
(2012) 10 JH CK 0004

In the Jharkhand High Court

Case No : Writ Petition (C) No. 6159 of 2009

Birsa Munda Kala Parishad

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 30-10-2012

Acts Referred:

Citation : (2013) 1 JLJR 96

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : R. Krishna and Amit Sinha, for the Appellant;

Final Decision : Allowed

Judgement

Narendra Nath Tiwari, J.—In this writ petition, the petitioner has prayed for quashing the order contained in memo no. 964 dated 19.10.2009 (Annexure-9) issued by the Inspector General of Registration, Jharkhand, whereby the petitioner's registration under the Societies Registration Act has been cancelled. According to the petitioner, they are duly registered society being registration no. 7/1995-96. By the impugned order their registration has been arbitrarily cancelled without issuing any notice or informing any reason or giving any opportunity of representation/hearing.

2. Learned counsel appearing on behalf of the petitioner submitted that the impugned order is wholly illegal, arbitrary and unsustainable, as the same is violative of principle of natural justice. The impugned order is liable to be quashed by this Court on that ground alone.

3. The respondents have opposed the petitioner's prayer. In the counter affidavit filed by the respondents it has been, inter alia, stated that notice was issued to the petitioner, but the petitioner did not prefer to respond to the notice and file any reply to that. The concerned authority, thereafter, considered the facts and materials on record and passed the impugned order cancelling the petitioner's registration on the ground that the petitioner is involved in a case of

misappropriation of fund and an F.I.R. has also been lodged and other steps have been taken for the same. Learned counsel submitted that the order is wholly legal and has been passed after affording opportunity to the petitioner. After receiving notice the petitioner appeared but did not file any effective reply and simply avoided the proceeding. The concerned authority, thereafter, considered the facts and materials on record and passed the impugned order.

4. Refuting the said allegation, learned counsel for the petitioner submitted that though the petitioner had appeared after getting knowledge of the proceeding, prayer was made for sometime for filing reply, but instead of allowing time and giving opportunity to the petitioner, the impugned order has been passed without hearing the petitioner.

5. I have heard learned counsel for the parties and considered the facts and materials on record.

6. On perusal of the impugned order dated 19.10.2009 I find that although it has been mentioned that some Secretary in the name of Subodh Kumar appeared on behalf of the petitioner and defended the proceeding, the ground of defence has neither been mentioned nor it appears as to what was the ground taken by the Secretary before the Inspector General of Registration.

7. Contrary to the said statements, the petitioner has specifically stated in paragraph-25 of the writ petition that though the petitioner's representative had appeared and prayed for time for filing his defence, instead of granting time, impugned order has been passed without affording any opportunity to defend. The said statement made in paragraph-25 of the writ petition has not been categorically disputed by the respondents in their counter affidavit.

8. In view of the above, I find that the petitioner was not given proper opportunity to defend himself and there has been no compliance of the principle of natural justice. The, same is evident even from the look of the impugned order. No specific fact, taken in defence, has been considered and discussed in the order. The impugned order, thus, apparently violates the principle of natural justice and the same cannot sustain. For the reasons aforementioned, the impugned order dated 19.10.2009 is quashed. The matter is remitted to the Inspector General of Registration, Jharkhand for fresh disposal of the case after giving proper opportunity of representation/hearing to the petitioner.