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**(2015) 03 JH CK 0004**  
**In the Jharkhand High Court**  
**Case No : Writ Petition (C) No. 6155 of 2013**

JUDAV

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

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**Date of Decision : 20-03-2015**

**Acts Referred:**

Arms Act, 1959 — Section 25(1-b)1, 27  
Penal Code, 1860 (IPC) — Section 120B, 147, 148, 149, 188

**Citation : (2015) 3 AJR 124 : (2015) 2 JLJR 465**

**Hon'ble Judges : S. Chandrashekhar, J.**

**Bench : Single Bench**

**Advocate : Anil Kr. Singh, Senior Advocate and Rahul Kumar, for the Appellant; Rajesh Kumar, G.P. and Anil Kumar, J.C. to A.G., Advocates for the Respondent**

**Final Decision : Dismissed**

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## Judgement

S. Chandrashekhar, J.—Aggrieved by order dated 20.09.2010 and order dated 12.07.2013, the petitioner-Judav, has approached this Court by filing the present writ petition.

2. Briefly stated, the facts of the case are that, the petitioner-NGO is registered under the Societies Registration Act, 1860. The petitioner claims that it has worked in the field of education, health, flood relief, organic farming and it is engaged in training and empowerment programme. The General Body members of the petitioner-Society are pioneers in social work. The petitioner-Society has been granted permission under the Foreign Contribution (Regulation) Act, 1976 and its accounts are audited regularly. In connection with the land acquisition for establishing a thermal power plant at Kathikund, the local people started protests and agitations. In one of such incidents, an F.I.R. being Kathikund P.S. Case No. 68 of 2008 was lodged in which one of the members of the General Body of the petitioner-Society namely, Mr. Ghanshyamjee was also named as an accused in the charge-sheet filed on 25.02.2009 for offence under Sections 147, 148, 149, 341, 323, 188, 353, 333, 307, 379 and 120B IPC and under Sections 25(1-

b)1/27 of the Arms Act and under Section 17 of the C.L.A. Act. The petitioner-Society which is a legal and juristic person is not made an accused. The petitioner-Society has no concern with the personal life and activities of its member namely, Mr. Ghanshyamjee and it has issued a show-cause notice dated 14.05.2009 to him seeking his explanation about the above criminal case lodged against him. The Assistant Inspector General of Registration-respondent No. 4 issued letter dated 19.10.2009 to the petitioner directing the Secretary of the petitioner-Society to appear before the Inspector General of Registration. Though, notice dated 19.10.2009 indicates that the said letter was issued in response to a letter of the Deputy Commissioner, Dumka however, a copy of the letter written by the Deputy Commissioner, Dumka was not furnished to the petitioner. On 30.10.2009, the authorized representative of the petitioner appeared before the respondent No. 3. The Registration of the petitioner-Society was cancelled by a non-speaking order by the respondent No. 3 vide order contained in letter dated 16.11.2009. Challenging the order of cancellation dated 31.10.2009, the petitioner approached this Court in W.P.(C) No. 5538 of 2009 which was disposed of on 06.08.2010, permitting the petitioner to file its show-cause reply and the respondent No. 3 was directed to pass a speaking order after affording opportunity to the petitioner for explaining its case. The respondent No. 3 vide order dated 20.09.2010, instead of deciding the matter, remitted the matter to the Deputy Commissioner, Deoghar for enquiry. The petitioner was again constrained to approach this Court by filing writ petition being, W.P.(C) No. 5687 of 2010 which was dismissed on 20.06.2011 however, a liberty was given to the petitioner to avail the alternative remedy of Appeal. Thereafter, the petitioner preferred Registration Appeal Case No. 24 of 2011 before the Member, Board of Revenue. The Appeal preferred by the petitioner was dismissed in a mechanical and casual manner, vide order dated 12.07.2013. Constrained, the petitioner has approached this Court again.

3. In the counter affidavit, the respondents have taken a plea that in compliance of order dated 06.08.2010 in W.P.(C) No. 5538 of 2009 passed by this Court, after hearing the petitioner the Inspector General of Registration passed order dated 20.09.2010 whereby, the earlier order dated 31.10.2009 was not recalled. A decision to cancel the registration of the petitioner-Society was taken after examining letter dated 03.07.2009 of the Superintendent of Police, Dumka, letter dated 10.07.2009 of Deputy Commissioner, Dumka and other materials on record. The Home Department, the Government of Jharkhand has also found office bearers of the petitioner-Society having close connection with extremists organization and in this connection the Principal Secretary, Department of Home has written letter dated 17.08.2010. It is stated that the main object of registration under the Societies Registration Act is to promote charitable and welfare activities and not to promote subversive and criminal activities. It is stated that the order passed by the Inspector General of Registration on 20.09.2010 is a speaking order and it has been passed in the interest of public and in the interest of the State.

