(2001) 02 PAT CK 0074

In the Patna High Court

Case No : L.P.A. No. 1554 of 2000

Ajay Kumar Verma APPELLANT

Vs

Union of India (UOI) and Others RESPONDENT

Date of Decision : 19-02-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 1 BLJR 792 : (2001) 2 PLJR 52

Hon'ble Judges : S.K. Singh, J;N. Pandey, J

Bench : Division Bench

Judgement

1. Heard the appellant in person, learned Counsel appearing for the Reserve Bank of India as well as State Bank of India and also learned Counsel appearing on behalf of the Union of India.

2. Appellant filed a writ application in his capacity as a consumer/account holder of State Bank of India, Boring Road Branch, Patna. His initial prayer was for a direction for initiating disciplinary proceeding against two officials of Reserve Bank of India posted at Patna for their alleged failure to discharge their duties in redressing the grievance of the petitioner and also for a direction to the Reserve Bank of India to formulate consumer friendly policy in the matter of issuance of certificates regarding counterfeit currency notes. Subsequently, the appellant-writ petitioner also sought a relief for compensation for himself and his clear stand was/is that the writ application is not by way of public interest litigation.

3. The factual background which led to filing of the writ application may be notified in brief. The petitioner, who belongs to Indian Police Service, withdrew Rs. 60,000/- from Boring Road, Patna Branch of the State Bank of India on 24.3.1999. On request, he was paid in currency notes of Rs. 500/- denomination which consisted of 100 notes in a sealed pack and 20 loose notes. The appellant-writ petitioner went to deposit the amount in his provident fund account at Patliputra Colony Branch of the State Bank of India where he was told that 22 notes in the sealed pack were counterfeits. He came back to the Boring Road

Branch where he was offered exchange of the alleged counterfeits notes but the petitioner refused to return the notes in question as he suspected the involvement of some officials of the said Branch. Thereafter, he met local senior officials of Reserve Bank of India as well as of the State Bank of India. He was not satisfied with the suggested procedure by the Reserve Bank of India and hence, after lodging of a criminal case and making correspondence with high functionaries of the two Banks, he filed the writ petition in question which has been finally disposed of with certain observations and directions vide the impugned judgment and order dated 21.9.2000.

4. In the impugned order, learned Single Judge has noticed the stand of the officials of the Reserve Bank of India and the State Bank of India regarding their general policy concerning counterfeit notes and also their concern with regard to particular complaint of the writ petitioner. After examining all the relevant materials, the Writ Court came to a conclusion that both the Reserve Bank of India and the Government of India were cognizant of the problem of counterfeit currency and since such problem is of very large dimensions, it is difficult to be dealt with under writ jurisdiction. We have also examined the relevant materials and we are not persuaded to take a different view in the matter. Effective policy decisions in such matters has to be left to the wisdom of the experts in the Reserve Bank and the Ministry concerned of the Government of India.

5. So far as action against the officials concerned is concerned, it appears from the records that the cashier concerned of the Boring Road Branch of State Bank of India has been placed under suspension and a criminal case has also been registered as Budha Colony PS case No. 104 of 1999 and the investigation is in progress. In such circumstances, the Writ Court rightly relied upon the judgment of the apex Court in the case of Gautam Sinha v. The State Bank of India 2000 (3) PLR 143 (SC) and declined to issue any formal direction to the respondents to take disciplinary action, as prayed for. But, the Court has also made a proper observation that it is expected that the management would not fail to take suitable action against the guilty officials and employees apart from the action that may be taken against them by the investigating agency in connection with the criminal case.

6. The appellant has argued that the Writ Court should have entrusted the investigation of the criminal case to the CBI and should have monitored the investigation itself. There is no material to justify such a request. Individual criminal cases involving detection of counterfeit currency notes must be large in number. This fact can be easily inferred from number of newspaper reports concerning such incidents and also from the general tenor of replies in this case by the Reserve Bank of India and the State Bank of India. Giving primacy to one particular case alone cannot be of much help m solving the problem of counterfeit currency notes. What is required is a proper thinking and policy decisions and a effort concerned under the guideline of Reserve Bank of India and the Ministry concerned of Union of India. The respondents concerned have

shown due concern in the matter and hence, the Writ Court rightly did not issue any direction but did express a hope that the promises held out by the Bank would be fulfilled and possible attempts would be made to eradicate the evils in the currency system as far as possible. We also hope that if the situation so requires, the Union of India shall take steps to get the continuing offences relating to counterfeit currency notes investigated by any suitable agency including the CBI.

