
(2012) 12 JH CK 0067

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 7377 of 2011 and I.A. No. 2854 of 2012

Bahujan Sadan Morcha

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-12-2012

Acts Referred:

Citation : (2012) 12 JH CK 0067

Hon'ble Judges : Prakash Tatia, C.J.; Jaya Roy, J

Bench : Division Bench

Advocate : Shiv Shankar Kumar, Sumeet Gadodia, for the Appellant;

Judgement

1. Heard learned counsel for the parties as also the counsel for the Intervener-Applicant, Ms. Farhana Khatoon, District Superintendent of Education, Lohardagga. Learned counsel for the applicant submitted that on earlier occasion, two writ petitions in the name of Public Interest Litigation, being W.P. (PIL) No. 1807/2010 and W.P. (PIL) No. 2970/2011, were filed before this Court for the same relief as has been prayed by the writ petitioner in this petition. W.P. (PIL) No. 1807/2010 was disposed of, vide order dated 31st August, 2010, upon submitting by the counsel for the petitioner that after filing of that PIL, the Department has taken appropriate steps, so his grievance has been redressed. This Court observed that in view of the above, no further proceeding is required and the PIL was disposed of accordingly. Thereafter the same petitioner, Chakradhar Yadav, who filed W.P. (PIL) No. 1807/2010, again filed another writ petition, W.P. (PIL) No. 2970/2011. It is submitted by the counsel for the applicant that in earlier writ petition also, the petitioner prayed the relief only against the applicant and in the subsequently filed writ petition, W.P. (PIL) No. 2970/2011, the relief was claimed against the applicant and subsequently filed writ petition, W.P. (PIL) No. 2970/2011, was dismissed with cost of Rs. 50,000/-, vide order dated 3rd February, 2012. It is further submitted that in this petition, which has been filed in this Court on 17.12.2011, the applicant has not been impleaded as party but relief nos. 1 and 3 specifically are against only the

applicant. Counsel for the applicant has also submitted copies of the above order and some documents and submitted that this is a clear case of abuse of the process of court as well as continuous efforts to harass the applicant, who is a lady. It is also submitted that Annexure-2 annexed in this petition is a letter given by the Jharkhand Prathmik Shikshak Sangh raising the same complaint against the applicant and in earlier two writ petitions also there are copies of the representation submitted by the Jharkhand Prathmik Shikshak Sangh. It is submitted that the petitioner has placed on record the copy of the said representation of the Jharkhand Prathmik Shikshak Sangh, with which he has no connection. Therefore, according to the learned counsel for the applicant, this petition is also liable to be dismissed with heavy cost.

2. Learned counsel for the applicant also submitted that for the same issue, a complaint has been submitted before the Lokayukta of the State of Jharkhand, who is examining the complaint.

3. Learned counsel for the writ petitioner submitted that the writ petitioner is a registered society and is raising causes of social importance, details of which have been given in the supplementary affidavit filed by the writ petitioner. It is also submitted that Annexure-4 and 6 reveal involvement of number of Government officials and petitioner has prayed for taking action against those persons along with the applicant, who was the head of the Department at that time. It is submitted that the Deputy Commissioner has not only recommended for initiation of action departmentally but also recommended for lodging of FIR for criminal conspiracy and for commission of other offence by these persons. A sanction has also been sought for prosecuting them but the State has not taken any action, apart from the action taken against the applicant, who has stated that departmental enquiry has been initiated against her.

4. Learned counsel for the State submitted that the departmental enquiry has been initiated against the applicant and rest of the Officers are under active consideration of the State Government.

5. We considered the submissions of the learned counsel for the parties and we are of the considered opinion that there are serious allegation against number of persons. It may be true that one person specifically was targeted by one person by filing successive second writ petition in the name of public interest and that has been dismissed with heavy cost but when the material is before the Court with respect to the alleged embezzlement of Government money, the Court cannot shut its eyes to those allegation, for which this Court itself in first public interest petition filed by other person, i.e. petitioner Chakradhar Yadav, had disposed of the writ petition, W.P. (PIL) No. 1807/2010, vide order dated 31st August, 2010, on the statement of that petitioner that the Department has taken appropriate steps but in fact, from the reply of the State, it appears that the steps have been taken against only one person against whom allegation are there and no action has been taken even departmentally against other persons. Since in this PIL, this Court is not deciding the correctness and truth of the

allegation, nor it can decide the same, we are of the considered opinion that the applicant's presence in this petition as party may not be necessary but if she wants to watch the proceeding, she can continue to assist the Court.

6. In view of the above reasons, for knowing the steps taken against other persons against whom there are allegation, this petition is entertained and the State is directed to furnish its stand with respect to their decision about the allegation and state on oath whether they are finding substance in the allegation levelled against the Officers named in Annexure-4 and 6 and if there are substance, what action they are taking against those persons against whom there are allegation including whether any criminal case is needed to be filed, irrespective of the fact that the matter is also pending before the Lokayukta as the State is required to take action departmentally according to its own wisdom. It has been brought to our notice that one Vigilance Case has also been instituted. That may also be processed accordingly. We are making it clear to clarify the apprehension of the applicant, that none of our observations be treated to be any observation against any of the persons and the State is supposed to proceed with enquiry absolutely fairly and uninfluenced by the pendency of this litigation. The State may file its additional affidavit.

Notice be issued to respondent no. 3, for which requisites etc. must be filed within a week.

Put up this case in 2nd week of January, 2013.

Copy of this order be given to the counsel for the State.