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WP-16659-2021

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 2nd OF JULY, 2025

WRIT PETITION No. 16659 of 2021

SPECIAL POLICE ESTABLISHMENT INDORE

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Prasanna Prasad - Advocate for the petitioner.

Shri Anand Soni - Additional Advocate General for the respondents.
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ORDER

Per. Justice Binod Kumar Dwivedi

The petitioner – Special Police Establishment, Lokayukta, Indore, has filed the present petition under Article 226 of the Constitution of India against order/letter dated 23.10.2019 passed by respondent No.1 and 03.10.2019 (Annexure P/12) passed by respondent No.2 by which, they have not granted sanction for prosecution against respondent No.3 for the offences punishable u/s. 7, 13(1)(d) and 13(2) of Prevention of Corruption Act, 1988 and u/s. 409, 120-B of the IPC. The petitioner is praying for the following reliefs:-

"7.1) That, in the facts and circumstances of the case this petition may kindly be allowed and the letter/order Annexure P/11, Annexure P/12 & also the order/opinion of the respondent No. 1 (which is part of Annex P/13) may kindly be quashed, and the



Respondent No. 1 & 2 be directed to grant prosecution sanction in the matter.

7.2) Any other relief which this Hon'ble Court may deems appropriate in the facts of the case be also granted."

02. Facts of the case are that on allegation of corruption, FIR No. 104/2013 under Sections 7, 13(1)(d) and 13(2) of Prevention of Corruption Act, 1988 and u/s. 409, 120-B of the IPC had registered by Special Police Establishment Lokayukt against the respondent No. 3, who was working on the post of Sub-Engineer. After investigation, it was found that there are 9 accused persons involved in the aforesaid crime, therefore, sanction for prosecution was requested. Against some of the accused persons, sanction for prosecution has been granted, but it has been rejected for respondent No.3, therefore, this petition has been filed assailing the rejection orders Annexure P/11 & 12.

03. Learned counsel for the petitioner submits that there is ample evidence to connect the respondent No.3 with the alleged crime. The allegation against the respondent No. 3 is that being a public servant she had illegally made inappropriate payment of Rs.2.55 lakhs for the work of Village Panchayat - Boreli under MNREGA policy, therefore, prays for reliefs as claimed in the present Writ Petition.

04. Learned counsel for the respondent(s)/State submits that the respondent No. 3 came to know through newspaper about the registration of FIR against her. The respondent though being posted at Gram Panchayat - Boreli on the post of Sub-Engineer in between 07.05.2010 to 05.01.2011, but she has not done any work in the said Village Panchayat during the aforesaid



tenure, therefore, no question of committing irregularity as alleged arises.

05. Learned counsel for the respondent(s)/State further submits that she has been falsely implicated in the case, therefore, after going through the record, Department has not given prosecution sanction against her which has also been scrutinised and upheld by the Department of Law, therefore, no relief as prayed in this Writ Petition can be granted.

06. We have heard and considered the rival submissions made by the parties.

07. From perusal of the record, it is apparent that after going through the relevant documents and record made available to the Department reached to the conclusion that granting prosecution sanction against the respondent No.3 is not required as no offence has been found committed by her. The same has been upheld by the Department of Law after scrutinising the documents made available.

08. In this regard, the judgment passed by the Apex Court in the case of *Mansukhlal Vithaldas Chauhan vs. State of Gujarat* reported in (1997) 7 SCC 622, it has been held as under:-

"19. Since the validity of "sanction" depends on the applicability of mind by the sanctioning authority to the facts of the case as also the material and evidence collected during investigation, it necessarily follows, that the sanctioning authority has to apply its own independent mind for the generation of genuine satisfaction whether prosecution has to be sanctioned or not. The mind of the sanctioning authority should not be under pressure from any quarter nor should any



external force be acting upon it to take a decision one way or the other. Since the discretion to grant or not to grant sanction vests absolutely in the sanctioning authority, its discretion should be shown to have not been affected by any extraneous consideration. If it is shown that the sanctioning authority was unable to apply its independent mind for any reason whatsoever or was under an obligation or compulsion or constraint to grant the sanction, the order will be bad for the reason that the discretion of the authority "not to sanction" was taken away and it was compelled to act mechanically to sanction the prosecution."

09. In the aforesaid circumstances after going through the record, this Court is of the considered opinion that it will be sheer misuse of process of law if she is put to ordain of trial by grant of prosecution sanction. No illegality is found in the orders of dated 23.10.2019 (Annexure P/11) & 03.10.2019 (Annexure P/12) passed by respondents No.1 & 2. Hence this petition which is misconceived, devoid of any substance, fails and is hereby dismissed.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE

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