

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 10660/2010

CENTER FOR PUBLIC INTEREST LITIGATION & ORS. Appellant(s)

VERSUS

UNION OF INDIA DEPARTMENT OF TELECOMMUNICATIONS & ORS. Respondent(s)

WITH

WRIT PETITION (CRL.) NO(S). 141/2018

RAJNEESH KAPUR ...Petitioner(s)

VERSUS

UNION OF INDIA & ANR. ... Respondent(s)

WITH

I.A. NO. 83851 OF 2010
IN
WRIT PETITION (CRL.)NO.141/2018

AND

CONTEMPT PETITION (Cr1.) NO./2018
(DIARY NO. 22699 OF 2018)

IN

WRIT PETITION (CRL.) NO. 141/2018

O R D E R

The petition styled as a Public Interest Litigation

has been filed under Article 32 of the Constitution of India seeking directions from this Court against the first respondent - Union of India and second respondent - Revenue Secretary for investigation into the allegations and the materials placed on record in the petition against the third respondent - Dr.Rajeshwar Singh, Joint director, Directorate of enforcement.

It is the case of the petitioner that the third respondent has accumulated vast wealth by foul means and has used the current posting for the said purpose.

The petition was originally listed on 5.6.2018 when an order was passed for this matter to be placed along with connected matter Civil Appeal No.10660 of 2010 on 3.7.2018 before the appropriate Bench. Intervening factor has been the filing of two applications - one application and one contempt petition.

The application I.A. 83851/2018 has been filed for impleadment by Dr. Subramaniam Swamy alleging that the present petition is a gross abuse of the process of Court to impede the ongoing fair and impartial investigation being carried out into the 2 G spectrum related Aircel Maxis case for which respondent No.3 is the investigating officer. It has been informed that even earlier, endeavours made to thwart the investigation were frowned upon by this Court and the allegations now being made are old ones to which a quietus has been put by the CBI and CVC.

The contempt petition which has been filed is by respondent No.3 on account of the various orders passed by this Court as it is alleged to be an endeavour to thwart the investigation into the aforesaid case in which charge sheet has been filed and six months' time had been granted to complete the investigation of which four months have been completed. It is submitted that the supplementary charge sheet is on the anvil.

Great reliance has been placed on the orders passed by a Bench of this Court in Civil Appeal No.10660 of 2010 on 1.11.2017 issuing a direction that no action should be initiated against the third respondent by any other authority. This order was in the context of an earlier order passed by this Court on 1.5.2014 directing that the third respondent would continue with the investigation along with the two other investigating officers till the completion of the trial.

We may note that the allegations and counter allegations are not of such nature as would have troubled us to pass any orders at present but for the fact that an affidavit was placed on record on behalf of the first respondent - Union of India. In the said affidavit, it has been accepted that certain allegations made against the third respondent on earlier occasions resulted in discreet enquiry and the matter was closed. However, it has been averred that very sensitive materials have come

into the possession of the Government for which leave was sought to place the same in a sealed cover before this Court which is in the form of a memo dated 26.6.2018 duly signed by the Joint Secretary of Cabinet Secretariat. It is averred in the affidavit that complaints need further and thorough investigation. There is allegation of amassing wealth by respondent no.3 in the names of relatives. Same is required to be investigated. The averment casts serious cloud over respondent no.3.

The sealed cover was produced before us perused and returned.

Suffice it to say at this stage that we would not like to comment on that material placed before us. On perusal of the same, it has given rise to at least a conclusion that the allegations are serious in nature. It has also been stated that the government has not been able to look into it in view of the interim orders passed by this Court in the same.

We may also note that the officer also seeks to place before us certain communications addressed by him in the inter departmental process where he has raised queries as to why the allegations should not be looked into qua the fresh material.

We have heard the learned counsel for the parties in the main writ petition, the intervention application and the contempt petition, all of which was taken up together

for disposal and given a thoughtful consideration to the matter. We are of the view that faced with the aforesaid material (not really material in the petition) it would be appropriate to direct that the government is free to look into the material found against the third respondent and the same can be inquired into by the government despite the interim orders of this Court dated 1.5.2014 and 1.11.2017 and to that extent the interim orders stand modified.

