
(2004) 11 JH CK 0031
In the Jharkhand High Court
Case No : Contempt (C) No. 439 of 2002

Adivasi Raksha Manch

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 10-11-2004

Acts Referred:

Citation : (2005) 1 JCR 260

Hon'ble Judges : Tapen Sen, J; M.Y. Eqbal, J

Bench : Division Bench

Advocate : S.N. Prasad, for the Appellant; Sanjay Kumar Singh, JC to AAG, for the Respondent

Judgement

1. The petitioner has filed this application for initiation of a contempt proceeding against the opposite parties for their alleged willful non-compliance of the order dated 8.5.2001 passed by a Division Bench of this Court in CWJC No. 844/2001. The order dated 8.5.2001 reads as under :

"In view of categorical statements made in paragraph 11 of the respondents' counter affidavit, we dispose of this writ application accordingly."

2. It appears that the writ petition was filed by the petitioner by way of Public Interest Litigation for a direction upon the State-respondents to transfer those doctors who have been posted in different districts for more than 8 years. In the writ petition the respondents-State filed counter affidavit in which, in paragraph 11, it was stated that the Government doctors who have been posted in different districts for more than 8 years will be transferred by June, 2001. On the basis of said statement the writ petition was disposed of in terms of the order referred to hereinabove.

3. In the instant contempt application it has been alleged by the petitioner that the assurance given by the respondents-State in the counter affidavit, has not been complied with till date. It has been further alleged that one of the doctors, namely, Sri Sumant Mishra, remained posted in one district for 16 years.

4. This Court, on 3.11.2004, passed the following order :

"By order dated 14.5.2004 the Additional Advocate General was allowed time to seek instruction and file show cause on behalf of the respondents but till date no show cause has been filed although five months have elapsed. The instant contempt proceeding arose out of a writ petition filed by the petitioner by way of Public Interest Litigation for a direction upon the respondents-authorities of the Health department to transfer those doctors who have been posted in one district for more than 8 years. In the said writ petition the respondent-Health department appeared and filed counter affidavit stating that notices have been issued to the concerned authorities to furnish bio-datas of doctors and it was further stated that after getting detailed information of those who have spent more than 8 years in one district, they will be transferred by June, 2001. The contention of the petitioner is that till date the assurance given to this Court in counter affidavit has not been complied inasmuch as still the doctors are posted in one district for the last more than three years.

The Secretary-cum-Health Commissioner, Government of Jharkhand is directed to file a show cause giving details of the doctors and also the details of those who have still been posted in one station for more than 3 years. The Secretary shall appear in person on the next date fixed.

Put up this case on 10th November, 2004. Let a copy of this order be given to learned JC to AAG."

5. Pursuant to the aforesaid order the Secretary-cum-Health Commissioner appeared and filed show cause giving details of the notifications time to time issued transferring several doctors from one place to another. It is contended that the petitioner has not approached this Court with clean hands and has suppressed the material facts without proper verification. About Dr. Sumant Mishra, it is stated that he was transferred by notification dated 18.8.2001 and he has not been posted in one district, Dr. Mishra also intervened in the instant contempt case and filed show cause controverting the allegations made in this contempt application.

6. After hearing the learned counsel for the parties at length we find that the allegations made in the contempt petition are baseless. As a matter of fact, it appears that the petitioner, in his personal interest and with intention to malign the intervenor and harass the State Authorities, has filed this application for initiation of contempt proceeding. This contempt proceeding has, therefore, no merit which is, accordingly, dismissed by imposing cost of Rs. 500/- to the petitioner which shall be deposited with the High Court Legal Service Committee.