

DR. RAM LAKHAN SINGH

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v.

STATE GOVERNMENT OF UTTAR PRADESH THROUGH
CHIEF SECRETARY

(Writ Petition (Civil) No. 933 of 2014)

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NOVEMBER 17, 2015

[RANJAN GOGOI AND N.V. RAMANA, JJ.]

COMPENSATION: Writ petitioner was a member of the All India Services and rendered services to the respondent State and Government of India in various positions for about 35 years – FIR was filed against petitioner and house raid conducted on the ground of owning of disproportionate assets beyond income, illegal mining and auction of Tendu Patta leaves causing loss of government revenue and undue gain to the purchasers – Plea of petitioner that the State Vigilance Establishment ought to have taken prior permission and approval of Chief Secretary of the State for arresting and raiding the house which was not obtained – Petitioner was also suspended from his official duties – Claim for compensation for loss of professional career, reputation and for causing mental agony on the ground that he was illegally detained by the authorities after implicating him in false vigilance cases and dishonouring the High Court's directions – Held: The case of petitioner was never referred to Vigilance Committee and consequently no vigilance enquiry was ever initiated against him – There was no evidence in respect of offence alleged to have been committed by petitioner – Petitioner had to suffer mental agony and loss of reputation in the society besides huge financial loss – Normally, Supreme Court is reluctant in determining or granting any compensation while exercising its jurisdiction u/ Article 32 of the Constitution, but advises the parties to approach the

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- A *competent Courts for adjudicating those issues – However, in view of peculiar facts and circumstances of the case and the age and trauma suffered by the petitioner who spent about 11 days in jail and fought the legal battle for about a period of 10 years before various forums and more particularly in the absence of any proved charges of corruption against the petitioner, a lump sum amount of Rs.10 lakhs awarded as compensation to the petitioner on all forms.*

ADMINISTRATIVE LAW:

- C *Role of Executive/Civil Servant/Public Servant – Discussed.*

Public employment – Public servant and corruption – Discussed.

- D **Disposing of the petition, the Court**

HELD: 1. A clear procedural lapse on the part of the respondent had caused mental agony and financial loss to the writ petitioner. As per the statement made by the respondent before the High Court and by the order of the Special Judge, Anti Corruption Act, all the actions against the applicant have been declared as null and void. But in the entire process, the petitioner had to suffer mental agony and loss of reputation in the society besides huge financial loss. Even the retiral benefits were paid to the petitioner belatedly which was attributable to the negligence and irresponsible act of the State. [Para 9] [272-D-G]

- G **2. For effective functioning of a democracy, the role of Executive is very important. Civil servants and public officials are expected to maintain and strengthen the public's trust and confidence by demonstrating the high standards of professional competence, efficiency and effectiveness by upholding the Constitution and rule of**
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law, keeping in mind the advancement of public good at all times. Public employment being a public trust, the improper use of the public position for personal advantage is considered as a serious breach of trust. With the changing times, the role of Executive and expectation of the citizens in governance also underwent tremendous change. Dishonesty and corruption are biggest challenges for any developing country. If the public servant indulges in corruption, the citizens who are vigilant in all aspects take note of this seriously and develop a sense of distress towards the Government and its mechanism, on a whole it sends a very alarming message to the society at large and to the common man in particular. In any civilized society, the paramount consideration is the welfare of the society and corruption is the biggest hindrance in that process. If the corrupt public servant is not punished, then it will have a negative impact on the honest public servants who will be discouraged and demoralized. Some upright officers resist corruption but they cannot alone change the system which victimizes them through frequent punitive transfers, threat to their families and fabricating, foisting false cases. In such a scenario, until and unless a fine balance is maintained between prosecuting a guilty officer and protecting an innocent officer from vexatious, frivolous and mala fide prosecution, it would be very difficult for the public servant to discharge his duties in free and fair manner. The efficiency of a public servant demands that he should be free to perform his official duties fearlessly and without any favour. The dire necessity is to fill in the existing gap by protecting the honest officers while making the corrupt officers realize that they are not above law. The protection to an honest public servant is required not only in his interest but in the larger interest of society. This Court time and again

A extended assurance to the honest and sincere officers
to perform their duty in a free and fair manner towards
achieving a better society. [Paras 10-12] [273-A-H; 274-
A-B]

B 3. In the case on hand, the counter affidavit filed on
behalf of the State at the time of hearing specifically
indicates that the FIRs against the petitioner were lodged
for the crimes relating to the petitioner's owning
disproportionate assets beyond his income, illegal
C mining and auction of Tendu patta leaves causing loss
of revenue to Government and undue gain to the
purchasers. However, except making such averments,
no material in support of allegations leveled against the
petitioner has been made available to this Court. On the
D other hand, the order of the High Court clearly indicates
that the Additional Advocate General for the State did not
dispute the averments made by the petitioner that his
case was never referred to Vigilance Committee and
consequently no vigilance enquiry was ever initiated
E against him. [Para 13] [274-C-F]

