

(2002) 03 PAT CK 0055
In the Patna High Court
Case No : C.W.J.C. No. 15669 of 2001

Diwakant Jha and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 07-03-2002

Acts Referred:

Registration Act, 1908 — Section 69

Citation : AIR 2002 Patna 166 : (2002) 50 BLJR 743 : (2002) 2 PLJR 178

Hon'ble Judges : R.S. Garg, J

Bench : Single Bench

Advocate : Pramod Kumar, for the Appellant; Syed Firoz Raza, JC to GP II, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Garg, J.—Heard learned counsel for the parties.

2. Learned counsel for the petitioners very vehemently contended that Annexures 3 and 5 are all bad because the authorities have issued these directions beyond their competence and without any authority of law. Though number of the arguments have been raised by the petitioners' counsel but unfortunately the petition does not contain a copy of the representation made by the petitioners to the concerned Officer. The petitioners, in paragraph 14 of the petition, simply say that a delegation met the concerned Officer and made a representation despite that no positive action is being taken by the respondents. Paragraph 14 of the petition reads-- "That the respondents are acting in arbitrary and capricious manner and are ignoring the interest of deed writers and stamp vendors and any delegation by the association and its representation is not headed to. "

3. The petition is beautifully vague in these pleadings and is conspicuously silent in making a clear mention that to which of the respondents the delegation met and to which respondent the representation was made. There are as many as

three respondents. The petition does not say to whom the representation was made.

4. When a writ of mandamus is sought for the party coming to the High Court must show to the High Court that whatever best was possible for the party, was done by the party and as the respondents have not passed proper orders or have not taken action in accordance with law. the High Court must interfere in the matter by issuing a mandamus by setting aside an illegal order or notification or requiring the authority to act in accordance with law or pass orders on the applications, appeals, memos, memorials or representations. In the present case but for the vague plea that a representation was made nothing beyond that has been said. Even a copy of the alleged representation has not been annexed with the petition. On this short ground the petition can be dismissed but as I have heard learned counsel for the petitioners I do not dismiss this petition on this ground.

5. Learned counsel for the petitioners contended that Annexure 1 puts an unnecessary restriction on the right of the petitioners to have particular trade and profession and as the conditions mentioned in Annexure 1 run contrary to the licence and the provisions of the Registration Act so also Deed Writers Licensing Rules this Court must interfere.

6. Challenging Clause 4 it was contended that the deed writers are not the employees of the Registration Department, therefore, the list of registered deed writers cannot be exhibited on the walls of the Registration Office. I fail to understand the propriety of this argument. Undisputedly a person, who holds a licence Issued by the competent officer, is entitled to work as a deed writer and to avoid unnecessary controversies and to make the public know that who are the licensed deed writers, if the authorities are exhibiting the names of the deed writers then no wrong can be found with said clause. It is not the case of the petitioners that beyond the licensed deed writers anyone else would profess this particular vocation, I do not find any wrong in the said condition. The challenge is rejected.

7. The condition No. 5 has been challenged on the ground that if the rates/fees for writing particular documents have been fixed then the details of such rates are not required to be exhibited on a Board to be affixed on a wall. Learned counsel for the petitioners does not say that the petitioners are entitled to charge anything more than what is the fees fixed by the competent authority. If for the knowledge of the public the rate and extent of the fees is exhibited, the petitioners should not have any grievance rather should feel happy that no case for any dispute would be filed and nobody would under pay them. The grievance can be raised in a case only if violating the terms and the schedule of the fees the petitioners wish to charge some thing more. If the petitioners wish to work as honest deed writers and do not wish to charge any thing more than what has been scheduled then the petitioners should not feel uncomfortable simply because the rate list/schedule of the fees is to be published or exhibited.

8. It was next contended that condition No. 8 is bad because it requires each and every deed writer to issue a written receipt of the fees charged by him. According to him the deed writer/deed writers are not charging anything more than the schedule, therefore, issuance of a receipt is not required. In the opinion of this Court this is an argument of frustration. When petitioners are charging fees from their clients or the party then they are obliged and duty bound to issue a receipt. Issuance of the receipt would certainly ensure that a particular amount only was charged, nothing more than that was charged and the person, who made the payment has no grievance at all. Even otherwise it would provide sufficient material and evidence to the Income Tax authorities at the time of the assessment. When the petitioners are working under a licence and are obliged to charge a particular fees then they are obliged and duty bound to issue a receipt. So far as the annexation of the said receipt with the document executed is concerned. I again do not find any wrong in it. It is only for the satisfaction of the registering authority that the deed writer has been paid his dues and the parties to the document have not been charged unnecessarily. If anything beyond the schedule is charged it would be certainly a violation of the condition and in such a case if an application is made by any aggrieved person the licence of such a deed writer can be cancelled. To avoid such a situation and confrontation if a copy/the original receipt is sought to be annexed with the document," a deed writer, who is otherwise obliged to issue a receipt to his client, should not feel aggrieved,

9. Learned counsel for the petitioners next contended that vide Annexure 2 the petitioners have been required to prepare the documents in 1 + 1 and submit the same before the Registrar at the time, of the registration. It is also contended that under point No. 5 of Annexure 3. the deed writer is required to obtain an endorsement from the stamp vendor that particular stamps were sold and the second copy is in relation to the same documents. According to him it unnecessarily burdens the deed writers, therefore, this Court should quash these directions.

10. In the opinion of this Court, if for the purposes of maintaining the proper records in the Registration Department, to facilitate the authorities to issue certified copies and to maintain a transparency in the registration of the documents, such a procedure is evolved, the same cannot be said to be bad or illegal. The second copy would always be kept in the record that in a case of dispute the second copy which bears the signatures of the deed writer, the endorsement of the stamp vendor and signators of the authorities to the document is always available. I do not find any good reason to say that the imposition of such a condition is also bad.

11. It was last contended that the rates/ fees for writing the documents are very low, therefore, this Court should interfere and direct the authorities to revise the rates. In the opinion of this Court this argument has been raised just for the purposes of rejection. The petitioners did not feel aggrieved by the schedule of

the fees so long as the Annexure 1 was not brought into action. It is only after the imposition of the conditions under Annexure 1 the petitioners have started saying that the rates fixed or the fees so scheduled is on the lesser side. On this argument this Court can presume that because petitioners were charging beyond the schedule without issuing the receipts, therefore, they were not aggrieved by the schedule of the fees and now because they would be required to issue the receipts they are seeking to ventilate their grievances by saying that the rates fixed are on the lower side. In any case the petitioners have not given the details in their petition as to how the rates suffer with the vice of lawlessness.

12. After giving my thoughtful consideration to the arguments raised by the learned counsel for the petitioners I am of the opinion that the petition deserves to be dismissed. It is accordingly dismissed.