

(2002) 04 JH CK 0092

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 1624 of 2002

Court on its own Motion

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 05-04-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 04 JH CK 0092

Hon'ble Judges : Vinod Kumar Gupta, C.J.; Vishnudeo Narayan, J

Bench : Division Bench

Advocate : Pandey Neeraj Rai, for the Appellant; B. Poddar, AAG, M. Sohali Anwar and Ruby Parween, for the Respondent

Judgement

1. On 3.4.2002 after making certain observations with regard to the, question of inspection of the Unit (Sundera Mineral & Chemical Industry at Sonathar Village in the district of Jamtara) we had expressed the desire that the Chairman. Pollution Control Board. Jharkhand may be called in the Court so that we may have the advantage of apprising ourselves about the extent of help that the Board may render to us in the task of inspecting the Unit. On 4.4.2002, Sri Thakur Bal Mukund Nath Shahdeo, Chairman. Pollution Control Board, Jharkhand. appeared before us and while we were engaged in a conversation with him about the extent of help that we might receive from him in nominating a team for conducting the inspection of the Unit, we found that, perhaps, he himself did not possess any qualification or experience to be appointed on the post of Chairman. Detailed observations have been made with respect to such aspect of the matter in our order dated 4.4.2002. Since we felt that, perhaps. Mr. Shahdeo's appointment as the Chairman was not justified, and was not in conformity with the public policy and the requirements of law, we requested Mr. B. Poddar, learned Additional Advocate General, to produce before us the file relating to Mr. Shahdeo's appointment. Mr. Poddar has produced before us the file, in which we have seen various papers including the notes of the Minister concerned, Chief Secretary and the Chief Minister of the State as also the bio-

data of Mr. Shahdeo running into five pages, undated and non-paginated. Of course, the bio-data is riot supported by any documentary proof or any paper or any writing of any type in support of any claim that Mr. Shahdeo might have to hold this post. In the File at page "10" is the note of Mr. Jamuna Singh. Minister Forests, given, perhaps on 31.1.2002, the note of the Secretary. Forests, dated 7.2.02 (date not also fully legible), the note of the Chief Secretary dated 9.2.02 (date not also fully legible) and the approval of the Chief Minister dated 19.2.2002. Surprisingly the Secretary, Forests did not express any comments or give any views while forwarding the Minister's proposal to the Chief Minister for approval (should the Secretary. Forests have recorded her opinion, views or comments is a question. Which we may have to consider at a subsequent stage). Un-doubtedly the Chief Secretary in his note has totally disagreed with the proposal ot the Minister and by offering some very valid, logical and lucidly reasoned grounds. This original file is returned to Mr. Poddar for keeping in his personal safe custody and to be produced before us as and when required.

2. Mr. Pandey Neeraj Rai, Advocate, on his own (without having been called upon by the Court at all) appears for Mr. Shahdeo. Since Mr- Shahdeo has chosen to appear through his counsel today, we, being seized of this Public Interest Litigation matter relating to environmental pollution with respect to an Industrial Unit, consider that, perhaps, it might be permissible for this Court while exercising the Jurisdiction under Article 226 of the Constitution in this Public Interest Litigation matter to determine the legality and correctness of the appointment of Mr. Shahdeo as the Chairman of the State Pollution Control Board.

3. Of course, at some stage the question of jurisdiction for determining such validity and legality of such appointment in these proceedings may have to be considered by this Court but we would like to issue notice to Mr. Shahdeo through his counsel Mr. Pandey Neeraj Rai to show cause and explain to us as to why, based on the contents of our order dated 4.4.2002 and the no tings / observations of the Chief Secretary. Govt. of Jharkhand, and the apparent lack of any academic qualification and any special knowledge or any practical experience etc. this Court should not issue a writ of quo warranto against Mr. Shahdeo with respect to his aforesaid appointment to aforesaid public office that he is holding.

4. Mr. Pandey Neeraj Rai accepts notice on behalf of Mr. Shahdeo and undertakes to file a detailed counter affidavit within ten days from today. It shall be open to him to take up and urge the question of jurisdiction un-inhibited in any manner. We may also add that our dated 4.4.02 or the contents thereof in any manner shall have no effect on the determination of any issue relating to quo warranto proceedings,

5. It will be entirely up to Mr. Shahdeo to file such supporting papers/documents along with his affidavit as he may seek reliance upon to support his claim for his appointment on this post.

6. Mr. M.S. Anwar. learned counsel appearing ibr respondent Nos. 4 and 5 and

Mr. B. Poddar, learned Additional Advocate General. both agree that the Inspection of the Unit in question with respect to all the questions relating to pollution etc. should be carried out by a team of experts to be nominated by the Managing Director Mecon Ltd. Ranchi. It is the specific contention of Mr. Anwar that the Mecon Ltd. has such experts and infrastructural facilities and that they will do a proper job of carrying out such inspection.

7. We accordingly hereby direct the Managing Director Mecon Ltd., Ranchi. to nominate a team of experts, well versed in the aforesaid task, of proven integrity and calibre (team comprised of two or three persons) to carry out the aforesaid task of inspection of the Industry in-question in collaboration with the District Judge and the Deputy Commissioner, Jamtara. We hereby direct the District Judge and the Deputy Commissioner, Jamtara to effectively collaborate with the aforesaid team of experts for execution of this task and to render every possible assistance and provide all facilities to the aforesaid team of Mecon Officials.

8. The Team shall submit its report to us within two weeks from the date of communication of this order by or on behalf of respondent Nos. 4 and 5 to the Managing Director of Mecon Ltd.

9. Mr. Amwar's client shall deposit with the Mecon Ltd. a sum of Rs. 30,000/- (Rupees thirty thousand) as tentative costs/charges/fees of such Inspection by 9.4.2002. He shall approach the Managing Director, Mecon along with the copy of this Order for doing the needful. If the Managing Director is not at Station, the next, senior-most Officer of Mecon shall be under an obligation to implement this direction and have the needful done.

Let the matter appear on 17.4.2002.

A copy of this Order be handed over to the learned counsel for the parties.