4. Normally, this Court is reluctant in determining
or granting any compensation while exercising its
jurisdiction under Article 32 of the Constitution, but
F advises the parties to approach the competent Courts
for adjudicating those issues. However, keeping in view
the peculiar facts and circumstances of this case and
taking into consideration the age and trauma suffered
by the petitioner who spent about 11 days in jail and
G fought the legal battle for about a period of 10 years
before various forums and more particularly in the
absence of any proved charges of corruption against
the petitioner, it is deemed fit that a lump sum amount of
Rs.10 lakhs be awarded as compensation to the
H petitioner on all forms. [Para 14] [275-B-D]

DR. RAM LAKHAN SINGH v. STATE GOVERNMENT OF 267
U.P. THROUGH CHIEF SECRETARY

CIVIL ORIGINAL JURISDICTION : Writ Petition (Civil) No. A
933 of 2014

UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA

Petitioner-In-person

Dinesh Dwivedi, Gaurav Bhatia, AAG, Abhishek
Chaudhary for the Respondent. B

The Judgment of the Court was delivered by

N.V. RAMANA, J. 1. This petition under Article 32 of the C
Constitution of India is filed by one Dr. Ram Lakhan Singh, an
incumbent of Indian Forest Service (1969 Batch, U.P. Cadre)
who rendered services to the respondent State and D
Government of India in various positions for about 35 years till
his retirement. The main contention of the petitioner is that he
was illegally detained by the respondent authorities after
implicating him in false vigilance cases and dishonouring the
High Court's directions. Because of the malicious, willful and E
contemptuous acts of the State and clear abuse of legal
process, he and his family members had to suffer a great ordeal
of mental agony and heavy financial loss besides being
defamed in the society. Hence, he prayed this Court to express
displeasure over the violation of his family members' F
fundamental rights and to direct the respondent to pay
compensation for the loss of his professional career, reputation
and for causing mental agony.

2. The relevant facts as submitted by the petitioner, who G
argued his case before us in person, are that he has rendered
about 35 years service to the State of U.P. and the Government
of India, with an unblemished record. He became a Member
of the National Board for Wild Life (for short "NBWL") on 22nd
September, 2003. The then Chief Minister of the respondent
State wanted the petitioner to take necessary steps so as to H

A get the Benti Bird Sanctuary located at Kunda of Pratapgarh
District denotified by the NBWL in its meeting held on 15th
October, 2003. As the petitioner did not comply with the
directions, the then Chief Minister of Uttar Pradesh, in the guise
of a complaint by the MLA of his own party against the
B petitioner, issued directions to the Director General, Vigilance
Establishment of the State to initiate a vigilance enquiry against
him. As per the procedure envisaged for the purpose by D.O.
Letter No.2020/39(2)-12(5)-74, dated 12-09-1997 (Annexure
P-11), before a case is sent for State Vigilance Establishment,
C the approval of the State Vigilance Committee is a condition
precedent, but the respondent State without following the
prescribed procedure, conducted vigilance enquiry and
removed him from his post. The petitioner moved the High
D Court by Writ Petition No.126 of 2004 to declare that the
vigilance enquiry against him was done in clear violation of
the prescribed procedure. The High Court by orders dated
30th January, 2004 and 14th September, 2007 directed the
State Vigilance Committee to carry out the enquiry
E proceedings, but the respondent did not comply with the
directions of the High Court.

3. While that being so, Writ Petition No.2985 of 2004 was
filed before the High Court by an advocate arraying the
F petitioner as respondent No.4 therein. According to the
petitioner, the writ petition (PIL) was got purportedly filed by
the advocate who was working in the office of the then Advocate
General, making false averments stating that the vigilance
committee had already completed the enquiry in various issues
G against him. As a matter of fact, on the date of institution of the
said writ petition, the enquiry against the petitioner was not
even referred to the State Vigilance Committee. In the said
petition, the High Court, on 25th June, 2004, passed an order
which, inter alia, reads thus:

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"List this case on 12.02.2004, Vigilance Committee shall A
carry on with the proceeding, but no final order shall be
passed.

