

(2002) 07 JH CK 0093

In the Jharkhand High Court

Case No : Writ Petition (Cri) No. 162 of 2002

Dr. Shesh Muni Ram and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 24-07-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 07 JH CK 0093

Hon'ble Judges : D.N. Prasad, J

Bench : Single Bench

Advocate : Manoj Tandon, for the Appellant; P. Modi, GP I for Respondents Nos. 1 and 2, Anubha Rawat Choudhary and Rajesh Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Deoki Nandan Prasad, J.—This application has been filed under Article 226 of the Constitution of India for issuance of an appropriate writ(s), order(s) or direction(s) for quashing the Notification dated 7.3.2002 (Annexure 5) issued by the Secretary, Law (Justice) Department, Government of Jharkhand, Ranchi (respondent No. 2) whereby and where under the Special Court, CBI at Dumka for speedy disposal of Fodder Scam Cases has been directed to be transferred to Ranchi along with all pending cases.

2. It is stated that the State Government instituted 41 cases in the beginning of the year 1996 and in the meantime, a number of writ applications in the nature of Public Interest Litigations were filed in the Patna High Court and its Ranchi Bench which were disposed of by a Division Bench judgment dated 11.3.1996 whereby the Central Bureau of Investigation (in short "the CBI") was directed to enquire and scrutinize all cases of excess withdrawals and expenditures in the department of the Animal Husbandry during the period 1977-78 to 1995-96. The said order was also upheld by the Supreme Court by order dated 19.3.1996, in pursuance of the said direction of the Supreme Court, the CBI registered cases by lodging first information report with regard 41 cases which were instituted by

the State Police earlier and some other cases were also registered at Patna.

3. A dispute arose after bifurcation of the State of Bihar, as to out of 61 cases in all, how much of them are required to be transferred to the territory of Jharkhand. Consequently, the Patna High Court by its judgment dated 4.5.2001 held that, those cases did not relate exclusively to the territory now forming part of Jharkhand and, therefore, the same would continue to proceed before the Special Judge (CBI) at Patna. The aforesaid judgment was challenged by the CBI before the Supreme Court and the Supreme Court by judgment dated 5.10.2001 held that 36 cases falling in the jurisdiction of State of Jharkhand shall stand transferred within the territories of Jharkhand State. Accordingly the said 36 cases of Fodder Scam were transferred to the State of Jharkhand. Thereafter the Government of Jharkhand by notification dated 11.6.2001 issued by the Department of Law (Justice), Government of Jharkhand, Ranchi, constituted six Special Courts at Ranchi and one at Dumka for trial and disposal of the cases. By this notification, the Special Court at Dumka was given jurisdiction to over all local territories of the Santhal Pargana Division. Pursuant to the said notification, 12 Animal Husbandry cases said to have been transferred to the court of the Special Judge at Dumka. These petitioners are arraigned as accused in one or other cases but suddenly on 7.3.2002, a notification has been issued by the Department of Law (Justice), Government of Jharkhand, Ranchi, which is said to have been issued in consultation with the High Court of Jharkhand at Ranchi whereby the Special Court, CBI was transferred from Dumka to Ranchi along with all pending records. There was allegation in the cases about creation of fake allotment letters and preparation of fake bills and also made payments in connivance with other employees posted at Dumka Division at the relevant time as well as there is specific statement with regard to the allegation of commission of offence at places falling within the Dumka region. The accused persons shall have to come from Dumka to Ranchi and most of the witnesses belonged to Dumka region who will have to come to Ranchi which cannot help in speedy trial of the cases and therefore the subsequent notification issued by the Department of Law transferring the Special Court from Dumka to Ranchi is fit to be quashed.