4. Heard learned counsel for the parties and perused the documents on record.

5. Mr. Anil Kumar Sinha, the learned senior counsel appearing for the petitioner-Judav contends that Rule 13 of the Bihar Societies Registration Rules, 1965 (adopted by the State of Jharkhand) provides that a show-cause notice can be issued for cancellation of registration when the Inspector General of Registration is satisfied that there is a prima-facie case against the Society and only when the Inspector General of Registration is satisfied that the charge is proved, the registration of the Society under Section 23 of the Societies Registration Act, 1860 can be cancelled, however, without recording a satisfaction that the charge against the petitioner-Society is proved, the Inspector General of Registration has passed order dated 20.09.2010 whereby, the matter has been remitted to the Deputy Commissioner for further enquiry. It is stated that the order passed by the Inspector General of Registration is contrary to the direction issued by this Court in W.P.(C) No. 5538 of 2009 in as much as, instead of passing a fresh order, the Inspector General of Registration has transferred the matter to the Deputy Commissioner for further enquiry. It is further submitted that for the criminal act of one of its members, the petitioner-Society which is a juristic person cannot be penalized. The registration of the petitioner-Society cannot be cancelled because the Society has no concern with the personal activities of its members of the General Body. It is contended that the reports of the Superintendent of Police and the Deputy Commissioner are contrary to the report submitted by the Executive Magistrate, Madhupur which was submitted during the proceeding of Registration Appeal No. 24 of 2011 and therefore, the Member, Board of Revenue should have considered the same before taking a decision in the Appeal preferred by the petitioner.

6. As against the above, Mr. Rajesh Kumar, the learned G.P.V. appearing for the respondents submits that even the initial order of cancellation which was passed on 31.10.2009 was a speaking order in as much as, the letters written by the Superintendent of Police and the Deputy Commissioner were made part of the said order. Defending order dated 20.09.2010, it is submitted that the said order is in consonance with the direction of this Court in W.P.(C) No. 5538 of 2009. The Inspector General of Registration has passed a fresh order whereby order dated 31.10.2009 has been affirmed once again. It is further submitted that a perusal of the charge-sheet submitted in Kathikund P.S. Case No. 68 of 2008 reveals that the members of Ulgulan Manch and the villagers had formed an unlawful assembly and they had proceeded for armed demonstration. In the said demonstration, the extremist activists were also active and the complicity of one of the members of the General Body of the petitioner-NGO has also been found in the crime. It is further submitted that there is no allegation of mala-fide against the Superintendent of Police or Deputy Commissioner or the Principal Secretary, Department of Home and therefore, there is no reason to disbelieve the reports submitted by the aforesaid officers.

7. Having carefully considered the rival submissions and after perusing the

documents on record, I find that insofar as, the report submitted by the Superintendent of Police on 03.07.2009 and the report of the Deputy Commissioner dated 10.07.2009 are concerned, at no stage after the issuance of show-cause notice dated 19.10.2009, the petitioner-Society has alleged mala-fide against the respondent-authorities. In the present proceeding also there is no allegation of mala-fide against the respondent-Superintendent of Police or the Deputy Commissioner. In fact, the Principal Secretary, Department of Home has not even been made a party in the writ petition. The learned senior counsel for the petitioner has contended that the reports of the Superintendent of Police and the Deputy Commissioner are liable to be rejected for the simple reason that, though it is alleged that the petitioner-NGO has close connections with the extremist groups, no criminal case has been registered against the petitioner. This contention at the first instance appears to be attractive however, after closer scrutiny of the reports of the Superintendent of Police and the Deputy Commissioner. I find no force in the said contention. The allegation against the petitioner-NGO is of having connections with the extremists groups and unless sufficient material is gathered and the involvement of the members of the petitioner is found in an incident, a criminal case could not have been registered against the petitioner or its members. The case registered against one of the members of the petitioner-Society reveals association of extremist activists in the said incident. The learned counsel for the respondent-State of Jharkhand has rightly pointed out that one of the members of the petitioner has been found involved in Kathikund P.S. Case No. 68 of 2009 which was registered into an incident of armed and riotous protest. The incident occurred when the accused were protesting against the alleged beating of the arrested accused in connection with Case No. 64 of 2008 and it was not a protest against the land acquisition notification issued by the Government.

