

(2011) 11 JH CK 0066

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 4663 of 2009

Hemendra Pratap Dehati

APPELLANT

Vs

State of Jharkhand and others

RESPONDENT

Date of Decision : 28-11-2011

Acts Referred:

Citation : (2011) 11 JH CK 0066

Hon'ble Judges : Prakash Tatia, C.J;P.P. Bhatt, J

Bench : Division Bench

Judgement

1. Public is fighting for getting the water in independent India, living in the erstwhile State of Bihar and now in the State of Jharkhand. Various governments were of the view that some Dam or Barrage is required to be constructed for giving relief to the public of the Garhwa district and that gave all the benefits to the Executives and Engineers of the then State of Bihar and State of Jharkhand for last more than 36 years. Detailed orders have been passed by this Court on several occasions, drawing their attention to the plight of the public of the Garhwa district. It was also brought to the notice of the State authorities again and again that they have paid salaries to the Executives and Engineers by taking the benefit of the pain of the public by creating the post of Chief Engineer and Subordinate Engineer under him and went on paying them salaries for more than 36 years, spending crores of rupees. For the purposes, they got prepared one after another reports and made the idea a shuttle cork giving full benefits to the government officers. All detailed orders sent to the Principal Secretary of the concerned Department, resulting into further burden upon the State exchequer and this Court ultimately made it clear in its order dated 5th September, 2011 that the Project is not of the Court but it is a Project of the Government and we are of the considered opinion that even after passing such order the Government servants, taking benefit of the situation out of the plight of the public of Garhwa and having already squeezed the public money for 36 years, are now seeking to work on the Project again. We are of the considered opinion that if the Project has been made impossible because of the fact that the land has now been

possessed by thousands of the persons of the area over the catchment etc. then that has been created by the erstwhile Government of the Bihar and the Government of Jharkhand.

2. Be that as it may, the fact remains that the public is under illusion that they will get water one day, but we do not have any hope now that in this Project the people of the State of Jharkhand can get any water. However, it is certainly a beneficial Project for the Government employees only.

3. In view of the above reasons, we direct the State government to submit an affidavit of the Principal Secretary, Water Resources Department, Government of Jharkhand on the point that :

(i) Whether State wants to proceed with this Project or not;

(ii) If want to proceed, in what time this Project will be completed;

(iii) Is there any alternative way to give relief to the public of the Garhwa district in the matter of supply of water; and

(iv) If a longer time is likely to take for this ad interim measure, how immediate relief can be given to the public of the district Garhwa in the matter of water supply, which is under consideration;

4. The reply should be specific and should not be evasive.

5. Learned counsel for the petitioner submitted that in view of the facts taken note of by this Court in various orders, though it is too late, yet a Very High Powered Committee may be constituted, who can look into the matter and the same may not be delayed because of the way of working of the States.

6. This request will be considered after obtaining an affidavit of the Principal Secretary, as mentioned above.

7. This writ petition is pending before this Court since 2009. The petitioner is an old man of 80 years and learned counsel for the petitioner says that he is present in Court today also.

8. Looking to the total expenditure, which is likely to be spent, we are of the considered opinion that the petitioner deserves a nominal cost of litigation, at present, which we assess to Rs.21,000/(twenty thousand), which shall be paid by the State to the petitioner by a Demand Draft through the counsel of the petitioner, within a period of one month from today. We also direct the State Government to pay a token remuneration to the learned counsel for the petitioner, at this stage, to the tune of Rs.21,000/(twenty thousand) within a period of one months from today by Demand Draft.

9. This litigation cost is imposed because of the reason that the petitioner and his counsel are giving full assistance to this Court and, that too, for getting the Project of the State Government completed and such assistance would not be available to the State Government for this cost at this time, if it would have been

hired by the State Government, looking to their wastage of money in this Project made earlier and cost which they are going to spend for the Project.

10. The affidavit shall be filed on or before 12th December, 2011 and the matter will be placed thereafter on 13th December, 2011.

11. Let a copy of this Order be handed over to the learned counsel for the parties.