

(2013) 06 JH CK 0062
In the Jharkhand High Court
Case No : Cont. (C) Case No. 64 of 2010

Lalan Kumar Sharma

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 19-06-2013

Acts Referred:

Citation : (2013) 4 AJR 166

Hon'ble Judges : Prakash Tatia, C.J.;Jaya Roy, J

Bench : Division Bench

Advocate : S. Sourabh, for the Appellant; M. Khan for UOI, Mr. A.K. Pandey for Pollution Board and Mr. R.R. Nath for RMC, for the Respondent

Judgement

1. This contempt petition has been preferred because of non-implementation of certain directions contained in the order dated 22nd July, 2003 passed in W.P. (PIL) No. 3585/2002 and it has been brought to our notice by the learned counsel for the petitioner that some orders may be looked into because of the reason that it is a matter of public interest, for which PEL was entertained by the Division Bench of this High Court as back as in the year 2002 and several orders were passed since 2002 in W.P. (PIL) No. 3585/2002. The said PIL has been disposed of, vide order dated 28th April, 2008, after recording the statement of the then learned Advocate General, who submitted that already elected body has taken the charge of administration of Ranchi Municipal Corporation and therefore, it is for the elected body to continue implementing the orders already passed by this Court and arguments of the counsel appearing for Ranchi Municipal Corporation, who submitted that the earlier orders passed by this Court will be respected and implemented by the elected body. Recording the aforesaid undertakings given by the then learned Advocate General and the counsel appearing for Ranchi Municipal Corporation, W.P. (PIL) No. 3585/2002 was disposed of, vide order dated 28th April, 2008. The State of Jharkhand was created on 15th November, 2000. Obviously the Government/Governments were satisfied that it is essential to bifurcate the erstwhile State of Bihar and one

portion may be curved out for creation of a new State, i.e. State of Jharkhand, so that there may be continuous sustainable development in the State of Jharkhand and the objective may be of upliftment of public in the State of Jharkhand, who may live with dignity, which includes their right to live in a planned, developed, maintained and hygienic city. However, as has been noticed by this Court, since 2000 the State of Jharkhand does not have its own Assembly Building even. It has been brought to the notice of this Court that a number of plans were floated and for preparation of D.P.R. of those plans, public money was wasted and that may be a less damage to the public of the State in comparison to the loss which has been inflicted to the public of the State of Jharkhand by not getting the offered fund from Central Government because of absolutely lethargic way of working, amounting to taking salary and perks by the Officers for virtually no working. There are several other issues which will indicate that how much of the fund had been offered by the Central Government to the State Government in the last 13 years but have not been utilized because of the gross negligence of the Officers of the State. The loss of the fund to the State cannot be ignored, then also the grave fact, which cannot be ignored, is that public of the State of Jharkhand are dragged to live in an absolutely unhygienic environment as in 2013 affidavit has been submitted by the Ranchi Municipal Corporation on 10th April, 2013, admitting in para 6 that "It is stated that Ranchi does not have a sewerage and drainage system and as such there is no treatment plant for treatment of domestic effluent." This is the position of the year 2013, after 13 years of the creation of the State of Jharkhand and declaring Ranchi as Capital City. It is not that such issue was not in the knowledge of the administration. Not only the issue was in the knowledge of the State administration but also a public interest litigation was filed as back as in the year 2002 whereupon W.P. (PIL) No. 3585/2002 had been registered. We are not referring other orders but we are starting with the order dated 24th February, 2006 passed in W.P. (PIL) No. 3585/2002, where in presence of the then learned Advocate General for the State and of the counsel for Union of India, the Court observed that this PIL has been preferred by the petitioner, bringing to the notice of the Court the non-functions sewerage and drainage system in the capital town of Ranchi. This Court in the said order noted that as number of houses have been constructed, colonies have developed (which is a serious question in the State) but no sewerage or drainage system has been developed by the State for maintaining hygiene of the public of Jharkhand. In the order dated 24th February, 2006, it was noted that there is a proposal to appoint Consultant, who will prepare D.P.R. whereinafter, the State, on studying the Report, will identify the source of fund for the scheme and then it will take steps for publication of the scheme, inviting objections and will allot this work. A chart was submitted indicating the time frame within which steps will be taken. The first step was to float a tender. Such tender was to be floated by March, 2006 and ultimately for completion of the work, four-year time was shown so as to end the work in the month of March, 2010. The said chart has been quoted in the order dated 24th February, 2006. Then in the same order dated 24th February 2006, the Division Bench directed

