

CASE NO.:
Appeal (civil) 205 of 2006

PETITIONER:
Vinay Shukla \005 Petitioner

RESPONDENT:
Union of India & Ors

DATE OF JUDGMENT: 17/01/2007

BENCH:
G.P. Mathur & Lokeshwar Singh Panta

JUDGMENT:
J U D G M E N T

G.P. MATHUR, J.

1. This writ petition has been filed under Article 32 of the Constitution seeking the following reliefs :-

(a) direct the respondent no.2 to properly investigate the subject matter of the present writ petition, regarding the abduction, harassment, illegal detention and other serious criminal offences committed by the high officials as stated in the writ petition and to punish the wrongdoers in accordance with the various provisions of the Indian Penal Code;

(b) direct the respondent nos.4 and 5 to adequately compensate the applicant for the illegal confinement, illegal detention, harassment and humiliation caused to the applicant because by their action applicant's fundamental rights under Articles 14, 21 etc. have been grossly impaired;

(c) direct the respondent no.4 and 5 to take necessary disciplinary action against erring officials of the Local Administration of District Gwalior, for insubordination, misconduct and criminal misuse of power; and

(d) pass such other or further orders as this Hon'ble Court may deem fit and proper in the interest of justice.

2. It is averred in the writ petition that the petitioner is an IAS office belonging to Madhya Pradesh cadre and was lastly posted as Member, Board of Revenue, at Gwalior. On the division of the State of Madhya Pradesh, he was allocated to Chhattisgarh State. The petitioner fell ill in May 2000 and continued to stay in the Circuit House at Gwalior and a Medical Board was constituted in May/June, 2005 for his medical examination. It is also averred that in December 2005 the petitioner was forcibly evicted from the house which was allotted to him in Bhopal, in pursuance of some proceedings which had been initiated under M.P. Public Premises Act and the appeal preferred by him was dismissed in limine by the Commissioner, Bhopal. It is then averred that the petitioner was evicted from Circuit House, Gwalior, at 3.00 p.m. on 21.9.2006. On 21.9.2006 at about 11.00 p.m. when the petitioner came out of a restaurant near railway station and sat in a car, four armed policemen forcibly occupied the said car and he was taken to an unknown destination and was put in a Rest House at about 3.00 a.m. on 22.9.2006 and in the morning, he was brought to Shivpuri. The S.D.M. Shivpuri told him that as his mother was seriously ill at Bilaspur, he was being taken there. On the refusal of the petitioner to go either to Bilaspur or to Bhopal, the

SDM, Shivpuri ordered the police officers to take the petitioner back to Gwalior and as the regular route to Gwalior was blocked due to some accident, he was taken to Jhansi and was kept in an AC retiring room at the railway station. It is further averred that at about 1.30 a.m. on 22.9.2006 he was made to board Chhattisgarh Express train which was going towards Bilaspur, but as he did not want to go there, he got down at Vidisha station and came back to Gwalior by the first available train, where he reached in the early hours of 23.9.2006. It is further averred in para 19 of the writ petition that the petitioner's brother Shri K.M. Shukla filed a writ petition by way of a letter before the Gwalior Bench of the High Court of Madhya Pradesh on 24.9.2006, but the same was not entertained. It is also alleged that Shri K.M. Shukla filed a criminal complaint with S.H.O., P.S. Padav, Gwalior on 24.9.2006, but no progress has been made in the said complaint. In para 21 it is alleged that Shri K.M. Shukla filed a writ petition bearing No.5141 of 2006 before the Gwalior Bench of Madhya Pradesh High Court on 29.9.2006, but he withdrew the same on 3.11.2006.

4. We have heard Shri K.M. Shukla, Advocate, at considerable length and have perused the writ petition. The main allegation in the writ petition is that when the petitioner, after taking dinner, sat in the car at about 11.00 p.m. on 21.9.2006, some police personnel forcibly entered the car and took him to Shivpuri and then to Jhansi, where he was made to board the Chhattisgarh Express at 1.30 a.m. on 22.9.2006, from which he got down at Vidisha station and came back to Gwalior by catching first available train. The alleged abduction of the petitioner took place at about 11.00 p.m. on 21.9.2006 and the alleged wrongful confinement ended on 22.9.2006. This shows that the petitioner is not in any kind of detention or unlawful restraint at the present moment. Therefore, we are not inclined to entertain the present writ petition under Article 32 of the Constitution.

5. Learned counsel has next submitted that the petitioner should be awarded damages for his illegal abduction and confinement by the authorities of State. The allegations made by the petitioner are entirely factual in nature, which can be established only by recording oral evidence. It will be open to the petitioner to seek such legal remedy as is available to him in law for claiming damages on the ground of his alleged abduction and confinement. The writ petition is dismissed.