
(2013) 03 JH CK 0042
In the Jharkhand High Court
Case No : WP (S) No. 3390 of 2002

Damodar Prasad Roy

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 22-03-2013

Acts Referred:

Citation : (2013) 2 JLJR 405

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : P.P.N. Roy and P.A.N. Roy, for the Appellant; Sunil Kumar Mahto for the Respondent No. 3 and Mr. Sunil Singh for the State, for the Respondent

Judgement

S. Chandrashekhar, J.—The short question involved in this case is, "whether Order dated 18.5.2002 should have been passed without giving any show cause notice to the petitioner and without conducting any enquiry". The learned counsel for the petitioner has submitted that no show-cause notice was issued to the petitioner before passing the impugned order dated 18.5.2002, whereby an amount of Rs. 1,03,692.69 has been ordered to be recovered from the petitioner within fifteen days.

2. In the writ petition, a statement is made in Paragraph 17, which is extracted below:--

That the petitioner states that no proceeding was ever initiated for the allegations made in the order nor the petitioner was given any charge-sheet to file show cause before the order was passed.

3. Respondent Nos. 2 and 3 have filed counter-affidavit, in which they have taken a stand in Paragraph 24,

That the allegation made in Para 17 & 18 of the writ application which is absolutely wrong and incorrect, as no order has been passed by the Managing Director, rather the Managing Director acted on the basis of the order of the

Deputy Commissioner-cum-Administrator of the Bank and communicated the same to the petitioner vide his Memo No. 66 of 18.5.2002.

4. The petitioner filed rejoinder-affidavit to the counter-affidavit filed by the Respondent Nos. 2 and 3, wherein in Paragraph 18, he has again reiterated the stand taken in this writ petition. Paragraph 18 of the rejoinder affidavit is extracted below:

That with regard to the statement made at Para 22 of the counter-affidavit, the Deponent states and submits that the statement made therein is not correct as no enquiry was done, as the petitioner was never informed about such enquiry and if any enquiry was done, then the Respondents should have filed a copy of the enquiry along with the counter-affidavit.

5. When this matter was listed on 19.2.2003, this Court was pleased to pass the following order:

Learned S.C. II prays for time to seek instruction and file counter affidavit.

Put up this case after three weeks.

In the meantime, no coercive step shall be taken against the petitioner.

6. From the record of the case, it is apparent that no show cause notice was issued to the petitioner, except the notice contained in the impugned order dated 18.5.2002. I am of the opinion that this is not sufficient compliance of the principles of natural justice. Moreover, no order for recovery can be made without initiating an enquiry for the alleged mis-conduct of the petitioner. It is an admitted fact that no departmental enquiry was conducted against the petitioner before the impugned order dated 18.5.2002 was passed against the petitioner.

7. On a consideration of the materials available on record, I am of the opinion that the stand which has been taken by the respondents for recovery of the amount of Rs. 1,03,692.69 is not in accordance with law and it requires interference by this Court.

8. Thus, order dated 18.5.2002 is hereby quashed with liberty to the respondents to proceed against the petitioner, if so advised, in accordance with law. The present writ petition is disposed of accordingly.