
(2016) 12 JH CK 0005
In the Jharkhand High Court
Case No : W.P.(PIL) No. 7097 of 2013

Harendra Kumar Singh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 08-12-2016

Acts Referred:

Chit Funds Act, 1982 — Section 4
Constitution of India, 1950 — Article 226
Jharkhand Protection of Interest of Deposition (In Financial Establishment) Act, 2011
— Section 4

Citation : (2017) 1 AIRJharR 836

Hon'ble Judges : D.N. Patel and Ratnaker Bhengra, JJ.

Bench : Division Bench

Advocate : Mr. Harendra Kumar Singh, Advocate, for the Petitioner in Person;
Mr. Lukesh Kumar, J.C. to A.G, for the Respondents

Final Decision : Disposed Off

Judgement

D.N. Patel, J.—This writ petition has been preferred by an advocate as a party in - person and following are the prayers in this writ petition: -

i. To stop the illegal activities of the chit fund companies in order to protect hard earned money of the common people/agents/investors and save them from committing suicide.

ii. To regulate the chit fund business in the entire state of Jharkhand under existing law and further suggest to Government to formulate a suitable mechanism by drafting a strong and stringent legislation with power of seizure, search and confiscation of property and other detrimental action against those chit fund companies who dupe persons like " Protection of Interest of Depositors Bill" to prevent and save the people from fraud of chit fund companies as enacted and adopted by the State Maharastra and Odisha.

iii. To restrain/stop the chit fund companies from further collection of fund from

the people of the State and to look into the matter about how much money were collected by the chit fund companies and how the said money can be returned to the public/investors.

iv. To make direction/suggestion to the State of Jharkhand (Respondent No. 2) to follow the path and procedure similar to as already adopted by the West Bengal Government (Respondent No. 3) as has been sanctioned in first instalment of Rs. 500 crores to pay compensation to the victims/investors of the Sarthe Chit Fund Scam and further direct to the respondent no. 2 to set up an Enquiry Commission headed by any former or sitting Judge of Jharkhand High Court Ranchi as like Justice Shyamli Kumar Sen, Commission has been set up by the Government of West Bengal (Respondent no. 3) for assessment and to look in to the matter as to how much money were collected from public/investors by the chit fund companies and how the said amount can be returned.

v. To set up a Special Committee by empowering the securities and exchange board of India (SEBI) for coordination among different agencies of the respondents to stop the illegal activities of the chit fund companies under the Chit Fund Act, 1982 which is a serious threat to the economy of this country.

vi. To set up a special Investigation Team (SIT) led by the Director General of Police, Jharkhand against those persons who dupe people in scam under the Chit Fund Act 1982 as has been set up by the Government of West Bengal.

2. Party in - person (who is the lawyer of this High Court) submitted that there are several illegalities committed by the chit fund companies and the poor persons of the State of Jharkhand are being cheated. These facts are known to the State of Jharkhand, yet the State Authorities are not taking any steps. It is further submitted by the party inperson that several persons, whose companies are being registered at Kolkota, are operating in the State of Jharkhand and thus, such companies should stop their activities in the State of Jharkhand. It is further submitted by the party in - person that the Jharkhand State has now enacted Jharkhand Protection of Interest of Depositors (In Financial Establishments) Act, 2011 and it has been published in the official gazette ,but, it is submitted by the party in - person, with all surprise, that how His Excellency, the President has given the assent within a couple of days, whereas in the adjoining States like Orissa, 2 to 3 years time has been consumed. It is further submitted by the party in - person that other States have also constituted one man commission and such type of Judicial Commission may be constituted by the order of this Court to investigate into the activities of the chit fund companies. It is also submitted by the party in - person that Jharkhand State should follow the neighbouring States, who have taken enough and adequate steps to stop the illegal activities of the chit fund companies.

