

November 8th, 2006

In the High Court of M.P. Judicature at Jabalpur
Writ Petition No. 14989/2005

Petitioner:

Sachin Kumar Jain
S/o Shri S.C. Jain,
Aged about 31 years,
R/o E-7/226, 1st Floor,
Opposite Dhanvantri Complex,
Bhopal – 542 016 (MP)

Versus

Respondents:

1. State of Madhya Pradesh
Through Chief Secretary,
Government of Madhya Pradesh,
Vallabh Bhawan,
Bhopal
2. Commissioner,
Women and Child Development Department
4th Floor, Paryavas Bhawan,
Bhopal

Writ Petition Under Articles 226/227 of the Constitution of India

Particulars of the Petitioner:

The petitioner is a member of “Right to Food Campaign Support Group” in Madhya Pradesh and has been working for the rights of the persons in Madhya Pradesh. The petitioner is a trained Journalist. He has written more than six hundred articles on the issues of Poverty, Malnutrition, Food Security and other issues of rights of the people which have been published in well known newspaper, Magazines and Social Science Journals such as Danik Bhaskar, Nav Bharat, Nai Duniya, Hindustan, Rashtriya Sahara, Jan Satta, Dainik Jagaran, Economic and Political Weekly. He has 12 books to his credit on the above mentioned issues

W.P. No. 14989/2005

21.04.2006

Shri N.S. Kale, Sr. Counsel with Shri Raghvendra Kumar for the petitioner.

Shri Sanjay Yadav, Dy. Advocate General, for the respondents.

This is a Public Interest Litigation in which challenge is made to the alleged distribution of Ready to Eat Energy Food to be supplied to the children of schools between the age of 6 months to 3 years and 3 years to 6 years.

The main grievance of the petitioner is that respondents are taking hectic steps to allot the work of distribution to different contractors, thereby violating the directions of Hon'ble the Supreme Court passed in WP(Civil) No. 196/2001 decided on 7.10.2006.

On this averment being made, respondents were directed to take noticed. Pursuant thereto respondents have submitted their reply on 29.3.2006 after serving copy thereof to learned counsel for the petitioner. In the said reply they have made categorical statement that there is absolutely no plan either to violate the directions as contained in the order passed by the Hon'ble Supreme Court or to allot the work of distribution to contractors. In para-5 of the reply it has been averred as hereunder:

“It is submitted that supply for 4 days has been decided to be made by the self-help group and for remaining 2 days has to be made by manufacturer. It is also submitted that if it is experienced by the answering respondents that self-help groups are able to make proper supply of good food, the whole supply would be given to them.”

Now coming to the directions as contained in the order passed by the Hon'ble Supreme Court which reads as under:

“The contractors shall not be used for supply of nutrition in Anganwadis and preferably ICDS funds shall be spent by making use of village communities, self-help groups and Mahila Mandals for buying of grains and preparation of meals.”

Apart from the above, it has also been made clear at Bar by learned counsel appearing for the respondents that the apprehension of the petitioner is highly misconceived and without any foundation. The respondents have already decided to follow the mandate of Hon'ble Supreme Court and, accordingly, the distribution work has already begun and no services of the contractors have either been employed or are likely to be employed. This substantially satisfies the reliefs as claimed by the petitioner.

Thus, presently we are of the opinion that no part of the grievance of the petitioner remains against which any relief can be granted. The petition has been rendered infructuous. It is, accordingly, hereby dismissed as such.

The security amount, if deposited by the petitioner, be refunded back after due verification. Parties to bear their own respective costs.

Deepak Verma
Judge

R.K. Gupta
Judge

mms/-

In the High Court of M.P. Judicature at Jabalpur
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Versus

Respondents: State of Madhya Pradesh and another

Return of Behalf of the Respondents

The respondents named above, respectfully submit as under:

1. That the petitioner has filed the present writ petition in the form of Public Interest Litigation (PIL) challenging the action of the respondents by which the process for supply of Ready to Eat Energy Food (RTEEF) has been initiated vide N.I.T. dtd. 28/9/2005. The petitioner has contended that the answering respondents are not following the guidelines given by the Hon'ble Supreme Court in a similar case vide order dtd. 7/10/2004 (P-3). The petitioner has therefore prayed for a direction to stop the process initiated by the answering respondents for supply of RTEEF.
2. The answering respondents respectfully submit that the petition as filed by the petitioner is liable to be dismissed for the reason that it has been filed without knowing about the complete scheme/policy of the answering respondents for the same. It appears that either the petitioner is not knowing about the complete scheme or the petitioner is trying to mislead this Hon'ble Court to get relief in the petition. It is submitted that under the scheme of I.C.D.S. sponsored by the Central Government it has been decided to supply supplementary food to the children from the age of 6 months to 6 years. It is also submitted that the scheme has to be implemented in two parts. In the first part the supply has to be made to the children from the age of 6 months to 3 years and in the second part supply has to be made to the children from the age group of 3 years to 6 years. The answering respondents respectfully submit that for supply of food to the children from the age group of 6 months to 6 years more precaution has been taken by the answering respondents and for this reason the whole supply has been decided to be made by the manufacturer in the whole State for which NIT was issued on 28/9/2005, copy of which has been filed by the petitioner as Annex. P-1. It is submitted that this centralized distribution of food has been provided for children of the age group of 6 months to 3 years so that there may be proper check of the State Government. It is also submitted that as per NIT dtd. 28/9/2005 the process has been finalized and only work order to the manufacturer is required to be issued.
3. That in the second part of the scheme the food has to be supplied District wise for the children of the age group of 3 years to 6 years and necessary action for the same has been directed to be initiated district wise. It is also submitted that in almost in all the districts the process has been finalized and the supply has also been started. It is submitted that main contention of the petitioner in the present writ petition has been raised in paragraph 5.7 of the petition to the effect that the contractors shall not be used for supply of nutrition in Anganwadis and preferably ICDS funds shall be spent by making use of village communities, Self-Help groups and Mahila Mandals for buying of grains and preparation of meals. In this regard, it is submitted that the scheme was earlier started by