the Central Government through the Secretary, Ministry of Urban Development, to take steps for release of fund under appropriate scheme, as and when the authorities of the State of Jharkhand so approaches. The Court observed that the case of any difficulty, it may inform the Court. The State of Jharkhand and Ranchi Municipal Corporation, in their (sic) were directed to complete the work within time frame as shown in the status report and quoted in the chart.

2. Now in the year 2013, the affidavit dated 10th April, 2013, has been filed, wherein it has specifically been stated that "Ranchi does not have a sewerage and drainage system and as such theirs is no treatment plant for treatment of domestic effluent", a clear case of contempt is made out. Gravity is added because of the reason that the order dated 24th February, 2006 was not the first and final order and direction to the respondents but it was monitored by the High Court in the same public interest litigation continuously upto 28th April, 2008 and respondents were reminded that they have to take steps for providing a sewerage and drainage system in the capital town of Ranchi. The undertaking given by the State Government and Ranchi Municipal Corporation recorded in the order dated 28th April, 2008, has been fully flouted by the respondent-State and Municipal Corporation.

3. During this period upto 28th April, 2008 and after the order dated 24th February, 2006, the said W.P. (PIL) No. 3585/2002 was taken up for consideration on 5th May, 2006, wherein this Court observed that in spite of specific orders passed by this Court on 17th February 2006 and 24th February, 2006, the respondents have failed to show any progress in regard to making the provisions for sewerage and drainage system in the capital town of Ranchi, which are non-functional since long. On that day, the then learned Advocate General submitted that though the Consultant was appointed but in view of certain allegation, the State Assembly of Jharkhand had ordered for enquiry. Then this Court observed that since it is a matter relating to sewerage and drainage system in the capital town of Ranchi and it will become hazardous to the public health, the authorities should take a decision in one or other way with regard to appointment of consultant so that the construction of sewerage and drainage system in the capital town of Ranchi may start at an early date. On 30th June, 2006 in W.P. (PIL) No. 3585/2002, it was submitted that the Consultant is likely to submit report within six weeks and the time was allowed by this Court. On 9th November, 2006, the Court observed that the status report filed by the respondents would indicate that agreement has been entered into and as per the agreement, the Consultant has to submit the Draft Project Report on or before 26.12.2006. In the hope of so would be done, the matter was adjourned for obtaining Draft Project Report (DPR).

4. On 12th June, 2007, counsel for Ranchi Municipal Corporation submitted that project report was sent to the Government for consideration. On 27th June, 2007, the then learned Advocate General informed that D.P.R. has been received from the Ranchi Municipal Corporation by the State Government and is likely to

be placed before the Cabinet for approval and for other formalities. On 2nd July, 2007 again the facts relating to preparation of D.P.R. have been noted in detail by the Division Bench and the Ranchi Municipal Corporation informed the Court that Municipal Corporation has already appointed consultant for preparation of the D.P.R. for the solid waste management system and the scheme to manage over flow of drains etc. Finding the situation and the slow progress and to redress the grievance of people of Ranchi, it appears that by subsequent orders, this Court decided to appoint some Committee who was to monitor and supervise the work of cleanliness of the city of Ranchi and then the reports were submitted by the members of the Committee. By the order dated 3rd October, 2007, this Court, after receiving 4th report submitted by the then learned Advocate General, to supervise, 10 day special cleaning drive and awareness programme was started from 1st October, 2007 to 10th October 2007 and for that purpose, different areas were demarcated and named workers given responsibility to see the work of cleanliness of the city of Ranchi.