4. A counter affidavit has been filed on behalf of the High Court of Jharkhand at Ranchi through the Registrar General (respondent No. 3) claiming therein that 36 cases out of total 52 cases transferred to the territorial jurisdiction of the State of Jharkhand by the Supreme Court. By notification dated 11.6.2001 the Government of Jharkhand constituted six Special Courts at Ranchi and one at Dumka for speedy trial of AHD Scam cases but vide Letter No. 311-J dated 6.2.2002, in the interest of the administration of State, the State Government expressed its difficulties in conducting the cases at Dumka in view of the fact that some of the accused in those cases are to be provided with "Z" Plus security which include the Ex-Chief Minister of Bihar and the Government is facing problem in producing these accused persons from Ranchi to Dumka and, accordingly, the State Government requested the High Court of Jharkhand that all cases of AHD Scam pertaining to Santhal Pargana Division be transferred to

Ranchi.

5. Accordingly after being satisfied about the aforesaid problems faced by the State Government the High Court in its Full Court Meeting held on 11.2.2002 duly resolved to transfer all the cases of Animal Husbandry Department pertaining to Santhal Pargana Division along with Presiding Officers from Dumka to Ranchi. It is further claimed that most of the petitioners who are facing trial in the Scam cases do not belong to Dumka and the case which has been transferred from Dumka to Ranchi was only because of the fact that there will be effective disposal of the cases as the prosecution will concentrate for taking steps for producing the witnesses at one place effectively. The petition is totally misconceived having no merit and is fit to be dismissed.

6. The learned counsel appearing on behalf of the petitioners submitted that the State Government of Jharkhand committed error in issuing the notification dated 7.3.2002 at the latter stage whereby and whereunder direction has been made to transfer the Special Court, CBI, from Dumka to Ranchi as the first information report and the materials collected during investigation will show that the officers of the Animal Husbandry Department posted at Dumka have been dragged in the cases and all the said cases relating to Dumka Division should be tried at Dunika as well as the petitioners/accused persons will face much difficulty in coming to Ranchi, the trial of the petitioners will also hamper because some of the witnesses are belonging to Dumka region and that will be hampering the speedy trial of the cases. It is also submitted that the State Government had rightly issued a notification constituting the Special Court at Dunika but with some ulterior motive, another notification has been issued which will not help in speedy disposal of the cases.

7. On the other hand the learned counsel appearing on behalf of respondent No. 3 contended before me that the State Government of Jharkhand actually issued the notification dated 7.3.2002 in the interest of administration as some of the accused in those cases are to be provided "Z Plus" security which includes the Ex- Chief Minister of the Bihar and is facing problems in producing these accused persons from Ranchi to Dumka and accordingly, a letter was sent by the State Government to the High Court for transferring the Special Court to Ranchi and the High Court also concurs for such shifting of the Special Court at Ranchi and thereafter the State Government issued the said notification. It is also submitted that the accused persons/the petitioners were facing trial in the cases and those cases were pending earlier in the court of the Special Judge at Patna when there was no grievance whatsoever when all the cases relating to Dumka region were pending at Patna and the Special Court has been shifted only on the ground of safety as well as for free and fair trial at Ranchi where other Courts of Special Judge in connection the Fodder Scam cases are also functioning as well as the petitioners/ accused persons could also get all proper help and facilities in dealing with the documents lying at Ranchi and, therefore, the State Government has rightly after concurrence of the High Court issued the notification

aforementioned,

8. Obviously all the cases under consideration were lying earlier pending at Patna when there was no grievance whatsoever to the petitioners and at that time also; they were attending the Court at Patna. No doubt some of the accused are facing trial including the Ex-Chief Minister of Bihar and also getting the facility of "Z Plus" security and it is the duty of the State Government to give proper security to them. Moreover the petitioners/accused persons will also get the opportunity to go through the records, documents and other materials lying at one place and all the petitioners do not appear to be the residents of Dumka. The trial of the cases under Fodder Scam at one place will also help in conducting for speedy and fair trial and could be effectively disposed of. The Special Court (CBI) already started functioning at Ranchi smoothly. Thus there appears no reason to interfere with the notification dated 7.3.2002.

9. In the result I do not find any merit in this application which is accordingly dismissed.