
(2001) 12 JH CK 0027
In the Jharkhand High Court
Case No : Contempt Case (Civil) No. 771

Kamal Nayan Narsaria

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 13-12-2001

Acts Referred:

Constitution of India, 1950 — Article 226
Contempt of Courts Act, 1971 — Section 2

Citation : (2002) 1 CCC 442

Hon'ble Judges : Vinod Kumar Gupta, C.J.; D.N. Prasad, J

Bench : Division Bench

Advocate : A.K. Sinha, K.K. Ambastha and A.K. Jha, for the Appellant; B. Poddar, A.A.G., for the Respondent

Judgement

V.K. Gupta and D.N. Prasad. JJ.

1. This contempt application arises out of the order passed on 20th December. 2000 by a Division Bench of this Court in LPA No. 426 of 2000 wherein, inter alia, the Bench directed the respondents to enquire into the claims of the petitioner-appellant, consider his representation and dispose of the same by passing a reasoned order within three months from the date of receipt of the representation.

2. It is the undisputed case of the parties that pursuant to the aforesaid order, the appellant-petitioner did submit his representation in the month of January, 2001.

3. A slight development took place in the meanwhile. The communication dated 12th July. 2001 (Annexure 5 to the Contempt Application) was sent to the petitioner-appellant in which it was intimated that the Project on being wound up, the matters relating to the same were being dealt with by the concerned Department of the State Government and therefore, the Post of the Project Director had ceased to be in existence. Actually, it appears that because the

petitioner-appellant was also made aware of the change in the situation, he submitted a representation in April, 2001 addressed to the Chief Engineer. Rural Engineering Organisation (R.E.O.), Ranchi (respondent No. 3 in this Contempt Application).

4. In the show cause filed by respondent No. 3, this position has been admitted. The respondent No. 3 admits that he received the representation filed in April, 2001. We refer to Paragraph 6 of his show cause which reads thus :

"The answering opposite party most humbly and respectfully submits that the petitioner filed another representation on 27.4.2001 before the Development Commissioner-cum-Secretary, R.E.O. and Chief Engineer, R.E.O.. raising his claim, which relates with package No. 69-B for construction of missing link bridge in Gumla Zone."

5. On 10th October, 2001, when this matter came up for consideration, we had directed that the compliance of the Division Bench's order dated 20th December, 2000 was to be ensured or else the respondents No. 2 and 3 would appear in person to answer the contempt charge. Even though the respondents No. 2 and 3 have appeared in person, in the facts and circumstances of this case, as hereinabove indicated and for the reasons we noticed hereinafter, it becomes quite clear and apparent that the Division Bench's order dated 20th December, 2000, has so far not been implemented. Non-implementation of the Division Bench's order, in the sense that the appellant- petitioner's representation has not been disposed of is not disputed by the respondents. The respondents have, however, put up a defence. The defence is contained in Paragraph 7 of the show cause of respondent 2, Paragraph 7 reads as under :

"The answering opposite party most humbly and respectfully submits that in the light of the above mentioned facts and circumstances of the case, the claim of the petitioner could not be disposed of due to non-clearance from the Vigilance Department of Government of Bihar."

6. Mr. Poddar, the learned Additional Advocate General showed us the file from where we do find that there is some notings of the Development Commissioner and the Chief Secretary that the Vigilance clearance from the Government of Bihar should be obtained because, as per the notings, it appears that some Vigilance enquiry might have been pending with respect to the contract works in question or the payments related thereto.

7. The facts remains that the order dated 20th December, 2000 passed by the Division Bench has not been implemented. The Division Bench had issued unambiguous and unequivocal direction upon the functionaries of the State to dispose of the representation of the appellant, and that too within three months. The respondents were under a constitutional obligation in compliance with the writ of mandamus issued by the Division Bench of this Court exercising power under Article 226 of the Constitution of India to have considered and disposed of the representation by passing a reasoned order. Even if there was some problem,

the minimum courtesy required of the respondent to inform this Court that the representation has been disposed of and that disposal has been communicated to the appellant. The fact remains that for almost a year now, the respondents did not send any communication to the appellant, only because, as noticed above, they did not dispose of the representation of the appellant.

8. In the facts and circumstances of this case, taking note of this serious lapse on their part, this Court adopts a view that perhaps the respondents are guilty of committing contempt of this Court. This was a case where inaction on the part of the respondents in not disposing of the petitioner's representation amounted to committing contempt of this Court. If the respondents had any difficulty in disposing of the representation (such as obtaining Vigilance clearance from the Government of Bihar), they should not have had any difficulty in approaching this Court for seeking any clarification, or further directions, or even a direction for modification of the order dated 20th December. 2000.

9. This total callousness on the part of the respondents in not approaching this Court shows that the respondents scantily regarded the order of this Court, not caring at all for Implementing the order within the time frame fixed by the Court. This conduct showed total indifference on the part of the respondents. The respondents being the functionaries of the State work under a constitutional duty and obligation to ensure that the judicial orders finally passed by the Courts are implemented, but in the present case, they did not do so. The only redeeming feature, despite the aforesaid culpable inaction on their part, which helps the respondents in saving them from an order of conviction is the noting on the file which suggests that the Vigilance clearance from the Government of Bihar was required to be obtained.

Unfortunately, this noting also does not appear to have been followed any further in as much as despite the same having been made in the month of July, 2001, steps were not taken by the respondents in ensuring expeditious disposal of the matter.

10. The aforesaid conduct of the respondents reflects that their act was highly contemptuous. But for the aforesaid extenuating circumstance, this Court should have normally passed the order of conviction against them. We, however, strongly disapprove this conduct of respondents No. 2 and 3 and reprimand them to be careful in future. Also, we are taking this lenient view because of specific and unequivocal undertaking given to us in the Court today by Mr. Poddar, the learned Additional Advocate General that the appropriate functionary of the Government of Jharkhand would now ensure that the representation of the appellant is disposed of within a period of three weeks from today. We note this statement of Mr. Poddar, as having come from and on behalf of the Government of Jharkhand, record this as an undertaking and by a specific order extend the period as mentioned in the Division Bench's order dated 20th December, 2000, by three weeks from today. We hold the State of Jharkhand responsible now for implementation of the aforesaid order. The representation of the petitioner-

appellant shall now be disposed of during this period and the result shall be communicated to him accordingly.

11. With the aforesaid observation and direction, the contempt application is disposed of.

12. Application disposed of with directions.