

(2013) 09 JH CK 0005
In the Jharkhand High Court
Case No : WP (PIL) No. 5328 of 2012

Bhawan Singh

APPELLANT

Vs

Heavy Engineering Corporation Limited and Others

RESPONDENT

Date of Decision : 19-09-2013

Acts Referred:

Citation : (2014) 1 AJR 793 : (2013) 4 JLJR 700

Hon'ble Judges : Dhirubhai Naranbhai Patel, Acting C.J.; Amitav Kr. Gupta, J

Bench : Division Bench

Advocate : Amar Kumar Sinha, for the Appellant; Rajiv Ranjan for the H.E.C. and J.C. to A.A.G. for the State and Mr. R.R. Nath for the R.M.C., for the Respondent

Judgement

Dhirubhai Naranbhai Patel, Actg. C.J.

1. The present writ petition has been preferred for the following prayer:-- That in the instant writ petition by way of Public Interest Litigation the petitioner prays for issuance of an appropriate writ, rule/order/direction for quashing the circular dated 21.8.2012 being circular No. 05/2012 and 06/2012 issued by the Chairman-cum-Managing Director, Heavy Engineering Corporation Limited, Ranchi contained in Annexure-1 to the writ petition by which, the respondent No. 1 in arbitrary exercise of power has illegally enhanced the rate of water charges by 16/20 times more than the prevailing rate of water charges with effect from 1.8.2009 which is highly excessive exorbitant and without any basis whatsoever and the petitioner further prays for a direction to the respondent No. 1 to fix/determine the rate/charge with respect to supply of water in H.E.C. Township for domestic purpose which may be fair, reasonable and in accordance with law and for such other relief or reliefs to which the petitioner is legally entitled to.

Learned counsel appearing for the petitioner submitted that the petitioner is residing in the colony of the Heavy Engineering Corporation Limited (hereinafter referred to as "H.E.C." for the sake of brevity). The water charge which the respondent-Company was charging, has been enhanced by 16-20 times than the

prevailing rates and, therefore, the present petition has been preferred as public interest litigation. Learned counsel for the petitioner has also pointed out what were the existing charges and what are the new charges of consumption of water, as imposed by respondent-Company. Learned counsel for the petitioner also submitted that the charges cannot be enhanced by respondent No. 2 by 16-20 times and, therefore, the same deserves to be quashed and set aside.

2. Learned counsel for the petitioner has also submitted that the Government might be charging higher amount from the H.E.C., but, there is no callous connection by the employees with the Government. The colonies belong to the H.E.C. They are residing in the colonies, since long. There are approximately one lakh person residing and, therefore, this application may be treated as public interest litigation and the order of exorbitant water charges, imposed by respondent No. 1 may be quashed and set aside.

3. We have heard learned counsel appearing for respondent No. 1, who has submitted that detailed counter affidavits have been filed and lastly the affidavit has been filed on 1st August, 2013. It is submitted by the learned counsel for respondent No. 1 that the H.E.C. has a township having 11,109 residential quarters of different types and non-residential buildings, shops, schools etc. in different sectors of the township. The H.E.C. collects drinking water in bulk from the Drinking Water and Sanitation Department of the Government of Jharkhand and they have to pay sizeable amount to the Government to the tune of Rs. 1323.14 lakhs, whereas, the H.E.C. has recovered Rs. 424.91 lakhs from the users. The H.E.C. is a Central Government company, owned, managed, run and financed by the Central Government. The amount due and found payable from the Government of Jharkhand is a much higher amount and, therefore, because of shortfall in the recovery of Rs. 228.46 lakhs, they have increased the water charges, not with a view of profit out of this, at no profit no loss basis. The water charges have been increased after several years and whatever amount is collected by way of the water charge is being paid to the Government of Jharkhand. It is further submitted by learned counsel for respondent No. 1 that all these figures have been mentioned in detail, in the counter affidavit filed in the month of August 2013 and the Company is not making any profit out of the water charges. Moreover, scientific is the distribution of the burden of the water charges to the different types of quarter possessors. These details have also been given in paragraph 12 onwards of the counter affidavit filed by respondent No. 1 in the month of August 2013 and it is submitted that the amount of water charges, which has been enhanced, is in fact no enhancement in the eye of law because whatever is charged by the Government of Jharkhand is being levied from the possessors of the quarters of the H.E.C. A comparative chart levied by the Ranchi Municipal Corporation has also been mentioned in paragraph No. 2 and it is submitted that the H.E.C. is charging much lesser amount than what is levied by the Ranchi Municipal Corporation. In this set of circumstance, this writ petition may not be entertained by this Court.

