

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO.12 OF 2023

SHARAD SADASHIVRAO KULKARNI
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
PRINCIPAL SECRETARY AND OTHERS

...
Advocate for the Petitioner : Shri Nimbalkar Aniruddha A.
AGP for Respondents 1 to 7/State : Shri V.M. Kagne
...

CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.

DATE :- 21st July, 2023

Per Court :-

1. On 16.03.2023, we had passed the following order:-
 - “1. Before we pass an order under Rule 7A(i) of the Bombay High Court Public Interest Litigation Rules, 2010, for directing the Petitioner to deposit an amount in this Court, we direct the Petitioner to place before us a compilation of all orders passed by the Court in the 7 cases that the Petitioner has filed in different Courts alleging misappropriation/ corruption/ embezzlement etc.. Let such compilation of all orders alongwith an affidavit of the Petitioner with proper pagination in continuation be filed, on or before 15th April, 2023. Thereafter, we would decide whether to entertain this petition.
 2. List this petition on 20th April, 2023 in the

“passing orders” category.”

2. The Petitioner, in deference to the above order, has filed an affidavit dated 31.03.2023. It is revealed that he has filed several criminal cases against several officers of various Department, which are as under:-

(a) Criminal Writ Petition No.989/2018. The said petition is still pending.

(b) Criminal Writ Petition No.1508/2016. This petition is also pending.

(c) Criminal Public Interest Litigation No.2/2018. This petition has been dismissed in default.

(d) Regular Criminal Case No.1035/2013. After ten years, the said case is still at the stage of framing of charges in which, the Petitioner is the Complainant.

(e) Regular Criminal Case No.589/2013. This case is also pending in which, the Petitioner is the Complainant.

(f) Regular Criminal Case No.517/2013. The same is also pending at the stage of framing of charge and the Petitioner is the Complainant.

(g) Regular Criminal Case No.96/2014. This case is also

pending.

3. We have perused the orders passed in the above matters, which are annexed to the additional affidavit dated 31.03.2023. The common feature in the proceedings filed by the Petitioner in this Court in the nature of the Criminal Writ Petition/ Criminal PIL etc., is that these petitions are pending ever since the notice has been issued. After issuance of notice, the matters are not conducted. The same is the case with the pending Criminal Cases before the Trial Courts wherein, the stages in the matters are at framing of charges or leading of evidence.

4. As noticed from the affidavit filed by the Petitioner, some of such criminal cases are of 2013 and one is of 2014. Insofar as the petitions before this Court are concerned, one Criminal PIL is of 2013 and two Criminal Writ Petitions are of 2016 and 2018. None of these matters are taken to an logical end. Even after passage of 10 years, three criminal cases are pending and one criminal case is pending for the last nine years.

5. *Ex-facie*, we are, therefore, of the view that the Petitioner is interested only in initiating cases against the officers

working in the Public Works Department or Irrigation Department and keeping them pending like the '*Sword of Damocles*'. The Petitioner himself is a civil contractor. Since in the above set of facts, we were circumspect about his intention of filing this PIL. An allegation is made that there is a misappropriation of Rs.3 crores. He has arrayed nine officers and six contractors. It is prayed that there should be an enquiry against all of them, a finding should be recorded that they have indulged in misappropriation of Rs.3 crores, crimes may be registered against them and even disciplinary proceedings under the Maharashtra Civil Services (Discipline and Appeal) Rules should be initiated and they should be punished with extreme punishment. We, therefore, directed the Petitioner to deposit Rs.50,000/- per such officer/ contractor u/Rule 7A(i) of the 2010 Rules.

6. The learned Advocate for the Petitioner sought a pass over and after taking instructions, submits that the Petitioner would deposit an amount of Rs.7.5 lacs in this Court within sixty (60) days from today.

7. We make it clear that if the said amount under Rule 7A(i) of the Bombay High Court Public Interest Litigation Rules,

2010, is not deposited, this PIL petition shall not be entertained and shall be dismissed and we may consider whether, costs may be imposed on the Petitioner while passing the order of dismissal.

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)