It has been further averred that the vigilance committee B
had already completed the enquiry in various issues
against the respondent No.4, namely Dr. Ram Lakhan
Singh and the matter is serious in nature in mis-utilization
of Government funds in its own way. Nowhere the
Division Bench vide its order dated 30.01.04 had stopped C
the State to lodge FIR, if prima facie, the Vigilance
Committee comes to the conclusion that some cognizable
offence is committed by respondent No.4. It was always
open for the State to lodge FIR, if prima facie, the
Vigilance Committee had come to a conclusion that some D
cognizable offence has been committed by respondent
No.4, it is always open for the State to lodge an FIR, if
some cognizable offence is found to have been
committed by the Respondent No.4, and if it comes out E
from the report of the Vigilance Committee, not only the
State but also any person can lodge an FIR under Section
154 Cr.P.C. with respect to a cognizable offence said to
have been committed by a particular person. The
Division Bench has never stopped the State to lodge an
FIR since the Departmental proceeding can very well F
continue simultaneously.

With the aforesaid observation, this petition stands finally
disposed of."

4. Taking advantage of the order dated 25th June, 2004 G
passed by the High Court, FIR was registered against the
petitioner and his house was raided. The petitioner claims
that in the case of house raid and arrest of a Member of the All
India Services like that of the petitioner, the State Vigilance
Establishment is required to take prior permission and approval H

- A of the Chief Secretary of the State, whereas in the case of the petitioner no such approval had been obtained. Afterwards, the respondent obtained approval by a pre-dated letter on 5th July, 2004, concealing the fact of raiding the petitioner's house on 25-06-2004 and the petitioner was finally arrested.
- B Subsequently, two more FIRs were registered against the petitioner on the same day and the petitioner was suspended from his official duties.

5. Aggrieved thereby, the petitioner approached this
- C Court by way of filing Writ Petition No.236 of 2004 and this Court permitted the petitioner to approach the High Court afresh. Accordingly, the proceedings were recommenced before the High Court in Writ Petition No.126 of 2004 and finally on 30th August, 2011, the High Court disposed of the matter,
- D inter alia, observing thus:

“Heard Sri Prashant Chandra, learned Senior Advocate in the presence of the petitioner Dr. Ram Lakhan Singh and Sri J.N. Mathur, Additional Advocate General for the

E State.

- The prayer of the counsel for the petitioner is that all actions and orders passed, if any, in violation of the Court's order dated 30-01-2004 be declared to be null and void and be quashed and that, in fact, the matter
- F was never referred to Vigilance Committee and consequently, no vigilance enquiry was ever initiated against the petitioner and, therefore, all actions taken/ complaints lodged with the assumption that vigilance enquiry has been initiated against the petitioner, shall
- G stand void and non est.

Sri J.N. Mathur does not dispute the aforesaid position and has no objection if such a direction is issued.

- H We have gone through the documents on record and we

find that it is a case where the petitioner has undergone severe agony because of the incorrect statement about the Vigilance Committee being constituted and vigilance enquiry being initiated against him.”

6. The petitioner finally submitted that he was prosecuted without a plausible cause and only by malicious and willful intention of the respondent, he had to suffer unlawful suspension from the post of Principal Chief Conservator of Forest, loss of full salary and retirement benefits which were withheld for a period of more than ten years. For causing him the loss of professional career including that of the Member of NBWL, reputation, great mental agony and heavy financial loss besides defaming his character, the petitioner prayed for compensation.

7. The State has filed a counter affidavit denying the allegations made against the State and the learned senior counsel appearing for the State submitted that the arrest and suspension of the petitioner were done in accordance with proper procedure. The prior approval of the State Vigilance Committee applies only in those cases where the Administrative Department recommends the cases for investigation and such prior approval of State Vigilance Committee is not required in cases as that of the petitioner where the Chief Minister directly orders for vigilance enquiry. In the enquiry, it was found that the petitioner was allegedly owning disproportionate assets beyond his income, as being a public servant, such offence attracts punishment under Sections 13(1)(e) and 13(2) of the Prevention of Corruption Act, 1988. Even the search operation by the team consisting of officers from the Vigilance Department including lady officers was conducted in consonance with the rules and regulations honoring the human rights. Thus, the respondent had not committed any illegality and there was no flouting of any orders

A of the Hon'ble High Court or blatant violation of fundamental right to life guaranteed to the petitioner.

8. Learned senior counsel finally submitted that even all the retirement dues of the petitioner amounting to Rs. 14.57 lakhs and Rs. 3,00,886/- as interest on gratuity for delay has been paid. In addition, the petitioner who retired on 31-12-2004 was being paid provisional pension w.e.f. 01-01-2005 till his final pension was sanctioned on 28-08-2015. However, earned leave encashment of Rs. 4,03,106/- was sanctioned on 21-02-2014, but for the payment of interest on late payment of leave encashment, there is no provision in the rules and hence the interest could not be paid.