3. Counsel for the Respondent - State has submitted that before stopping any company's activities, it ought to have been established that there is illegal activities committed by a particular company and for which several First

Information Reports have been preferred. Certain orders have already been passed by a Division Bench of this Court whereby Central Bureau of Investigation is doing investigation. It is further submitted by the respondents that special act has been enacted to protect the interest of the depositors. The said act is known as Jharkhand Protection of Interest of Depositors (In Financial Establishments) Act, 2011 and the rules have also been framed thereunder. Under this Act, there are as many as 191 cases registered. Thus, where there is prima facie evidence, immediately, in accordance with the Act and the rules, the steps have been initiated by the State. Nonetheless, punishment depends upon the proof and the several other factors in the court matters.

4. Having heard counsel for both sides and looking to the facts and circumstances of the case, it appears that in this writ petition, this party in - person has preferred this petition for stoppage of illegal activities of chit fund companies, in order to, protect the hard earned money of the citizens. It appears that in another P.I.L i.e. W.P.(PIL) No. 1635 of 2014 vide order dated 11.05.2015, an order has been passed by a Division Bench of this Court handing over investigation to the Central Bureau of Investigation for the illegal activities of chit fund companies. Moreover, it appears that now Jharkhand Protection of Interest of Depositors (In Financial Establishments) Act, 2011 has also been enacted and the rules have also been enacted thereunder. Several cases have also been registered, as stated in the counter - affidavit, under the Act, 2011. In the affidavit which was filed in this Public Interest Litigation, dated 11.11.2016, it has been stated in paragraph no. 11 thereof that as many as 191 cases were registered. Hence, we see no reason to give further direction to monitor the activities of such type of companies because there are enough number of legislations, in existence and applicable.

5. It is the submission of the counsel for the petitioner that one man judicial commission may be appointed to investigate into the activities of the chit fund companies. We see no reason to appoint such type of judicial commission, mainly for the following reasons:

(a) Already an order has been passed in another P.I.L i.e. W.P.(PIL) No. 1635 of 2014 vide dated 11.05.2015, for handing over the investigation for the illegal activities of the chit fund companies to the Central Bureau of Investigation.

(b) Already Jharkhand Protection of Interest of Depositors (In Financial Establishments) Act, 2011 is enacted with rules thereunder. The State of Jharkhand is acting under the said Act, 2011.

(c) As many as 191 cases have also been registered under the aforesaid Act, 2011.

(d) There is no allegation in this petition that the investigation under the Act, 2011 for the offenders, is not an adequate investigation or sufficient investigation or is a faulty investigation.

(e) There is no allegation in this writ petition that the investigation, which is under going by the Central Bureau of Investigation for chit fund companies in the State of Jharkhand and their activities in the State of Jharkhand is also improper, which requires constant monitoring by this Court.

6. Thus, the purpose of this Public Interest Litigation, which is awakening of the senses of the state of Jharkhand, has already been achieved. Moreover the Central Bureau of Investigation is also investigating the illegal activities of the several chit fund companies. The Act, 2011 has also been enacted by the State of Jharkhand. As may as 191 cases have already been registered under the Act, 2011 and therefore, we see no reason to give further guidance that how more cleverly the investigation can be carried out, nor we see any justification for the constitution of judicial commission.

7. The party in - person (who is an advocate of this Court) has also submitted that the State of Jharkhand should follow the other neighbouring States and the steps initiated by them.

This is a general desire of this petitioner. No writ of Mandamus can be issued upon the State of Jharkhand that this State should follow the steps taken by other States because the State of Jharkhand is an independent, sovereign body from another State, which is capable of taking proper advice from their own resources and can adequately enact the acts for the State of Jharkhand.

8. Nonetheless, we, hereby, direct the State of Jharkhand to complete the pending investigation, under the Act, 2011, if at all, such type of investigation are pending since long and cooperate in the investigation, which other central agencies are carrying out, so that central agencies can complete their investigation, at the earliest.

9. With these observations, this writ petition is, hereby, disposed of.