the answering respondents in the year 2003 and food was to be supplied by self-help groups. After starting of the scheme in the year 2003, the answering respondents have experience that supply by self-help groups was not proper and successful and therefore it has been decided by the Cabinet to make supply in the District 4 days by the self-help groups and for remaining 2 days by the manufacturer. It is also submitted that if the self-help groups are able to make proper supply they will be given full chance for supply of food for all the days. A copy of the order in this regard is filed herewith as Annexure R-1. Thus from the submissions made above, it is clear that the petition has been filed without knowing complete process and scheme in a very careless manner and therefore deserves to be dismissed.

Subject to the aforesaid the answering respondents submit their parawise reply as under:

4. As to paras 5.1 to 5.3: That the contents of these paras need no reply.
5. As to para 5.4: That in respect to para 5.4 of the petition, it is submitted that whole scheme consist of two parts. One relates to supply of food to the children from the age group of 6 months to 3 years and the second part relates to supply of food to the children from the age group of 3 years to 6 years. It is submitted that supply has been decided to be made by the manufacturer to the children from the age group of 6 months to 3 years State wise for which NIT has been issued and has also been finalized only work order has to be issued in favour of successful bidders. So far as the second part is concerned, it is submitted that supply has to be made by self help groups in the district and village level. It is submitted that supply for 4 days has been decided to be made by the self-help group and for remaining 2 days has to be made by manufacturer. It is also submitted that if it is experienced by the answering respondents that self-help groups are able to make proper supply of good food the whole supply would be given to them.
6. As to para 5.5: That in respect to para 5.5 of the petition, it is submitted that the Nutrition of good quality has to be supplied by the manufacturer and this has been decided by the answering respondents with an intention to maintain good quality. There is nothing wrong in the decision taken by the answering respondents.
7. As to para 5.6: That in respect to para 5.6 of the petition, it is submitted that the answering respondents have considered the representation made by the petitioner as well as the guidelines issued by the Hon'ble Apex Court in the Judgement Annex P-3 and after going through the same, the scheme has been prepared carefully after consultation with the experts and there is nothing wrong in the scheme.
8. As to para 5.7: That in respect to para 5.7 of the petition, it is submitted that no contractor has been used for supply of RTEEF by the answering respondents. The supply has to be made by the manufacturer or by the self-help groups and therefore there is no violation of the guidelines issued by the Hon'ble Apex Court.
9. As to para 5.8 & 5.9: That in respect to paras 5.8 & 5.9 of the petition, it is respectfully submitted that the main objective behind the scheme is not to provide employment to the women but to provide good quality nutrition food to the children upto 6 years of age and pregnant and lactating women.
10. As to para 5.10: That in respect to para 5.10 of the petition, the answering respondents humbly submit that rights guaranteed under Article 21 of the Constitution of India have not been violated in any manner by the answering respondents. The whole scheme has

been prepared very carefully and there is nothing wrong in the scheme which can be said to be arbitrary or malafide,

11. As to para 6: That in view of the submissions made above, there is no ground to entertain the writ petition particularly Public Interest Litigation. The petition has been filed with malafide intention and deserves to be dismissed with heavy costs.
12. As to paras 7 & 8: That in view of the submissions made above, it is clear that the petitioner is not entitled for any relief as claimed in the petition. The petition is liable to be dismissed with heavy cost.
13. In view of the submissions made hereinabove, no case has been made out warranting interference of this Hon'ble Court in exercise of its extraordinary writ jurisdiction. The petition being bereft of merit deserves to be dismissed.

An affidavit in support is filed herewith.

Jabalpur

Dated 17/3/2006

Counsel for Respondents

For Respondents

sd/-

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Affidavit

I, Ravindra Singh Raghwanishi S/o Shri L.S. Raghwanishi aged about 37 years, Joint Director, Woman & Child Development, Bhopal (MP), do hereby make oath and state as under:

1. That the deponent is the Officer-in-Charge of the case on behalf of respondents.
2. That the contents of paras 1 to of the attached application are true on the basis of information received from the record of the case of documents annexed thereto and believed to be true by me.

DEPONENT

sd/-

VERIFICATION

I, Ravindra Singh Rashwanishi, the above and named deponent, do hereby verify that the contents of paras 1 and 2 of above affidavit are true to my personal knowledge.

Verified and signed on this 17-Mar-06 at Jabalpur.

DEPONENT

sd/-