

Court No. - 26

Case :- MISC. SINGLE No. - 1762 of 2014

Petitioner :- Sonu Kumar

Respondent :- State Of U.P. Thru Prin. Secy. Deptt. Of Social Welfare &Ors

Counsel for Petitioner :- Rajesh Singh Chauhan

Counsel for Respondent :- C.S.C.,A.S.G.

Hon'ble Ajai Lamba,J.

1. This petition prays for issuance of a writ in the nature of mandamus directing respondent nos.1 to 3, i.e. State of U.P., through the Principal Secretary, Department of Social Welfare; Principal Secretary, Department of Social Welfare; and The Director, Social Welfare, U.P., Lucknow, to take back scholarship fee in the sum of Rs.25,92,640/- from the respondent no.7, Centaur Aviation Academy, Ujjain, and transfer the same to Ambitions Flying Club Private Limited, Aligarh, where the petitioner is willing to take flying training; the petition also seeks issuance of a writ in the nature of mandamus directing investigation by an independent agency such as Central Bureau of Investigation/Chief Vigilance Commission in the facts and circumstances of the case.
2. The case as projected by the learned counsel appearing for the petitioner is that the petitioner belongs to Scheduled Caste Category and has resources below poverty line. The petitioner wanted to join Commercial Pilot Training Course with M/s Yash Air Limited, presently operating under changed name as Centaur Aviation Academy, respondent no.7. A total sum of Rs.27,84,000/- was to be deposited. The funds were not available with the petitioner.
3. The petitioner took benefit of a scheme floated by the Ministry of Social Justice and Empowerment, New Delhi, and implemented through the State Government. A sum of Rs.25,92,640/- was transmitted through bank-draft bearing no.846935 dated 24th of November, 2009 vide Speed Post dated 1st of December, 2009 by respondent no.3, i.e. the Director, Social Welfare, U.P., Lucknow, to respondent no.7, i.e. former M/S Yash Air Limited (presently "Centaur Aviation Academy, Ujjain") to enable the petitioner to

undertake Commercial Pilot Training Course.

4. Certain allegations have been made in the petition suggestive of the fact that fake Ground Class Certificates of the Course were being provided and although trainees had not undertaken Flying Training, Certificate of Flying Training Hours, were being given by the Academy, respondent no.7. There was an aviation accident resulting in death of two Trainees. At the relevant point in time respondent no.8, Shri Yash Raj Tongia was the Flying Instructor in Respondent no.7 Academy, however, was not present at the Academy. The investigation in the incident was not conducted properly under the influence of affected persons. Be that as it may, the Training of the Petitioner could not be concluded as Training was suspended on account of the accident. The amount deposited for training of the petitioner was not refunded.
5. It has been suggested in para 23 of the petition that Ministry of Home Affairs, Government of India, denied Security Clearance to respondent no.8 and his father on account of these illegal activities, while operating as M/s Yash Air Limited.
6. Para nos.11 to 24 of the writ petition contain allegations of very serious nature, not only against respondent no.7, M/S Yash Air Limited (presently "Centaur Aviation Academy, Ujjain"), but also against Mr. Yash Raj Tongia, presently holding the post of Director, Flying & Training, Directorate General, Civil Aviation, New Delhi, and formerly "Chief flying Instructor of M/s Yash Air Limited". Para nos.11 to 24 of the writ petition are extracted herebelow:

"11. That thereafter the petitioner reported in the month of January, 2010 at opposite party no.7. The petitioner was surprised to know that a fake Ground Class Certificate of the Course was provided to him which read that petitioner is taking such training prior to his reporting at the academy i.e. opposite party no.7.

12. That not only the above, the petitioner had not completed any flying training till his reporting at opposite party no.7 but he has given a certificate of five hours flying training from the said academy, i.e.

opposite party no.7.

13. That on 19th May, 2010 the flying training was suspended due to crash of Air Craft (V.T MMM) at 16:33:42 hrs. The aforesaid Air Crash took the life of Sri Hitesh Kariya and Sri Girish Koppikar, the trainees.

14. That after the aforesaid Air Crash, the flying training was suspended and petitioner was directed to go back to home. It is also pertinent to indicate here that when the petitioner denied to go back, he was forced to submit hostel fees because hostel fees was not paid by the opposite party no.3.

15. That in the aforesaid circumstances the petitioner had got no option but to return his home as he was not able to make payment of huge hostel fees. It is also pertinent to indicate here that the petitioner and his other colleagues were forcefully sent back to home so that the exact actuality of the accident could not be known to the Investigating Officer and to other competent officer.

16. That it is also relevant to indicate here that when the aforesaid Air Crash took place, the opposite party no.8 who was then discharging the duties of Chief Flying Instructor of opposite party no.7 was not present at the Academy whereas it is incumbent for the chief Flying Instructor of the academy to remain present then the trainees are taking their respective training. The opposite party no.8 was, therefore, solely responsible for the said unfortunate air crash.

