(2001) 12 PAT CK 0046

In the Patna High Court

Case No : C.W.J.C. No. 14862 of 2001

Awadesh Chandra Sinha APPELLANT

Vs

State of Bihar and Others RESPONDENT

Date of Decision : 12-12-2001

Acts Referred:

Citation : (2002) 1 BLJR 16 : (2002) 1 PLJR 307

Hon'ble Judges : R.N. Prasad, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.N. Prasad, J.—The writ petition initially was filed for quashing the order contained in memo No. 730 dated 22-10-2001, Annexure-5, whereby direction was issued to the petitioner that he will not do any work with respect to taxation except collection of tax and he will hand over papers with respect to all other work to Raghunandan Prasad, Assistant Tax Daroga, as inquiry is being made against the petitioner with respect to illegality committed by him. Subsequently, amendment petition was filed challenging the order contained in memo No. 750 dated 7-11-2001, Annexure-9, whereby order has been passed for initiating departmental proceeding against the petitioner with respect to the charges mentioned therein the details and he was suspended.

2. The petitioner was initially appointed as Tax Collector on 8-8-1968. Subsequently, he was made incharge Tax Daroga with effect from 14-5-1993. While he was functioning as incharge Tax Daroga order, Annexure-5, was issued directing him not to do any other work with respect to taxation except collection of tax, Direction was also issued to him to hand over papers with respect to all other works to the Assistant Tax Daroga. By an amendment the petitioner has challenged the order, Annexure-9, dated 7-11-2001, whereby he has been suspended and a departmental proceeding has been initiated.

3. Learned Counsel for the petitioner pointed out that the order, Annexure-9, is

contrary to the Rule 14 of the Model Rules of appointment, etc. According to the learned Counsel for the petitioner since the order does not mention that his continuance in the office, inquiry will be prejudicial to the interest of the Municipality, the order, Annexure-9, is bad in law. It is well known rule of law that order of suspension is not a stigma rather it is made for smooth functioning of the proceeding and also that the delinquent may not have access to the file to interfere with the smooth functioning of the proceeding. Non-mentioning of the specific words in the order would not vitiate the departmental proceeding or the order of suspension. More over, from the order, Annexure-9, it is evident that as many as 13 charges have been leveled against the petitioner. Those charges are connected with the documents of the Municipality. The object of suspension is obvious from the order, Annexure-9, itself. Moreover, suspension is not stigma. Therefore, in my view, the order, Annexure-9 cannot be said to be illegal.

4. Learned Counsel for the petitioner further pointed out that the order, Annexure-5, dated 22-10-2001 and the order, Annexure-9, dated 7-11-2001 have been issued by the Special Officer, Municipality who had no jurisdiction to issue such order as he was not full-fledged Special Officer rather it was stop-gap arrangement, The submission of learned Counsel for the petitioner, in my view, is not at all sustainable which is evident from the order, Annexure-X to the supplementary affidavit filed on 20-11-2000. Annexure-X is notification of the Urban Development Department, Government of Bihar dated 17-4-2001 whereby Sri R.N. Singh, Anchal Adhikari, Bihar Sharif has been appointed Special Officer of the Municipality till further order. Therefore, it is evident from the said notification that the Special Officer was appointed by the concerned department and as such it cannot be said that he had no jurisdiction to pass orders, Annexures-5/9.

5. Thus on consideration I find nothing wrong in the orders, Annexure 5 and 9 and as such writ petition is dismissed.