

Ajay Kumar Rai Vs The State of Jharkhand

Court: Jharkhand High Court

Date of Decision: April 1, 2014

Citation: (2014) 2 JLJR 529

Hon'ble Judges: R. Banumathi, C.J; S. Chandrashekhar, J

Bench: Division Bench

Advocate: Shreshth Gautam and Ram Subhag Singh, Advocate for the Appellant; Shadab Bin Haque, Advocate for the Respondent

Judgement

R. Banumathi, C.J.

In this Public Interest Litigation, the petitioner seeks for a direction to the respondents to get the matter relating to the alleged large scale bungling and misappropriation of public fund by granting contract work to those contractors who have been debarred from

participating in the tender investigated by an independent agency and bring it to its logical conclusion and seeking for a further direction to take

legal action against the guilty persons who, according to the petitioner, have misappropriated the public money. The case of the petitioner is that the

work order given to the contractors are not being carried out strictly in accordance with the terms" and conditions laid down in the Agreement and

the contractors purposely delaying the execution of work only to get revised estimate at a higher cost in connivance with the officials of the

department causing loss of public money and inconvenience to the public. It is the further case of the petitioner that the Road Construction

Department taken up the matter seriously and debarred 52 contractors, including Jai Maa Kali Construction and Dipanshu Promoters & Builder

Pvt. Ltd. who have not completed the work even after six months of prescribed period for completion of work and also on extended period and

revised estimate and they were debarred from all future tenders by an order issued by the Engineer-in-chief, Road Construction Department vide

memo No. 3084 dated 4.5.2012.

2. The petitioner has alleged that M/s. Jai Maa Kali Construction changed the name of the firm as Kali Durga Construction Pvt. Ltd. and get its

earlier registration renewed in the new name by office order dated 19.1.2011. It is further alleged that M/s. Jai Maa Kali Construction by changing

the name as Kali Durga Construction Pvt. Ltd. with the same registration number has participated in tender for construction of series of Check

Dam over (a) Rasia Nala; (b) Shakha Jora of Sukhandia Nadi, and (c) Gutgutwa Nala under Chhatarpur Block of Palamau district, in which all the

tenders were cancelled and the said firm Kali Durga Construction Pvt. Ltd. was declared as an eligible contractor in the meeting of the tender

committee held on 13.10.12 and the tender was allotted to the said firm on escalated rate.

3. In so far as the contractor-M/s. Dipanshu Promoter & Builder Pvt. Ltd. is concerned, the petitioner has alleged that the said contractor was also

allotted tender for construction of series of Check Dam on Masania Nala, Bhenwara Nala, Manglo Nala and Ariya Nala in Block Sisai in the

district of Gumla on escalated rate, although the said firm has also been debarred from any future tender. The authorities of Water Resources

Department instead of blacklisting the said Company, work order of several crores were given to the said Company, even though M/s. Dipanshu

Promoter & Builder Pvt. Ltd. was debarred by the Road Construction Department.

4. It is the case of the petitioner that he has filed representation to the Principal Secretary, Water Resources Department, Jharkhand, Ranchi about

such illegal practice and misappropriation of public money by the officials of Water Resource Department in connivance with the contractors and

also diversion of the public money by flouting the rules, but no action has been taken against the persons who, accordingly to the petitioner, are

indulged in misappropriation of public money and hence the petitioner has filed this Public Interest Litigation.

5. We have heard Mr. Shresth Gautam, learned counsel appearing for the petitioner as well as Mr. Shadab Bin Haque, learned JC to G.P.I.

appearing for the respondents.

6. The learned counsel for the petitioner has submitted that even though various contractors, including M/s. Kali Durga Construction Pvt. Ltd. and

Dipanshu Promoters & Builder Pvt. Ltd. (respondent Nos. 7 and 8) were debarred by the Road Construction Department, Water Resources

Department was not right in awarding the work order of several crores in favour of respondent Nos. 7 and 8.

7. Placing reliance upon the judgments rendered in the cases of Guruvayur Devaswom Managing Commit. and Another Vs. C.K. Rajan and

Others, , Ramsharan Autyanuprasi and another Vs. Union of India and others, and Onkar Lal Bajaj and Ors. vs. Union of India and Another, it

was submitted that where rules have been flouted by the concerned officials, the Court can direct the statutory authorities to ensure that the rules

are strictly complied with and contractual work is allotted only to those contractors who have good track record and, therefore prays for issuance

of a direction to the respondents to investigate into the matter by an independent agency and file a report.

8. Public Interest Litigation is not a universal panacea for all wrongs. It is essentially meant to protect basic human rights of the weak and the

disadvantaged. In the case of Shri Sachidanand Pandey and Another Vs. The State of West Bengal and Others, , the Hon"ble Supreme Court

held as under:--

61. It is only when Courts are apprised of gross violation of fundamental rights by a group or a class action or when basic human rights are invaded

or when there are complaints of such acts as shock the judicial conscience that the Courts, especially this Court, should leave aside procedural

shackles and hear such petitions and extend its jurisdiction under all available provisions for remedying the hardships and miseries of the needy, the

underdog and the neglected. I will be second to none in extending help when such is required. But this does mean that the doors of this Court are

always open for anyone to walk in. It is necessary to have some self-imposed restraint on public interest litigants.

9. Only a person acting bona fide and having sufficient interest in the proceeding of a Public Interest Litigation can approach the Court to espouse

the cause of the poor and needy but not a person for personal gain or private profit or political motive of any oblique consideration. Public Interest

Litigation is a weapon which has to be used with great caution and circumspection. It is to be used for redressal of public wrong or public injury

and not founded on any personal vendetta. A vexatious petition under the garb of Public Interest Litigation brought before the Court for vindicating

any personal grievance, deserves rejection.

10. The petitioner has alleged that 52 contractors have been debarred by the Road Construction Department and work has been allotted to such

debarred contractors. Even though the petitioner claims that he has no personal interest in the subject matter, the petitioner has shown his concern

with regard to two contractors only, who are respondent Nos. 7 and 8.

11. The petitioner has not chosen to name the other 50 contractors, who were debarred and who, according to the petitioner, were allotted the

work. As such, having regard to the facts and circumstances of the case, we do not find any public interest involved in this writ petition and this

writ petition is, thus, liable to be dismissed. The writ petition is, accordingly, dismissed.