

(2016) 11 JH CK 0017
In the Jharkhand High Court
Case No : Writ Petition (S) No. 5610 of 2016

Allahabad Bank

APPELLANT

Vs

Shri Naveen Kumar

RESPONDENT

Date of Decision : 10-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Persons With Disabilities (Equal Opportunities, Protection Of Rights And Full Participation) Act, 1995 — Section 59

Citation : (2017) 2 JCR 486

Hon'ble Judges : Mr. Shree Chandrashekhar, J.

Bench : Single Bench

Advocate : Mrs. A.R. Choudhary, Advocate, for the Petitioner; Mr. Kumar Sundaram and Mr. Rahul Kumar, Advocates, for the Respondent No. 1

Final Decision : Allowed

Judgement

Mr. Shree Chandrashekhar, J.—Though notices were issued to the respondents, in the beginning of the hearing Mrs. A.R. Choudhary, the learned counsel for the petitioner submits that respondent No.2 being a statutory authority is not a necessary party and it may be deleted from the array of parties.

2. Prayer granted.

3. Challenging jurisdiction of the Chief Commissioner for Persons with Disabilities, the learned counsel for the petitioner contends that the extant rules provide only for consideration of request for transfer to a place where persons with disabilities can be looked after properly and no direction as contained in impugned order dated 15.06.2016 can be passed. It is submitted that without affording a proper opportunity of hearing the impugned order dated 15.06.2016 has been passed, whereby a direction has been issued to the petitioner-Allahabad Bank to transfer the complainant-respondent no.1 to a place near Patna which is his home town.

4. Per contra, Mr. Kumar Sundaram, the learned counsel appearing for respondent no.-1-complainant, supporting the impugned order dated 15.06.2016, submits that considering the fact that the petitioner is a local resident of Patna where his family members can look after him properly, a direction was issued by the Chief Commissioner for Persons with Disabilities. It is contended that, The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and the Rules framed thereunder provide establishment of Court of Chief Commissioner and confer jurisdiction upon the Chief Commissioner to look into the complaints with respect to deprivation of rights of persons with disabilities and while exercising powers under Section 59 of 1995 Act, the Chief Commissioner has issued direction for transferring the respondent No.1 to a place near Patna.

5. Without advertting to the facts of the case, I find that the Chief Commissioner in its order dated 15.06.2016 though, recorded the submission of the petitioner-Bank that before the next date of hearing request for transferring the respondent no.1 to a place near Patna would be considered, however, surprisingly without awaiting response of the petitioner-Bank and without granting an opportunity to put its defence, the Chief Commissioner issued a direction on the same day for transfer of the respondent no.1 to a place near Patna. Obviously the procedure adopted by the Chief Commissioner for Persons with Disabilities was erroneous. The materials produced on record do not disclose specific reason how the petitioner can be looked after properly only if he is transferred to a place near Patna. The petitioner has not disclosed his family members and on the top of it, after filing complaint on 02.09.2015 he himself gave application on 20.12.2015 requesting the petitioner-Bank to transfer him at Ranchi. The reason disclosed by the petitioner for transferring him at Ranchi was that his sister resides at Ranchi. The petitioner-Bank accordingly transferred him at Ranchi and the respondent no.1 has joined his place of posting at Ranchi.

6. In the light of the aforesaid facts, I am of the opinion that the impugned order dated 15.06.2016 is rendered unsustainable and accordingly, it is quashed. However, the petitioner-Bank shall continue to accommodate respondent No.1 at Ranchi.

7. The writ-petition stands allowed.