

(2012) 08 JH CK 0039

In the Jharkhand High Court

Case No : Cont. Case (C) No. 729 of 2012

District Bar Association, Gumla

APPELLANT

Vs

State of Jharkhand, and Others

RESPONDENT

Date of Decision : 30-08-2012

Acts Referred:

Citation : (2012) 4 JLJR 403

Hon'ble Judges : Prakash Tatia, J;Dhirubhai Naranbhai Patel, J

Bench : Division Bench

Judgement

1. The grievance of the petitioner for construction of the building for Gumla Bar Association was raised by filing writ petition, W.P.(PIL) No. 4300

of 2009 wherein supplementary counter affidavit was filed by the respondents-State. In paragraph 4 of that supplementary counter affidavit, it has

been admitted that in existing judicial system, the members of the Bar constitute an integral and indispensable part. Therefore, the construction of a

building in the court campus for the members of the Bar is an essential part of the system and would fall within the ambit of public works.

However, it has also been mentioned that if there are unreasonably large number of lawyers practicing in a particular court, all of them cannot be

accommodated at public expenses. It is submitted thereafter that the matter requires to be examined at the higher level of the State Government for

setting out parameters as to how many lawyers would be essential for efficient running of the Court complex of a particular place, having regard to

the number and nature of functional courts in that complex. It would further be relevant to mention here Sub-para (iv) of para (4) and paragraph

(5) of the said supplementary counter affidavit, which is quoted herein below.-

4(iv): That it would be desirable on the part of the government to take into consideration the most important element of the judicial system i.e., the

Litigants and to consider whether each court complex should have a waiting room for litigants with separate toilets for ladies and gents, and if so of

what size. It would appear to anomalous to provide amenities for the judicial officers, staff of the Court and the members of the Bar in complete

neglect of the litigants for whom this entire system exists.

5. That it has been reported that 221 lawyers are working at the Gumla Court complex. Assuming that about 225 lawyers would require working

space and 450 number of litigants would be visiting the court complex, the total space required for construction of a Bar building and waiting room

for litigants at Gumla Court complex, approximately 18500 Sq. ft. would be required.

2. An Annexure was also annexed showing the requirement of the area. Then one building construction plan along with map was forwarded by the

Deputy Concessioner, Gumla to the Principal Secretary, Building Construction, Jharkhand on 12th May, 2011 for approval. Then again reminder

was sent on 29.03.2012. However, On 15th March, 2012 requisite sanction was granted for construction over 99" X 94" = 9306 sq. ft. land but

proposal for additional land was not accepted.

3. The petitioner in-person submitted that in spite of giving undertaking before this Court, on the basis of which, the petitioner's above writ petition,

W.P. (PIL) No. 4300 of 2009 was disposed of, the State has not constructed the building.

4. Prima facie, a case of contempt is made out for floating the order of this Court or even representing the Court that the State is proceeding to

give relief to the petitioner and thereafter not giving relief itself amounts to willful disobedience of the Court's order.

5. Be that as it may be, this fact cannot be disputed that the Bar is an integral part of the judicial system as well as foundation of Court, as without

Bar there cannot even a judge and Court cannot function without the involvement of the Bar. We have mentioned from the supplementary counter

affidavit one of the facts purposefully to indicate that in affidavit the State contended that ""if there are unreasonably large number of lawyers

practicing in a particular court, all of them cannot be accommodated at public

expenses." Prima facie, we are of the opinion that number of advocates cannot be restricted for any particular Court or in general who can practice in courts in particular area.

6. Be that as it may be, a larger issue has been raised. But so far as this is admitted statement made by the Government and otherwise also, it is

just and proper that adequate number of chambers should be provided to the members of the Bar in Court premises by the Government.

However, here in this case, since the matter is relating to the contempt of this Court, therefore, the, contemnors may file counter. The petitioner is

directed to implead respondent nos. 2 to 5 by name, which has been impleaded by post only.

7. Learned counsel for the State sought time to file reply.

8. In the meanwhile, the respondents may proceed to expedite the proposal of construction of the Bar building without waiting for any further order

in this contempt petition. Put up this case on 17th September, 2012. The petitioner shall also file amended cause title of impleaded respondent 2 to

5 as party by name.

Copy of this order be given to learned counsel for the petitioner as well as learned counsel for the State.