
(2000) 04 PAT CK 0121
In the Patna High Court
Case No : C.W.J.C. No. 195 of 1999 (R)

Manoj Thakur

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 07-04-2000

Acts Referred:

Representation of the People Act, 1951 — Section 160

Citation : (2000) 04 PAT CK 0121

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—In this writ application the petitioner has prayed for issuance of appropriate writ commanding upon the respondents to pay the compensation to the petitioner for the Tractor No. BR-23-5502 and trailer No. BR-23/5504 which belonged to the petitioner and was requisitioned by the respondents for Lok Sabha Election, 1998 and the same was destroyed and damaged in course of General Election. The relevant facts of the case are not in dispute. In February 1998, petitioner received letter dated 10.2.98 issued by the District Magistrate cum Deputy Commissioner, Bokaro cum Election Officer, whereby petitioner was directed to hand over the vehicle. In pursuance to that letter vehicle was handed over and came in custody of the respondents. The said order and the letter was issued by the respondents under purported exercise of power u/s 160 of Representation of People Act, 1951. However, the vehicle in question was not returned to the petitioner nor the respondents informed him about the whereabouts of the vehicle. Petitioner then gave representation to the respondent no. 3 Commissioner, South Chotanagpur, Hazaribagh on 23.2.98 requesting him to return the tractor with trailer which was handed over to the concerned respondent for the purpose of Election. Petitioner then came to know that the tractor with trailer got fully damaged when the terrorists of M.C.C. attacked the same with bomb during the election. Due to the bomb blast several

persons have got injured and the tractor and trailer were fully destroyed. Petitioner then came to know that a First Information Report was lodged on 17.2.98, under different sections of Indian Penal Code, Explosive Substance Act and the Arms Act. Petitioner then met the concerned respondent several times for payment of compensation but the same could not be paid. It appears that the Sub-Divisional Officer, Bermo wrote to the Motor Vehicle Inspector Bermo vide letter dated 7.10.98 requesting him to send the detailed damage report of the vehicle in question, so that the petitioner be paid his compensation. A copy of the letter has been annexed as Annexure-7 to the writ application. It is stated that the Motor Vehicle Inspector has not sent the report till date for the reasons best known to him. Petitioner thereafter gave representation to the Chief Election Officer, Patna with a copy of the same to the Commissioner, South Chotanagpur, Hazaribagh claiming compensation of Rs. 3,00,000/- (three lakhs) but inspite of best efforts of the petitioner the compensation amount has not been paid.

2. A counter-affidavit has been filed in this case by the respondents in which it is stated that the vehicle could not be returned to the petitioner after the election was over as it was fully destroyed in a bomb blast planted by the M.C.C. terrorist and the same was duly informed to the petitioner by the driver of the vehicle. It is stated that in order to pay suitable compensation to the petitioner, the Motor Vehicle Inspector was asked to submit a report and pursuant to that respondent no. 6, Motor Vehicle Inspector vide letter dated 29.5.99 submitted his report. A copy of the report has been annexed as Annexure-A to the counter-affidavit. The respondents lastly stated that the loss caused to the petitioner was assessed as Rs. 80,000/- for the tractor and Rs. 3,000/- only for the repair of the trailer.

3. I have heard Mrs. Ritu Kumar, learned counsel for the petitioner and Mr. R. N. Sahay, learned Standing Counsel.

4. Mrs. Ritu Kumar drawn my attention to the statement made in paragraph 5 and 9 of the counter-affidavit and submitted that respondents have admitted that not only the tractor but the trailer also totally damaged and destroyed in a bomb blast planted by the M.C.C. terrorist on the relevant date. Learned counsel further referred to the copy of the F.I.R. annexed as Annexure-5 to the writ application and submitted that in the F.I.R. also respondents have admitted the total destruction of the tractor and trailer in the bomb blast. Learned counsel therefore submitted that respondents are bound to pay compensation for the total loss and damage of the tractor and trailer as per its market value. With regard to the liabilities of the respondents for payment of compensation, learned counsel relied upon the Full Bench decision of this court in the case of "Ram Narayan Singh vs. Election Commission" (1996-1 -PLJR-621) and the case of "Dhirendra Prasad Singh vs. State of Bihar (1998- 3-PLJR-351).

