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The High Court Of Madhya Pradesh
WP-11902-2019

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(LALIT MOHAN SHARMA Vs THE STATE OF MADHYA PRADESH AND OTHERS)

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Gwalior, Dated : 14-09-2021

Shri G.S. Sharma, learned counsel for the petitioner.

Shri Varun Kaushik, learned Government Advocate for respondents/State.

Shri S.S. Chauhan, learned counsel for respondent No.2.

This PIL relates to the dilapidated condition of State Highway from Tendra to Vijaypur to Dhobani road within District Sheopur having link about 47 K.M.

Repeated reports have been filed by the respondents including reply which reveal that patchwork has been undertaken by the Corporation.

The Commission appointed by this Court gave unsatisfactorily report which compelled the Corporation to again do patchwork.

Shri Chauhan, Advocate appears on behalf of respondent No.2 and submits that Corporation was assigned patchwork on contract basis and since the contract has expired, new contract for patchwork is executed between the Contractor and Corporation which is valid till March, 2022.

As regards the construction of the roads on permanent basis with the aid of Central Government, the State invited tenders, but the compliance report dated 09.09.2021 filed by the State supported by an affidavit of Executive Engineer, PWD, Division Sheopur reveals that all the tenders received were rejected as per Annexure C, therefore, fresh NIT will be issued in the near future.

It is unfortunate to know that the work of building basis infrastructure of e.g. roads is being out sourced by the State.

This Court has experienced that the State is totally dependent upon the mode of outsourcing even for discharge of sovereign functions which is not a healthy practice.

In case contractor refuses or fails to discharge his contractual obligations, the State functionaries should have at least alternative arrangement in shape of manpower, materials and machines to take upon itself the discharge of sovereign function e.g. road building, so that no road in the State at any point of time remains unmotorable.

Discharge of sovereign functions e.g. construction and maintenance of roads cannot be left at the whims and fancies of a private individual/agency who/which is predominantly guided by monetary considerations rather than public interest. The State and its functionaries cannot remain silent spectators and must be ready to rise to the occasion to do the needful.

Let the policy in this regard of the State, be produced by the Chief Engineer, PWD, Gwalior who will appear before this Court through V.C on the next date of hearing.

List the case on **16.09.2021**.

(SHEEL NAGU)
JUDGE

(DEEPAK KUMAR AGARWAL)
JUDGE

(LJ*)