We are also of the view that in the facts and circumstances prevalent at present, also keeping in mind that the charge sheet has already been filed, it will be the call of the government authorities as to whether the third respondent has any further role to play in the matter in the investigation and trial. We accordingly modify the orders passed earlier by this Court. We may note that it is not any body's case that the present incumbent -government is seeking to thwart the investigation process and it has been assured on affidavit before us that the government does not intend to protect anyone however high or powerful and will do its utmost to ensure that guilty are brought to justice. It has also been specifically stated that the government will ensure that the Aircel Maxis case is taken to its logical conclusion. Government has also averred that it is committed to conform strictly to the time schedule specified on 12.3.2018 in Civil Appeal No.10660 of 2018.

We, thus, dispose of the Writ Petition, the contempt petition and the intervention application in the aforesaid terms.

Parties to bear their costs.

..... J.
(ARUN MISHRA)

..... J.
(SANJAY KISHAN KAUL)

NEW DELHI;
JUNE 27, 2018

ITEM NO.1

COURT NO.5

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).10660/2010

CENTER FOR PUBLIC INTEREST LITIGATION & ORS.

Appellant(s)

VERSUS

UNION OF INDIA DEPARTMENT OF TELECOMMUNICATIONS & ORS.Respondent(s)

(Only I.A. No. 83851/2018 in W.P. (Cr1.) No. 141/2018 and Contempt
Petition(D) No. 22699 of 2018 in W.P. (Cr1.) No. 141/2018 are to be
listed on 27.06.2018.)

WITH

W.P.(Cr1.) No. 141/2018 (PIL-W)

FOR impleading party in IA 83851/2018)

Diary No(s). 22699/2018

Date : 27-06-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
(VACATION BENCH)

For Appellant(s) Mr. Rupinder Singh Suri, Sr.Adv.
Mr. Luqman S. Hasan, Adv.
M/S.Vidhi International, AOR

Mr. Abhinav Mukerji, AOR
Mr. Mukesh Kumar Maroria, AOR
Mr. S. K. Verma, AOR
Mr. Santosh Kumar Tripathi, AOR
Mr. Prashant Bhushan, AOR
Mr. Vishwajit Singh, AOR
Mr. Smarhar Singh, AOR

Mr. Sonal Jain, AOR

For Respondent(s) Mr. Vikramjeet Banerjee, ASG
Mr. R.Balasubramaniam, Adv
Mr. Sachin Sharma, Adv.

Mr. B.Krishna Prasad, AOR
 Mr. Karan Bharihoke, Adv.
 Mrs. Anil Katiyar, AOR
 Mr. E. C. Agrawala, AOR
 Mr. Abhijat P. Medh, AOR
 Mrs. Niranjana Singh, AOR
 Appellant-in-person, AOR
 Mr. Anupam Lal Das, AOR
 Applicant-in-person, AOR
 Mr. Dharmendra Kumar Sinha, AOR
 Mr. Gaurav Kejriwal, AOR
 Ms. S. Ramamani, AOR
 Mr. Abhinav Mukerji, AOR
 M/S. Karanjawala & Co., AOR
 Mr. Siddharth Singla, AOR
 Mr. Devvrat, AOR
 Mr. Kaushik Poddar, AOR

Mr. Anshul Gupta, Adv.
 Mr. Sarthak Raizada, Adv.
 Mr. Arvind Kumar Sharma, AOR
 M/S. Cyril Amarchand Mangaldas Aor, AOR
 Ms. Liz Mathew, AOR
 Mr. A. Radhakrishnan, AOR
 Mr. Gurmeet Singh Makker, AOR
 Ms. Amita Singh Kalkal, AOR
 Mr. Shadan Farasat, AOR

UPON hearing the counsel the Court made the following
 O R D E R

IN W.P.(Cr1.) No. 141/2018, Contempt Petition - Diary No. 22699 of 2018 and I.A. No. 83851/2018:

W.P.(Cr1.) No. 141/2018, Contempt Petition/2018
 Diary. No.22699 of 2018 and I.A. No. 83851/2018 in W.P.
 (Cr1.) No. 141/2018 are disposed of in terms of the signed
 order.

(B.PARVATHI)
 COURT MASTER

(RAJINDER KAUR)
 BRANCH OFFICER

(Signed order in W.P(Cr1.)No.141/2018 is placed on the file)