17. That there were some other irregularities at the M/s. Yash Air Ltd. e.g. over logging of the Flying Hours, fake Ground Class Certificates to the students, absence of Chief Flight Instructor from the Base, Logging of Flying Hours in the name of Instructors who is hardly ever been at the base, what to say about the then Chief Flying Instructor (Mr. Yash Raj Tongiya), who was hardly remains on the base and most of the time he remained out of Indore and Flying. It is pertinent to indicate here that ex-Director General of Civil Aviation Mr. Shiva Raman and Mr. Arun Gulato, Ex-Director General of police, M.P. Govt., who are presently directors of opposite party no.7 are safeguarding and helping to misuse the government money as well as causing harm the future of the petitioner.

18. That it is also pertinent to indicate here that as and when the aforesaid unfortunate incidence of Air Crash is investigated, the investigating officers are transferred at the behest of opposite party no.8. Further, Mr. D.C. Sharma was

transferred from the office of Director General, Civil Aviation and transferred to Kolkata.

19. That it is also not out of place to mention here that the opposite party no.8 is presently possessing the sound position in the office of Director General of Civil Aviation as he is presently serving on the post of Director, Flying and training over there. It is relevant to mention here that at that point of time Sri A.K. Sardana, serving on the post of Deputy Director General, Flying & Training was transferred from Chennai, on the request of Mr. Shiv Raman, Ex-Director General, Civil Aviation so that the flying academy of opposite party no.8 which was non functional can be given approval.

20. That it is also submitted here that when Sri A.K. Sardana was intimated about the anomalies and irregularities of opposite party no.7, no action was taken. Further, the file of approval of opposite party no.7 was directly forwarded by opposite party no.8 to Sri A.K. Sardana and Sri Sardana directly took final approval from the Director General of Civil Aviation. The petitioner came to know about the aforesaid fact from reliable sources but these facts make its crystal clear that the opposite party no.8 was influencing all the competent authorities of civil aviation for his benefit.

21. That it is respectfully submitted here that after May, 2010 the petitioner tried many times to know about his flying training but to no avail. The petitioner also came to know that the last flying training at M/s Yash Air Ltd. was done in the month of February-March, 2011.

22. That it is pertinent to indicate here that the opposite party no.8 and his father incorporated a company in the name of M/s. Yash Air Ltd. and main objective was to carry out flying training, property and other activities related to Aviation Sector, but in actual they incorporated this company doing ex-checking the Hard Earned Money of the Public having mala fide intention.

23. That since M/s. Yash Air Ltd. was indulged in illegal and unlawful activities and was continuously violating the settled norms of Director General, Civil Aviation, therefore, the security clearance of opposite party no.8 and his father was repeatedly denied by the Ministry of Home Affairs, Govt. of India.

24. That the opposite party no.8 keeps on changing the name and place of his Institute when he smells little threat from the people to duke the students who has given the huge

amount in respect of fees. By way of changing names so that students leave the course and in such manner students are cheated by opposite party no.8. In the aforesaid manner the opposite party no.8 changed the name of M/s. Yash Air Ltd. to Centaur Aviation Academy Pvt. Ltd. As a matter of fact, M/s. Yash Air Ltd. and Centaur Aviation Academy Pvt. Ltd. are one and the same and are controlled by opposite party no.8."

7. In the contention of learned counsel for the petitioner, the amount released by the Director, Social Welfare, U.P., Lucknow; sourced from Union of India through Secretary, Ministry of Social Justice and Empowerment, Shastri Bhawan, New Delhi, is meant for providing training to the petitioner, who belongs to Scheduled Caste Category and lives below poverty line. The said purpose has been defeated by respondent no.7, who has indulged in nefarious activities. Despite repeated representations/actions taken by the petitioner, no action has been taken against respondent no.7 or Mr. Yash Raj Tongia for the reason that the person accused of suspicious activities, has been given a prime appointment as Director (Flying and Training), Directorate General, Civil Aviation, New Delhi.
8. Allegations made in para nos.11, 12, 16 and 17 indicate that the Flying Club, M/s Yash Air Limited fabricated documents so as to give Commercial Pilot Licences.
9. Be that as it may, in view of serious nature of allegations made, which might have very serious ramifications, as the issue concerns aviation, which is sensitive for the security of the country as well, the Writ Court cannot ignore the stated facts and circumstances.
10. Secretary, Ministry of Civil Aviation, Rajiv Gandhi Bhawan, New Delhi, is directed to take note of all the aspects of the case; have an enquiry conducted through an independent agency, which is beyond the influence of respondent no.8, and file an affidavit before this court on or before the next date of listing.
11. Union of India is represented by Sri Raj Kumar Singh,

Advocate, who is present in Court and undertakes to convey not only a copy of this petition, but also a copy of the order to respondent nos.4 and 5.

12. Issue notices to respondent nos.7 and 8, returnable in five weeks.
13. Let counter affidavits be filed showing cause as to why amount deposited for training of the petitioner from State Exchequer, is not being utilized for the purpose it was sanctioned and paid to respondent no.7.
14. List this case after five weeks.

Order Date :- 26.3.2014
A.Nigam