

Court No. - 40

Case :- WRIT - C No. - 34359 of 2023

Petitioner :- Jhamman Singh

Respondent :- Union Of India And 5 Others

Counsel for Petitioner :- Manu Mishra

Counsel for Respondent :- A.S.G.I.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Sri Manu Mishra, learned counsel for the petitioner. Office of Additional Solicitor General of India, High Court, Allahabad has accepted notice on behalf of respondent nos.1 and 6.

2. By means of this petition, the petitioner has sought following reliefs:-

"(i) To issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 10.08.2023 passed by respondent no.6 in complaint No.2132/2022 filed by petitioner.

(ii) To issue a writ, order or direction in the nature of mandamus directing the respondent no.2 to take appropriate action against respondent no.5 in terms of Audit Inspection Report dated 28.10.2022.

(iii) To issue a writ, order or direction in the nature of mandamus directing the respondent corporation to undo all the illegal action taken by respondent no.5 (during his reign from 2016 to 2022) in the matter of appointment and promotion to the undeserving candidates in terms of Audit Inspection Report dated 28.10.2022."

3. It appears from the record that the "Bharat Immunological and Biological Corporation Limited" is a Public Sector Undertakings of Government of India, which was established in the year 1989 in District Bulandshahr. The petitioner claims to be employee of the Corporation. He is also member and Secretary of the Union working for the welfare of its members and the Corporation. The petitioner has moved a complaint before the Lokpal of India against the General Manager, Company Secretary & Assistant General Manager (AGM) of the Corporation, alleging therein that the AGM/Company Secretary had been involved in many irregularities of illegal appointments, undue promotions and also approving sub-standard quality of polio vaccines and taking reimbursement on the basis of fake taxi bills. The said complaint

was registered as Complaint No.3029/2022 and Full Bench of Lokpal of India vide order dated 06.05.2022 had proceeded to dispose of the said complaint directing the respondent no.1 to look into the complaint of the union for conducting an enquiry and taking further necessary action in the matter.

4. It further appears that the petitioner had moved another complaint dated 01.05.2022 before Lokpal of India registered as Complaint No.2123/2022 wherein initially, the cognizance was taken by the Chairman and six other members. Finally, the complaint was rejected by detailed order of Full Bench of Lokpal of India vide order dated 10.08.2023. Relevant portion of the order is reproduced herein below:-

"16. From the records available with us including submissions made by the RPS-1 to 3 during the hearing granted to them, it emerges that the system of ascertaining the requirement for importing of bulk OPV being followed by BIBCOL is far from perfect. There is lack of coordination among various branches of BIBCOL and there is lot of adhocism for ascertaining the requirement and floating tenders. Moreover, as per the Department of Expenditure O.M. No.F.12/17/2019-PPD dated 15.05.2020 and 28.06.2020, no Global Tender Enquiry (GTE) shall be invited for tenders upto Rs.200 crores and approval of Secretary (Coordination), Cabinet Secretary is required for relaxation of clause relating to floating of GTE upto Rs.200 crores. It is nowhere mentioned that the tender floated are global tenders although the currency quoted in the tender documents is in US dollars. The categorisation that a tender whether the suppliers quotes any foreign currency shall be considered as global tender does not seem to have been understood by the Purchase Division of BIBCOL. Moreover, approval of Secretary (Coordination), Cabinet Secretariat before floating of tender has also not been taken by BIBCOL. However, in spite of the irregularities in floating tenders as noticed during the course of inquiry, no mala fide or wrongdoings have been noticed against the concerned public servants associated with procurement of bulk OPV for BIBCOL.

17. Regarding the alleged forged taxi bills, from the written submissions made by the RPS-4 and the oral submissions made by his Advocate who appeared before the Division Bench on 30.05.2023, it merges that satisfactory explanation has been given by RPS-4. The allegation that he has claimed taxi bills for his private vehicle could not be substantiated during the course of inquiry. RPS-4 has explained in detail the procedure being followed in BIBCOL during the peak of Covid-19 for supply of samples to CDL, CRI, Kasauli.

18. The allegations regarding alleged irregularities in the appointment/promotion of RPS-4 also could not be substantiated during the course of inquiry.

19. RPS-5 did not appear before the Division Bench nor he submitted any written submissions. However, the allegations that he deposited EPF contributions of some employees in his own account could not be

substantiated during the course of inquiry.

20. In view of the above findings, we are not inclined to pass any further order in the matter. However, we would like to observe that BIBCOL is involved in very sensitive and important work regarding procurement of bulk OPV which is the backbone for the programme of Polio eradication in the country. It is, therefore, necessary that procurement and supply of bulk OPV is done in a fool-proof method and the process for the same is streamlined. Ministry of Science & Technology, Department of bio-Technology and BIBCOL may, therefore, take necessary steps to devise a fool-proof system of procurement of bulk OPV in a time-bound manner and its timely supply to the units producing polio vaccines."

5. We have proceeded to examine the record in question and also perused the impugned order dated 10.08.2023 passed by the Full Bench of Lokpal of India, whereby the complaint of the petitioner was rejected on the ground that no mala fide or wrongdoings have been noticed against the concerned public servants associated with procurement of bulk OPV for BIPCOL. The Full Bench had recorded a categorical finding that the allegation against the AGM/Company Secretary, who has claimed taxi bills for his private vehicle could not be substantiated during the course of enquiry and the allegation regarding alleged irregularities in appointment/promotion of RPS-4 also could not be substantiated during the course of enquiry. The Full Bench further observed that BIBCOL is involved in very sensitive and important work regarding procurement of bulk OPV, which is the backbone for the programme of Polio eradication in the country and therefore, it is necessary that procurement and supply of bulk OPV is done in a fool-proof method and the process for the same is to be streamlined.

6. Once the complaint had been considered in detail by the Full Bench of Lokpal of India and the same had also been rejected then the said finding of fact cannot be generally looked into and examined by the writ court. It is well settled that on behalf of a complainant, a writ petition is ordinarily not maintainable. (Ref. **Amin Khan v. State of U.P.**, 2008 (2) AWC 2002 and Special Appeal No.382 of 2008 (Guru Prasad Yadav v. State of U.P. & Ors.) decided on 13.3.2008.

7. In the aforesaid facts and circumstances, once we have declined to entertain the writ petition and dismiss the writ petition with exemplary cost then learned counsel for the petitioner states that he is not inclined to press the writ petition.

8. The writ petition is dismissed with cost of Rs.25,000/- which

may be deposited by the petitioner within two weeks from today in the account of High Court Legal Services Committee, High Court Allahabad, failing which the District Magistrate, Bulandshahr is directed to recover the cost from the petitioner as arrears of land revenue.

Order Date :- 13.10.2023

RKP