9. Having heard the parties on either side, we find that the narration of the facts indicates a clear procedural lapse on the part of the respondent which caused mental agony and financial loss to the writ petitioner. Though there is no material before us indicating the involvement of the Chief Minister in initiating the proceedings against the petitioner for not fulfilling his request, as alleged by the petitioner, however, the initiation of vigilance proceedings and statements made before the High Court by officers of the respondent State led to the arrest of the petitioner causing great loss to him. At the end of the day, as per the statement made by the respondent before the High Court and by the order of the Special Judge, Anti Corruption Act, Lucknow (Annexure P-31) on 15-02-2012, all the actions against the applicant have been declared as null and void. But in the entire process, the petitioner had to suffer mental agony and loss of reputation in the society besides huge financial loss. Even the retrial benefits have been paid to the petitioner belatedly which is attributable to the negligence and irresponsible act of the State.

10. A public servant in a democracy should be a guardian of morals. He is entrusted with higher responsibilities of a

public office and they contribute their best for the just and humane society. We feel that for effective functioning of a democracy, the role of Executive is very important. Civil servants and public officials are expected to maintain and strengthen the public's trust and confidence by demonstrating the high standards of professional competence, efficiency and effectiveness by upholding the Constitution and rule of law, keeping in mind the advancement of public good at all times. Public employment being a public trust, the improper use of the public position for personal advantage is considered as a serious breach of trust. With the changing times, the role of Executive and expectation of the citizens in governance also underwent tremendous change.

11. Dishonesty and corruption are biggest challenges for any developing country. If the public servant indulges in corruption, the citizens who are vigilant in all aspects take note of this seriously and develop a sense of distress towards the Government and its mechanism, on a whole it sends a very alarming message to the society at large and to the common man in particular. In any civilized society, the paramount consideration is the welfare of the society and corruption is the biggest hindrance in that process. If the corrupt public servant is not punished, then it will have a negative impact on the honest public servants who will be discouraged and demoralized. Some upright officers resist corruption but they cannot alone change the system which victimizes them through frequent punitive transfers, threat to their families and fabricating, foisting false cases.

12. In such a scenario, until and unless we maintain a fine balance between prosecuting a guilty officer and protecting an innocent officer from vexatious, frivolous and mala fide prosecution, it would be very difficult for the public servant to discharge his duties in free and fair manner. The efficiency of

A a public servant demands that he should be free to perform his official duties fearlessly and without any favour. The dire necessity is to fill in the existing gap by protecting the honest officers while making the corrupt officers realize that they are not above law. The protection to an honest public servant is required not only in his interest but in the larger interest of society. This Court time and again extended assurance to the honest and sincere officers to perform their duty in a free and fair manner towards achieving a better society.

C 13. In the case on hand, the counter affidavit filed on behalf of the State at the time of hearing specifically indicates that the FIRs against the petitioner were lodged for the crimes relating to the petitioner's owning disproportionate assets beyond his income, illegal mining and auction of Tendu patta leaves causing loss of revenue to Government and undue gain to the purchasers. However, except making such averments, no material in support of allegations leveled against the petitioner has been made available to this Court. On the other hand, the order of the High Court passed on 30th August, 2011 in Writ Petition No.126 of 2004 (Annexure P-30), clearly indicates that the Additional Advocate General for the State did not dispute the averments made by the petitioner that his case was never referred to Vigilance Committee and consequently no vigilance enquiry was ever initiated against him. The High Court order further reveals that the Additional Advocate General also expressed no objection to declare that all actions taken and complaints lodged against the petitioner shall stand void and non est in the eye of law. Thus, in the light of the foregoing, it is clear that the defence taken by the State in the counter affidavit is only to justify its illegal action against the petitioner, without producing any material supporting the stand taken by them.

H 14. It appears that after his discharge from the Court

proceedings, the petitioner had written a letter to the Chief Minister on 12th May, 2011 seeking an amount of Rs. 4½ crores towards compensation and damages. Normally, this Court is reluctant in determining or granting any compensation while exercising its jurisdiction under Article 32 of the Constitution, but advises the parties to approach the competent Courts for adjudicating those issues. However, keeping in view the peculiar facts and circumstances of this case and taking into consideration the age and trauma suffered by the petitioner who spent about 11 days in jail and fought the legal battle for about a period of 10 years before various forums and more particularly in the absence of any proved charges of corruption against the petitioner, we deem it fit that a lump sum amount of Rs. 10 lakhs be awarded as compensation to the petitioner on all forms.

15. Accordingly, we direct the State of Uttar Pradesh to pay a lump sum of Rs. 10 lakhs to the petitioner within a period of three months towards compensation.

16. The writ petition stands disposed of accordingly.