5. Above facts we have referred to show that though it was not the job of this Court to monitor the governance and executive function of the Municipal Corporation and the State's duty but the Court was willing to see that till permanent solution is provided to the public of the city of Ranchi, the matter may not be left to the Municipal Corporation alone and therefore, started monitoring the work of cleanliness of the city, which could have been done for a shorter period/intervening period only and therefore, above orders were passed. Finding this situation as windfall to the administration of the Municipal Corporation, it appears that the Municipal Corporation along with the State Government left everything in lurch resulting into lapse of D.P.R. prepared at that relevant time and loss of the Central fund, which would have been made available to the Ranchi Municipal Corporation, as the scheme was not prepared in time. Learned counsel for Union of India submitted that Union of India has its own planning for making the funds available to the State Government and if, the State Government does not utilize the fund, then those fund will lapse and they will rightly lapse because the fund could not be kept idle, affecting the other projects.

6. At this juncture, it will be appropriate to give reference of yet another public interest litigation, being W.P. (PIL) No. 2944/2011. In the said PIL, it has been alleged that in spite of making available huge fund by the Central Government for development of the areas falling within various areas of the Municipal Corporations and particularly in three Municipal Corporations, i.e. in the city of Ranchi, Jamshedpur and Dhanbad, under the scheme of JNNURM funds have not been utilized and the time prescribed for utilization of the funds would come to an end on 31st March, 2012. The details of the funds allotted under the said scheme under different heads have been given in the order dated 17th January, 2012, about the Ranchi Municipal Corporation. The said writ petition is pending and is listed today in Court. In this petition also, several orders have been passed.

7. Be that as it may, we are now addressing to one issue, i.e. with respect to drainage and sewerage system of the city of Ranchi in particular and expanding the scope in this Contempt Petition to the other issues of the State of Jharkhand because of the reason that if the project of drainage and sewerage system of the city of Ranchi is ignored for 13 years, we are of the considered opinion that the work will not be done in other cities of the State of Jharkhand of the similar nature. At this juncture, it will be appropriate to recapitulate that W.P. (PIL) No. 3585/2002 was disposed of only for the reason that elected body took over the administration of the Ranchi Municipal Corporation and it was stated that now the elected body will continue to implement the order already passed by his Court in W.P. (PIL) No. 3585/2002 and the term of the elected body already expired after full working of the elected body and thereafter we found this affidavit of the Municipal Corporation filed on 10th April, 2013 that there is no sewerage and drainage system in the city of Ranchi under the Municipal Corporation of Ranchi.

8. We also on earlier occasions already observed that Jharkhand High Court wants to wind, up the PIL but it appears that none in the governance and administration wants that High Court should wind up PIL as they can only work under the orders of the Court and act otherwise. We are conscious that the Governments and Municipal Corporations may have many works but at the same time, if any ones are thinking that sewerage and drainage system of the capital city is not the work of any importance, then they are wrong and cannot take the shelter of other works so as to by pass the importance of the work of sewerage and drainage of the capital city and also of other cities because each city must have its own administrative body for managing the system of sewerage and drainage. Since we are of the considered opinion that because of willful disobedience of the order of this Court, as has been made out from the facts, of the case and further not taking steps for preventing dumping of solid waste and sewerage in Harmu river, the chief Executive Officer, Municipal Corporation, Ranchi and the Secretary Urban Development Department, Govt. of Jharkhand, shall remain present in Court on 15th July, 2013 and they are given further time to give a complete date-wise chart by which they will complete the scheme of laying down sewerage and drainage system at least in the city of Ranchi.

Put up this case on 15th July, 2013.

Copies of this order be given to the counsel for State, Union of India and Ranchi Municipal Corporation.