7. The last issue relating to claim for compensation was argued by the appellant with great force but without much substance. This issue has been examined by the Writ Court in great detail. It was noticed that before the filing of the writ petition the petitioner had been offered by the Branch concerned of the State Bank of India an exchange of the alleged counterfeit notes at the very initial stage which was not accepted by the writ petitioner then but subsequently in December 1999 he received Banker''s cheque for Rs. 51,652/- which included interest at the rate of 4.5%, admissible for savings account, for the period 24.3.1999 to 16.12.1999. It also came on record the pursuant to order of the CJM, Patna dated 4.1.2000 petitioner received on 12.1.2000, 78 notes of the denomination of Rs. 500/-, (the genuine currency notes in the bundle of 100 notes) amounting to Rs. 39,000/-. The order of the CJM was apparently passed in ignorance of the fact that petitioner had already been paid Rs. 50,000/-, the value of the entire bundle of notes seized in the criminal case, along with interest. In such circumstances, the Writ Court found petitioner''s claim for compensation to be without merit and further found that the petitioner was in wrongful receipt of an excess amount of Rs. 39,000/-which he is liable to return to the State Bank. Accordingly, the appellant-writ petitioner was directed to do so forthwith.

8. The appellant claimed before us that he is entitled to a compensation in crores and that payment of Rs. 51,652/- must be treated as a part payment of compensation by the State Bank of India. It is not in dispute that the respondents have not communicated any decision with regard to appellant''s claim for compensation nor such claim has been determined and awarded by the Writ Court. In such circumstances, the aforesaid stand of the appellant, to say the least, is unreasonable and baseless. The appellant had no answer to the query of the. Court as to why he should be held entitled to receive public money from the Bank as compensation when the value of money seized in the criminal case (Rs. 50,000/-) along with interest admissible to savings account has already been paid to him by the State Bank of India.

9. With regard to his claim for compensation, the appellant placed great emphasis upon an interim order of the Writ Court dated 8-5-2000 to submit that the said order would operate as a res judicata with regard to his claim for compensation and hence, at the time of final disposal of the writ application the Writ Court could not have taken a different view in the matter and the authority to decide the question of compensation rested with the Home Commissioner. The

relevant part of order dated 8.5.2000 has been quoted in paragraph 11 of the order under appeal. The said order has been further considered in paragraph 18 of the order under appeal and thereafter, it has rightly been held that in the present case the petitioner was never held to be entitled to compensation. It was on the suggestion of the Home Commissioner that the petitioner was permitted to make representation and the Court simply left it open to the Home Commissioner "to consider the question of reparation". It is not in dispute that the State Bank has paid the money involved in the criminal case along with interest. In our view also, no question of further reparation remains to be considered.

10. Lastly, it was argued by the appellant that in exercise of writ jurisdiction under Article 226 of the Constitution of India, no direction can be issued to a private individual like him who is petitioner and not a respondent, to return the amount of Rs. 39,000/- even if that has been wrongly paid to him pursuant to an incorrect order of learned CJM. According to him, only a liberty could have been given to the respondents to take recourse to remedy under law for realising the aforesaid amount of Rs. 39,000/- from the appellant-writ Petitioner. Technically, even if there be some semblance of substance in the aforesaid submission, substantial justice between the parties does not require any interference with the aforesaid direction of the learned Single Judge. Writ jurisdiction is an extraordinary jurisdiction conferred upon the High Court for the enforcement of any of the rights conferred by Part III of the Constitution and "for any other purpose". In appropriate facts and circumstances, the required writ or direction may be issued to any person. The appellant-writ petitioner is an officer belonging to Indian Police Service and thus, a public servant. Once it has been found and held that the petitioner is not entitled to retain Rs. 39,000/- which again is a public money belonging to the State Bank of India and which has been released in favour of the petitioner due to a wrong order of CJM, Patna dated 4.1.2000, we find no error or lack of jurisdiction in the writ Court in issuing the direction to the appellant-writ petitioner to return the amount of Rs. 39,000/- to the State Bank of India forthwith. Even if that direction is changed into an observation that this Court hopes and expects the appellant to return the said amount forthwith, being a responsible public servant, the petitioner is bound to obey such observation. Considering the totality of the facts and circumstances, we are left with no option but to observe that the aforesaid stand of the appellant based upon mere technicality, did not appear to be fair or in good taste. Such technicalities cannot be allowed to stand in the way of exercise of wholesome power under Article 226 of the Constitution of India when the facts otherwise call for it.

11. In the result, we find no merit in this appeal and the same is accordingly dismissed. Since for some reasons, the Writ Court did not award cost hence, we also pass no order as to costs.