

(2011) 05 JH CK 0091

In the Jharkhand High Court

Case No : Writ Petition (P.I.L.) No. 2211 of 2010

Advocate Association

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 18-05-2011

Acts Referred:

Citation : AIR 2011 Jhar 105

Hon'ble Judges : Prakash Tatia, Acting C.J.; Harish Chandra Mishra, J

Bench : Division Bench

Judgement

1. Heard learned Counsel for the parties.
2. Earlier the State of Jharkhand was part of the State of Bihar and the State of Jharkhand was created on 15th November, 2000. Obviously, the idea to create the State of Jharkhand must have been conceived much before and may be the years before the date 15th November, 2000.
3. Any State could have been created only by taking into account; what is the availability in the State area, where the new city is required to be created and it is the constitutional requirement to have the building of Legislative Assembly and obviously, for that a building appropriate and suitable for running its business, the Secretariat for the State Government, the High Court for the State and, therefore, we presume that before 15th November, 2000 it was in the mind of the policy makers that there will be need of a building of High Court in the State of Jharkhand.
4. More than ten years have passed for creation of the State of Jharkhand and learned Counsel for the Petitioner pointed out that a building which was constructed before independence, that is, before the year 1947 was used for the Circuit Bench of the Patna High Court and thereafter by some expansion, used for the Ranchi Bench of Patna High Court from 1976 and in that building the High Court of Jharkhand is functioning. Need for High Court building was already known to the policy makers at least since 1972 when the decision to have a

Circuit Bench of the High Court was taken and then in the year 1976 the permanent Bench of the High Court was created in the city of Ranchi.

5. It is unfortunate that in the year 2011, the High Court is running in a building situated in a total area of about five acres only and ultimately the vigilant advocates of the Bar of the Jharkhand High Court preferred this writ petition in the form of "Public Interest Litigation" and on 17th May, 2010 it has been observed by the High Court that "learned Advocate General to state as to why despite the statement came from the State Government for providing 300 acres of land for the purpose of new building of High Court, nothing have been done till date".

6. Learned Counsel for the Petitioner pointed out that H.E.C. Ltd. has handed over about 2000 acres of land to the State Government. The matter was taken seriously by the High Court and vide order dated 28.05.2010, State was directed to take a final decision. However, on 25.06.2010 it was directed by this Court that matter be listed after one month to enable both sides to submit comprehensive plans with relevant data as to the amount of land which will be required, considering not only the present need but the projected future need for the next at least 50 years. This Court also observed that "when large amount of public money is spent, it should not be spent on adhoc basis in a short-sighted manner. Since the working of the High Court was virtually impossible in the present building, therefore, this Court on 27th July, 2010 observed that construction of the new High Court building may take about five years and, therefore, this Court tried to explore the possibility of giving some relief to the litigants of the State of Jharkhand by exploring the other possibilities and for that purpose a guest house of the J.A.P. came up for consideration.

7. We may again state here that, there was a plan to construct new High Court building since the construction of building may have taken five years time therefore, a proposal was considered for taking immediate steps only and it was not the final decision of giving go by to the proposal of construction of a new High Court building on a land of 300 acres. Then the matter went on for consideration for expansion of the High Court in existing building.

8. It is unfortunate that this period was not utilised by the State Government and nothing was done for starting the construction of the new building of High Court. It appears that since expansion of the building was under consideration, the main object of obtaining the new building of the High Court with adequate facilities was totally ignored.

9. At this juncture, it will be relevant to mention that along with this writ petition, Annexure No. 2 has been submitted by the Petitioner pointing out that in I.A. No. 382/2005 in W.P.(C) No. 4513 of 2004 an application was submitted by the H.E.C. Ltd. stating therein that the H.E.C. Ltd. is ready to give 1000 acres of the land to the Government for construction of:

1. Jharkhand Legislative Assembly,

2. Jharkhand High Court,

3. Raj Bhawan

4. Jharkhand Secretariat (any other establishment which is connected to and is ancillary purpose to the above items).

10. Be that as it may, it is the constitutional obligation of the State to provide justice as well as its constitutional obligation to have a High Court in the State and also it is the constitutional obligation of the State to provide the building for the High Court.

11. We are constrained to observe here that presently in the High Court building, there is a case filing counter which may not be in the area of more than 10" x 10" and entire filing is managed from that counter only.

12. We are constrained to observe that there is no sufficient space for getting the files in the High Court what to say of sitting of the staff of the High Court.

13. We are constrained to observe that the High Court premises which is situated in shardingly small area of five acres where there is strength of Bar of more than 2500 advocates attending the High Court.

14. We are constrained to observe that even in one hall there are about 300-400 advocates sitting all the time when they are free from Court and particularly during lunch hours and after Court hours or before Court hours to attend their clients.

15. In addition to above, there are 6-7 rooms in the building in the first floor accommodating about 10-15 advocates in each room which is absolutely insufficient for even five advocates.

16. One building gallery of that building is occupied by the advocates and there they are doing their work when they are free from the Court. There is no parking space for the advocates. There are total lack of the advocates chamber.

17. In the present state of things, the expansion of the building by taking 1.8 acres is clear indicative that High Court was in dire need of some space for running its day to day business.

18. Such a serious problem has not been taken care of in 10 years by all the Governments but we think that now there will be positive response of the Government and since the land of 2000 acres is available with the State Government presently which is totally unoccupied and encroachment free and which is near to the present High Court as well as near to the city itself, therefore, we hope that the State Government will identify the land for High Court of 300 acres in the H.E.C. premises in consultation with the High Court within a period of one month specifically by 20th June, 2011 and shall measure, mark and will put the fixed points for the land within a period of one month from today.

19. We may also observe here that the High Court building itself is not sufficient and adequate number of advocates chambers and land if needed for Bar Council and for the Advocate Association is also required to be given by the State Government. There may be construction of 500 chambers in the first phase alongwith the construction of the new building of the High Court.

20. This order of giving time of one month has been passed knowing it well that the project is already delayed. So far as the need of High Court building is concerned, it has not been disputed by any body nor it can be a dispute and the need of the building is so urgent that we have to compensate the loss of ten years time which we have wasted already.

21. Therefore, a copy of this order be sent to the Chief Secretary of the State of Jharkhand and a copy of this order be also provided to the learned Advocate General who is present before us in the Court by tomorrow i.e. 19.05.2011. The matter be placed for further orders on 20th June, 2011.