

(2001) 10 JH CK 0007
In the Jharkhand High Court
Case No : MJC No. 62 of 2001

Ajay Kumar Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 05-10-2001

Acts Referred:

Contempt of Courts Act, 1971 — Section 12, 2
Motor Vehicles Act, 1988 — Section 146
Representation of the People Act, 1951 — Section 161

Citation : (2001) 10 JH CK 0007

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : B.K. Dubey and B.N. Tiwary, for the Appellant; D.K. Prasad, JC to AAG, for the Respondent

Judgement

M.Y. Eqbal, J.—The petitioner has come to this Court for initiation of contempt proceeding against the opposite parties for non-compliance of the order dated 28.8.2000 passed in CWJC No. 2649/2000(R).

2. The petitioner filed the aforesaid writ petition for payment of compensation for the damages caused to the vehicle of the petitioner during the Lok Sabha Election. It appears that the vehicle was requisitioned for Parliamentary Election. 1999. While the vehicle was on election duty it was damaged by explosion and fire by the extrimists. The vehicle was thereafter inspected at the instance of the Additional Collector. Chatra and the Motor Vehicles Inspector was directed to submit report after assessing the loss and damages caused to the vehicle. On the basis of these facts the writ petition was disposed of with a direction to the respondent Nos. 4 and 5 to take final decision in the matter of payment of compensation including the hire charges. The respondent No. 4 filed a show cause stating, inter alia, that the Election Commissioner issued a direction, vide letter dated 10.3.98, to all the District Election Officers that no compensation could be paid to any requisitioned vehicle in case of accident, loss or damages during the election duty. It is farther stated that the Deputy Commissioner has

passed a final order on 23.9.2000 and thereby complied the order passed in the writ petition. A copy of the order dated 23.9.2000 passed by the Deputy Commissioner has been annexed as Annexure A to the how cause. The relevant portion of the order/decision of the Deputy Commissioner is reproduced herein below:--

"Thus from the above the following emerges clearly that-

(1) The truck No. BRB-1923 belonging to Shri Ajay Kumar Singh of Itkhor P.S. in Chatra District was requisitioned for Election Duty in general election 1999. The truck was blown up on 18.09.99 by alleged MCC party workers and an FIR bearing No. 30/99 has been lodged in Tandwa P.S.

(2) That the petitioner has demanded Rs. 3.75 Lacs as compensation. But the MVI has estimated the damage to be only Rs. 80000/-.

(3) The insurance cover of the vehicle was from 11.10.1996 to 10.10.1997 only hence the vehicle was uninsured during the time of the Accident which is against the Section 146 of the Motor Vehicles Act, 1988.

(4) The Govt. of India, Finance Ministry letter as well as the letter of the Election Commission of India bearing No. 4/98/JS II dated 10.03.98 communicated to all District Election Officers of Bihar vide memo 2499 dated 11.10.2000 by the Cabinet (Election) Department read with Section 161 of the Representation of People" Act, 1951 is absolutely clear in that no compensation could be paid to any requisitioned vehicles for election duty in case of accident, loss or any damage.

Hence I, C.K. Anil, District Election Officer hereby order that since there is no provision for payment of compensation to damaged vehicle requisitioned for election duty, therefore, no compensation need to be paid to the petitioner.

However, the petitioner is free to approach the insurance company for it due for the damage caused."

3. In my opinion, the conclusion arrived at by the Deputy Commissioner cannot be sustained in law in the light of ratio decided by a Bench of this Court in the case of M/s Gray Hound Transport Company v. Union of India, CWJC No. 597/2000 (R). In similar facts and circumstances of the case, in the aforesaid decision, this Court relied upon the decision of the Full Bench in the case of Ram Narayan Singh Vs. Election Commission and Others, . The Full Bench observed:--

"Admittedly, the vehicle in question met with an accident while on election duty. I have noticed if the word "owner" in this case is to be liberally interpreted, while the vehicle was requisitioned, for the purpose of liability, the Government becomes "owner" of the vehicle. There is no dispute that as per the condition No. 7 of the exception clause of the policy, the Insurance Company cannot be held liable for payment of damages or loss caused to the vehicle when requisitioned by the Government for election purposes. It is obvious if the vehicle was not

requisitioned by the Government, in case of accident, in terms of the policy the petitioner would have been entitled for "compensation" of damages etc. from the Insurance Company." -

4. Their Lordships further observed:--

"Therefore, in the background of the facts noticed above, as well as the views of different Courts and also having regard to clause 7 of the General Exceptions of the Insurance Policy, to conclude the answers, it has to be held that in such cases the State Government alone can be held liable for compensation for the loss and damage caused to the vehicle on account of accident."

5. This Court, relying upon the Full Bench judgment has finally held as under:--

"From the discussion of facts and law I arrived at the following conclusions:

(i) By reason of the requisition of the vehicle u/s 160 of the Representation of People's Act, the State became the owner of the vehicle so long as it remain under acquisition.

(ii) If the vehicle is owned by the Central Government or the State Government and used for government purposes unconnected with commercial enterprises then it is not mandatory for the government to get vehicle insured and complying with the requirements of Chapter XI of the Motor Vehicles Act, 1988.

(iii) It is mandatory requirements of the Motor Vehicles Act for a person to obtain insurance policy of the vehicle before using it in a public place and such policy must cover the risk of death and bodily injury to a third party and loss and damages to the goods and property of a third party.

(iv) It is not necessary for the owner of the vehicle to obtain a comprehensive policy which covers the risk of loss and damages caused to the said vehicle due to the accident.

From the aforesaid conclusion it can be safely held that merely because on the relevant date the vehicle was not insured, the respondent-State can not disown its liability for payment of compensation. Had it been a case where the compensation was claimed from the respondent-State in respect of death or bodily injury to a third party or loss and damage of the property of a third party then the State would have disowned its liability for want of Insurance of the vehicle. However, I have not expressed my opinion as to whether in such circumstances respondent State would have liability or not.

6. Learned counsel appearing for the opposite parties submitted that the opposite parties have complied the order inasmuch as in terms of the direction the case of the petitioner was considered and claim was rejected and, therefore, there is no violation of the Court's order.

7. It is true that the jurisdiction of Contempt Court is to find out whether there is a violation of Court's order but this Court is not precluded from passing

appropriate order even if there is no violation thereof. If the instant contempt proceeding is dropped on the ground that there is no violation of the Court's order then the petitioner will have to go for another litigation by filing a fresh writ petition challenging the order passed by the Deputy Commissioner. This Court is, therefore, of the view that when the decision of the Deputy Commissioner, on the face of it, is illegal there is no reason why a fresh direction should not be issued directing the Deputy Commissioner to reconsider the claim of the petitioner afresh and take a decision for payment of compensation.

8. For the aforesaid reason, this contempt proceeding is disposed of with a direction to the Deputy Commissioner-cum-District Election Officer, Chattri to reconsider the claim of the petitioner in the light of the ratio decided by the Full Bench as also in CWJC No. 597/2000 (R) and pay compensation to the petitioner in respect of loss and damages caused to the vehicle after obtaining estimate of loss and damages from the competent authority including the surveyor. Such compensation must be paid within two months from the date of receipt/production of a copy of this order.

9. Petition disposed of accordingly.