
(2001) 02 RAJ CK 0135
In the Rajasthan High Court
Case No : Civil Writ Petition No. 539 of 2001

Harpat Ram

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 07-02-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 4 WLC 456 : (2007) 2 WLN 19

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—Suspension should not ordinarily be interfered by this Court in its extra ordinary jurisdiction under Article 226 of the Constitution of India, particularly when a person is placed under suspension for a serious charge of corruption, unless and until a strong case of malafide is made out.

2. On a complaint lodged by one Naib Singh, the petitioner, who was working as Patwari, was caught red handed for accepting bribe of Rs. 500/-, therefore, by an order dated 14.9.1998 (Annex. 1) he was immediately transferred as a Leave Reserve Patwari of Tehsil Karanpur.

3. Recently, the Hon'ble Chief Minister of the State has made public announcement that State Govt. will come down very heavily upon the dishonest, corrupt officers and they will not be spared, whosoever may be and. howsoever he may be high. Necessary instructions have been issued as per the circular dated 14.9.2000 (Annex. 3) by the State Govt. to the effect that any Govt. Officer or Public Servant caught in corruption case be immediately placed under suspension. Consequently, further instructions were issued by the Department of Personnel Govt, of Rajasthan dated 23.12.2000 and in pursuance of that respondent No. 1 passed the impugned order dated 12.1.2001 (Annex. 4). The petitioner has challenged in this petition the impugned order of suspension by

way of this petition, which is filed under Article 226 of the Constitution of India. Mr. Saluja, learned counsel for the petitioner vehemently submitted that circular (Annex. 3) is nothing but an administrative instruction, which cannot have retrospective application. He submitted that for the alleged incident of accepting bribe of Rs. 500/- the petitioner was already transferred on registering a case against him under the Prevention of Corruption Act on 14.9.1998. he submitted that merely because instructions came to be issued in 2000, it is not open for the respondents to place the petitioner under suspension in 2001. In support of his submission, he has relied upon the judgment of this Court reported in 1987 (1)RLR Page 47.

4. In my considered opinion, the aforesaid judgment of this Court has no application to the facts of this case. It is true that petitioner was earlier transferred in 1988 from the place where he alleged to have accepted bribe of Rs. 500/-, but in such type of cases it is always permissible for the respondents to place a person under suspension. On the facts of this case, I am fully satisfied that no error was committed while placing the petitioner under suspension. From the fact that none-else but the complainant Naib Singh has turned hostile shows that the petitioner was required to be placed under suspension much earlier than the order of suspension which was passed in January, 2001. Mere transfer of such persons against whom offences are registered under Prevention of Corruption Act would not be sufficient. While remaining in service they may put any sort of pressure on the witnesses including complainant or Panch witnesses. It is clear from the facts of this case that in the instant case the complainant himself has turned hostile while deposing in Criminal Court.

5. Under the circumstances, there is no question of interference by this Court with the impugned order of suspension in its extra ordinary jurisdiction under Article 226 of the Constitution of India.

6. In view of the above discussion, this petition is required to be dismissed. However, before parting, I must state that merely because complainant has turned hostile and if on this ground the petitioner is acquitted by the Criminal Court that would not be a ground for the respondents not to proceed against petitioner by way of departmental inquiry. There are different considerations in criminal trial and in domestic enquiry.

7. With these observations, this petition is dismissed. Stay petition is also dismissed.