

Mithlesh Kumar Singh Vs. Union of India and ors

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Court : Delhi

Decided On : Jul-07-2014

Judge : Rajiv Sahai Endlaw

Appellant : Mithlesh Kumar Singh

Respondent : Union of India and ors

Advocate for Def. : Mr. R.V. Sinha, Mr. A.S. Singh, Mr. Sachin Datta, Ms. Ritika Vhurani, Mr. P.K. Sharma, Mr. Rakesh Kumar Sharma, Ms. Renu Malik

Advocate for Pet/Ap. : Mr. Sudhir Nandrajog, Mr. Avdhesh Kumar Singh, Mr. M.K. Singh

Judgement :

*IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision:

7. h July, 2014 % + W.P.(C) 1618/2014 MITHLESH KUMAR SINGH Petitioner Through: Mr. Sudhir Nandrajog, Sr. Adv. with Mr. Avdhesh Kumar Singh and Mr. M.K. Singh, Advs. Versus UNION OF INDIA & ORS Through: Respondents Mr. R.V. Sinha and Mr. A.S. Singh, Advs. for R-1,3&4. Mr. Sachin Datta with Ms. Ritika Vhurani, Advs. for UOI. Mr. P.K. Sharma with Mr. Rakesh Kumar Sharma and Ms. Renu Malik, Advs. for R-6/CBI. CORAM :HONBLE THE CHIEF JUSTICE HONBLE MR. JUSTICE RAJIV SAHAI ENDLAW RAJIV SAHAI ENDLAW, J.

1. This petition, filed by way of a Public Interest Litigation (PIL) seeks (i) a direction to the Ministry of Railways, Railway Board, Prime Minister Office, Lok Sabha Secretariat, the Director, CBI and the Planning Commission of India to provide the details of documents relating to purchase of jacks, appointment of candidates in the Railway Recruitment Board, Patna, financial irregularities in extension of railway line and scam in procurement of concrete sleepers in Railways during the tenure of respondent no.7 Mr. Nitish Kumar as Union Minister for Railways; and, (ii) a direction to the respondent no.6 Director, CBI to register the case against the respondent no.7 and his other associates.

2. The petitioner, on the same facts had earlier also filed W.P.(C) No.8919/2011 and which was dismissed vide order dated 21 st December, 2011, accepting the version of the respondents that the matter had been referred to CBI for investigation and the CBI had not found any substance in the matter and had submitted report that no action was warranted in the case and which report was ultimately accepted. The petitioner thereafter sought information under the Right to Information Act, 2005 (RTI Act) and then sought review of the order of dismissal of the earlier writ petition on the ground that it was misrepresented before this Court that the matter had been referred to the CBI or that the CBI had not found any substance therein and which report was accepted. The said review petition came up before this Court on 7 th December, 2012 when the counsel for the respondent Railways showed in confidence the records brought to the Court to the Bench then hearing the matter and on perusal thereof this Court recorded that the same disclosed that a CBI inquiry was indeed conducted and the report of the CBI was placed before the Standing Committee of the Railways. In view thereof the said review petition was dismissed, as aforesaid on 7th December, 2012.

3. The petitioner again pursued his remedies under the RTI Act and on the basis thereof claims that there is no record of the matter having been placed before the Railway Board or having been enquired into / investigated by the CBI. Pleading so, this writ petition has been filed.

4. This Court (in the order dated 7th December, 2012 of dismissal of the review petition aforesaid) having observed that the records shown to it disclosed that a

CBI inquiry was indeed conducted and that the report of the CBI was placed before the Standing Committee of the Railways, the contention today, of the CBI inquiry having not been conducted and the report thereof having not been placed before the Standing Committee of the Railways, cannot be accepted. The petitioner is thus not entitled to second or third round of litigation on the same aspect, as is being sought to be done.

5. We have otherwise also enquired from the senior counsel for the petitioner as to why the petitioner is targeting the respondent no.7 for the last nearly three years by filing one proceeding after another and what is the source of knowledge and information of the petitioner relating to affairs qua which commission of offences is alleged.

6. No plausible answer has been forthcoming. We suspect the petition to be motivated and not in public interest and are not inclined to entertain the same on this ground also.

7. Even otherwise it has been held in *Sakiri Vasu Vs. State of U.P.* (2008) 2 SCC 409 that the High Courts, in exercise of powers under Article 226 of the Constitution of India, should not encourage rushing to the Court against nonregistration of FIRs, the remedy whereagainst is to approach the Superintendent of Police under Section 154(3) Cr.P.C. or other police officers referred to in Section 36 Cr.P.C. and if despite that the grievance persists, to approach the Magistrate under Section 156(3) Cr.P.C. and if still dissatisfied, to file a criminal complaint under Section 200 Cr.P.C.

8. We have enquired from the senior counsel that why the petitioner in the last three years has not taken either of the aforesaid measures.

9. Again no response is forthcoming.

10. There is no merit in the petition which is dismissed. We refrain from imposing any costs. RAJIV SAHAI ENDLAW, J.

CHIEF JUSTICE JULY07 2014/pp