4. Learned counsel appearing for the Ranchi Municipal Corporation submitted that in fact they have nothing to do with this writ petition. There is no allegation against the Ranchi Municipal Corporation nor there is any prayer against the Ranchi Municipal Corporation then also the Ranchi Municipal Corporation has been dragged into the litigation and, hence, this petition may be dismissed with cost.

5. Learned counsel for the State is equally accepting the argument canvassed by the learned counsel for the Ranchi Municipal Corporation and submitted that they are not necessary party. No prayer is made against the State of Jharkhand nor there is any allegation levelled against the State of Jharkhand and, therefore, this petition may be dismissed with cost.

6. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case and after perusing the counter affidavits filed in this writ petition, we see no reason to entertain this writ petition mainly for the following facts and reasons:--

(i) The present petition has been preferred mainly because of the fact that water charges have been increased by the H.E.C. The whole petition is only pertaining to, very limited and few persons and for those who are residing in the colonies of the company. Thus, this is not a public interest litigation, at all.

(ii) Looking to the facts of the case, it appears that the water charges which were fixed by respondent No. 1 much earlier in point of time was so meager that there was shortfall of Rs. 228.46 lakhs because the H.E.C. is purchasing water from the State of Jharkhand. Every purchase is meant for due consideration. The amount billed to the H.E.C. by the Government of Jharkhand is Rs. 1323.14 lakhs, as stated in paragraph 12 of the counter affidavit filed by the H.E.C. dated 1st August, 2013. The Government has enhanced the rate for supply of the water and respondent No. 1, which is a Central Government undertaking, is charging much lesser amount and, therefore, on no profit no loss basis, water charges have been enhanced by respondent No. 1.

(iii) Ranchi Municipal Corporation area is nearest to the Residential Colony area of H.E.C. The charges levied by Ranchi Municipal Corporation and by H.E.C., are referred in para 20 of counter-affidavit filed by H.E.C. Looking to these rates, it appears that H.E.C. is charging at lesser rate than that of Ranchi Municipal Corporation.

(iv) Moreover, the enhanced charge is scientifically bifurcated as per the Government notification, looking to the size of the quarters for a bigger quarter, the water charges are more. Thus, neither the charges are exorbitant nor distribution thereof is discriminatory, on the contrary, the charge enhanced by respondent No. 1 towards water consumption is absolutely on no profit no loss basis and the distribution of the burden amongst the possessors of the quarters of the H.E.C. is absolutely scientific in nature.

(v) The distribution of the water charges as per the built up area of the quarter is absolutely in consonance with the Government of Jharkhand notification which is at Annexure-B to the counter affidavit filed by the H.E.C. dated 1st August, 2013.

7. In view of the aforesaid facts, circumstances and reasons, we see no reason to entertain this public interest litigation. Hence, this public interest litigation is, hereby, dismissed with a cost of Rs. 25,000/- (Rupees twenty five thousand) which will be deposited by the petitioner within a period of ten weeks from today before the Jharkhand Legal Services Authority, Nyaya Sadan, Doranda, Ranchi. Registry is directed to send a copy of this order to the Secretary. Jharkhand Legal Services Authority.