
(2002) 02 PAT CK 0094
In the Patna High Court
Case No : M.J.C. No. 746 of 1999

Kishori Prasad and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 11-02-2002

Acts Referred:

Citation : (2002) 2 PLJR 58

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kr. Singh, J

Bench : Division Bench

Advocate : Bharat Lal, for the Appellant; R.K. Dutta, for State and J.P. Karn, for UOI, for the Respondent

Judgement

1. These proceedings before the High Court are contempt proceedings. The proceedings arise out of a public interest litigation upon an order passed by the division bench on 28 October 1998 on the writ petition. The writ petition raised controversies, to the effect, that during the years 1995-96 and 1996-97 a sum of Rs. 26,80,895/- was misutilised by the District Magistrate cum-Collector, Sheikhpura, one Baleshwar Das and the Superintendent of Police, Sheikhpura, one Mr. B.B. Prasad.

2. The fact that the funds had been misutilised there is no issue on this aspect. A departmental inquiry had been held. The Superintendent of Police was exonerated. The District Magistrate-cum-Collector, Sheikhpura, Sri. Baleshwar Das was found to be guilty in the departmental inquiry. It was stated before the High Court that the State of Bihar had already intimated the Union Public Service Commission and had recommended that the rank of Sri. Baleshwar Das, the then District Magistrate-cum-Collector, be reduced to a Deputy Collector under All India Services (Disciplinary and Appeal) Rules, 1996. The record reveals that this officer was a promote from the State service and had been promoted to the I.A.S. Cadre.

3. The UPSC filed its affidavit before the High Court. The UPSC in no uncertain

terms placed on record that the State of Bihar was dragging the matter in such a way so as to coincide the sending of the complete record with the retirement of the officer. This aspect is on record as the contention of the UPSC holds that the contemplated action would only be considered after the retirement of the officer. The apprehension of the UPSC, of collusion, was not unfounded.

4. The pleading of the UPSC is writ large against the State Government, to the effect, that incomplete record was sent despite the fact that the UPSC was reminding the State of Bihar for a complete record. Not only this, at times the record which was sent to the UPSC was illegible and yet at times the proforma which had been dispatched had not even been filled in.

5. The court need not to go into the details as there is no issue before the High Court that the matter was stretched too far. Clearly, some counter force was ensuring that a decision may not be taken on the action which had been taken recommending reduction in rank from the I.A.S. Cadre to the position of a Deputy Collector.

6. This matter is about misutilisation of public funds which were received under various schemes such as Zila Yojana, M.L.A. Yojana and M.P. Yojana during the years mentioned above. What the District Magistrate and the other officials in the district arranged was misutilisation and diversion of public funds. These funds instead of being plied into public schemes were diverted irregularly for making the official residences of officers in charge of these funds. These funds were marked for the economically depressed.

7. The court is recording the facts as are available for posterity that it is not without cause that at times citizens bring in public interest litigation for misutilisation of public monies. The funds avoid the execution of the plans and find themselves in an engineered diversion for uses other than for which the monies had been dedicated for public plans and welfare schemes. This is one instance. Perhaps, there are many cases which do not surface and this does not rule out the possibility that the development or welfare schemes remain a non-starter either for non-utilization of funds or for misutilisation of funds. In this matter before the High Court two things have happened. Firstly, this is a glaring case of how delinquent bureaucracy helps each other in delaying inquiries by suppressing records and furnishing inadequate information to purchase time as a deliberate exercise so that retirement may offer immunity. Secondly, bureaucracy also plays with public monies meant for public plans. Politicians may not be alone. This is one such instance. In the instant case if the inquiry had been carried on diligently with a sense of purpose the government servant should not have received the IAS Cadre. But, he managed it.

8. Today, learned Counsel for the State Mr. R.K. Dutta, S.C. 4., informs the court that he has received instructions to state that the State of Bihar has taken a decision, under intimation to the Accountant General, Bihar, that Mr. Baleshwar Das, the then District Magistrate-cum-Collector, Sheikhpura be visited with a

punishment of reduction of his pension by 25% for ten years.

9. In so far as this Court is concerned, regard being had to the facts and circumstances of the present case, more so that it was a public interest litigation which the court was dealing with, it would not be appropriate to continue the present contempt proceedings which possibly might lead to a double punishment. The one which has been awarded, though late, but diluted from the original punishment contemplated would be a matter now between the two Governments.

10. The contempt proceedings are consigned.