 it was observed that this time should be utilized by the State for putting its house in order and discharging its obligation. Then on 8th December, 2010 order was passed to file fresh progress report, after taking note of the fact that the F.I.R. has already been lodged in the matter of mis-appropriation of public fund that too with respect to construction of schools under Sarva Siksha Abhiyan. And on 17th January, 2011 it was reported that only seven out of thirty two accused persons have been arrested and it was specifically observed that in case remaining accused persons will not be arrested, the Investigating Officer will have to face the consequences. Then again on

25th January, 2011, this Court observed that substantially, there is no progress and on 17th February, 2011 again it was observed that the Investigating Officer has so far not shown result notwithstanding the earlier order passed by this Court. On 8th March, 2011, it was informed that one of the officers has been arrested and rests were not arrested. On 26th April, 2011, this Court constrained to direct the Director General of Police, Jharkhand to handover the investigation about the conduct of the Investigating Officer of this case to a senior responsible officer of the State to see as to why and how and under what circumstances the Investigating Officer, investigating this case, has not been able to arrest the remaining 13 accused persons and also directed to submit a report in this regard.

2. Today, a report has been submitted by the Respondent-State. Annexure-1 of the said report submitted by the Additional Director General of Police, Criminal Investigating Department, Jharkhand, wherein, after narrating the facts with respect to charge-sheet submitted, it has been stated about the efforts which have been made for arresting the remaining accused persons and it has been stated that process u/s 82 and 83 Code of Criminal Procedure were also initiated against one of the accused namely, Archana Kumari and a schedule has been annexed to show that even public notice were issued for the named accused persons who are accused in the criminal case under Sections 403/406/409/120B/467/468/471/201/109 of the Indian Penal Code.

3. It appears that the report has been submitted only to justify the action of the Investigating Officer who could not arrest the 13 accused persons who were said to be the Government Servants at a particular point of time.

4. According to the learned Counsel for the Respondents, out of 13 accused, services of nine persons have been terminated, who were working on contract basis. However, four accused persons are in service but they are not traceable.

5. From the facts referred above, it is apparent that the State is yet helpless in arresting the accused persons in spite of the fact that it was the matter relating to the construction of building under Sarva Siksha Abhiyan and there is clear ease of embezzlement of huge fund in this project, who have not spared even the children of the State of Jharkhand.

6. In view of the above reasons, let a copy of this order be sent to the Chief Secretary, Government of Jharkhand as well as the Home Secretary, Government of Jharkhand so that they look into the affairs which is going on in the State of Jharkhand and find out as to why these persons, who are not the hardened criminals, could not be arrested by the police authorities, ignoring the serious view taken by this Court on several occasions, We cannot appreciate the reports Submitted by the officers who investigated about the conduct of the Investigating Officers. The State may file a progress report by 7th June, 2011.

7. Put up this Case on 7th June, 2011.