8. Section 23 of the Societies Registration Act, 1860 contemplates an enquiry by the Inspector General of Registration and it provides that before order of cancellation of registration is passed a reasonable opportunity of showing cause should be given to the Society. As noticed above, the order of cancellation of registration has been passed by the Inspector General of Registration after considering the reports of the Superintendent of Police and the Deputy Commissioner and after affording opportunity of hearing to the petitioner. The petitioner-Society has admitted in the writ petition that before the order of cancellation dated 20.09.2010 was passed, it was directed to produce certain documents which, it is stated that the Society produced before the Inspector General of Registration. Rule 12 of the Bihar Societies Registration Rules, 1965 gives power and jurisdiction to the Inspector General of Registration to institute enquiry or investigation when there is a suspicion that the Society is engaging itself in activities which are subversive of the objects of the Society. Thus, the Inspector General of Registration is competent to examine the affairs of the Society. Rule 13 of the 1965 Rules speaks of satisfaction of the Inspector General of Registration that the charges have been proved against the Society. The

reports of the Superintendent of Police and the Deputy Commissioner, affirmed by letter dated 17.08.2010 of the Principal Secretary, Department of Home were relevant materials based on which the Inspector General of Registration has taken a decision to cancel the registration of the petitioner-Society. In the earlier report dated 18.12.2008, the Deputy Collector Land Reforms, Madhupur had also recommended for enquiry by the Special Branch and CID into the internal affairs of the petitioner-Society. From a perusal of order dated 20.09.2010, it appears that before the Inspector General of Registration, the only plea taken by the petitioner-Society was that on the basis of criminal activity of one of its members, no action can be taken against the Society which is a juristic person. The contention raised on behalf of the petitioner that order dated 20.09.2010 is not a fresh order whereas, vide order dated 06.08.2010 in W.P.(C) No. 5538 of 2009 the Inspector General of Registration was required to pass a fresh order, is liable to be rejected. I find that it has been made amply clear in order dated 20.09.2010 that by the said order earlier order of cancellation dated 31.10.2009 has been affirmed. It further appears that the reports of the Superintendent of Police and Deputy Commissioner were considered relevant for not recalling earlier order dated 31.10.2009. The submission that order dated 20.09.2010 contains no order rather, by the said order the matter has been remitted to the Deputy Commissioner, Dumka is also liable to be rejected. I find that vide order dated 20.09.2010, the Inspector General of Registration has affirmed the order of cancellation dated 31.10.2009 and the matter has been referred to the Deputy Commissioner for in-depth enquiry. In order dated 20.09.2010, it has been made clear to the petitioner that against the said order, the petitioner may avail of the remedy of Appeal.

9. In view of Section 23 of the Act and Rule 13 of the Bihar Societies Registration Rules, 1965, primarily, the satisfaction has to be of the authority passing the order. If the satisfaction recorded by the authority is objective and is based on the materials on record then the court would not interfere with the order passed by the authority only because another view possibly can be taken. In State of N.C.T. of Delhi and Another Vs. Sanjeev @ Bittoo, , the Hon"ble Supreme Court has observed, "the satisfaction of the authority can be interfered with if the satisfaction recorded is demonstratively perverse based on no evidence, misreading of evidence or which a reasonable man could not form and that the person concerned was not given due opportunity resulting in prejudice". In the present case, this is not the case pleaded by the petitioner that the procedure laid down under the Act or the Rules was not followed. As noticed above, opportunity of hearing was granted to the petitioner-Society. The contention raised on behalf of the petitioner that the report of Superintendent of Police or the Deputy Commissioner does not provide any evidence of complicity or association of the petitioner-Society with the extremist group and therefore, the order of cancellation is not sustainable, is not tenable. The proceeding before the Inspector General of Registration is a quasi-judicial proceeding and therefore, it is not necessary that the materials collected against the petitioner must prove

the allegation to its guilt. In my opinion, it is sufficient if on the materials produced before the Inspector General of Registration, the said authority is satisfied that the Society has engaged itself in activities, which are subversive of the objects of the Society.

10. Considering the above facts, I find no merit in the writ petition and accordingly, it is dismissed.