5. On the other hand Mr. R. N. Sahay, learned standing counsel submitted that the Motor Vehicle Inspector assessed the compensation for the tractor at Rs. 95,000/- and Rs. 15,000/- for the trailer. However, in the said report it is stated that the trailer can be repaired at the cost of Rs. 3,000/-. Learned counsel

therefore submitted that in any event petitioner is not entitled to any amount above Rs. 80,000/- for the tractor and Rs. 3,000/- towards the repair of the trailer.

6. For better appreciation of the rival contention of the parties, it would be useful to quote hereinbelow paragraph 5 and 9 of the counter-affidavit.

Para 5 :

That with respect to the aforesaid prayer of the petitioner, it is stated that it is a fact that the Vehicle could not be returned to the petitioner after the lapse of the period of requisition as it was fully destroyed in a Bomb blast planted by M.C.C. terrorist on 16.2.1998 and same was duly informed to him by a Driver of the vehicle in question. The petitioner has himself admitted this fact in para-10 of the writ application that he was informed by the Driver about the illfate of the vehicle in question.

Para 9 :

That as per the aforesaid report, the tractor in question was fully destroyed whereas its Trailer was partially damaged. The cost value of the Tractor, immediately prior to the accident on 16.2.1998 was assessed Rs. 95,000/- (Rupees ninety Five thousand) and the cost of the dabrish of the destroyed tractor was assessed Rs. 15,000/- (Rupees fifteen thousand). Hence the total loss of the petitioner was assessed Rs. 80,000/- (Rupees Eighty thousand) only. Further report of the respondent no. 6 speaks that an amount to the tune of Rs. 3000/- (Rupees three thousand) only is required for repairing the partially damaged trailer. Hence the petitioner is also liable for the payment of any additional amount of Rs. 3,000/- as the cost for repairing the trailer in question.

7. From perusal of the aforesaid paragraph it appears that respondents had admitted that the tractor and the trailer could not be returned as the same was fully destroyed in a bomb blast planted by the M.C.C. terrorist on 16.2.98. In the F.I.R. respondents have admitted that in a bomb blast the tractor and the trailer were fully damaged and destroyed. The only question therefore falls for consideration is as to what would be the quantum of compensation that should be paid to the petitioner. Admittedly the tractor with trailer was purchased by the petitioner in 1995 and according to Motor Vehicle Inspector report price of the same -was about 2,00,000/- at that time. Although in the writ application petitioner has claimed for compensation of Rs. 3,00,000/- but no evidence has been brought on record to show as to what was the value of the tractor with trailer at that time when it was damaged and destroyed. The petitioner has also not produced any document of insurance which could have given light with regard to value of the insured vehicle. In absence of any documents from the side of the petitioner I have to take help from the report of the Motor Vehicle Inspector. Although the Motor Vehicle Inspector has stated in his report that in 1995 the price of the tractor with trailer was Rs. 2,00,000/- but he has not disclosed the price of the tractor with trailer in February, 1998 when it was

damaged and destroyed. In the report, the Motor Vehicle Inspector assessed the price of the tractor at Rs. 95,000/- only being half of the amount when it was purchased in 1995. It cannot be disputed that from 1995 to 1997 there must have been depreciation by reason of use of the vehicle but at the same time price of the vehicle must have been increased in 1998. Considering the facts of the case in both angles, I am of the opinion that the value of the tractor in February 1998 after depreciation must not be less than Rs. 1,25,000/-. According to the Motor Vehicle Inspector's report value of the trailer was Rs. 15,000/-. From the facts and the evidence brought on record it is clear that the trailer has also been destroyed and therefore it would not be fair and reasonable to ask the petitioner to get the trailer repaired instead of paying the price of the trailer. The respondents are therefore liable to pay atleast Rs. 15,000/- for the trailer. In this way the compensation of Rs. 1,25,000/- for the tractor and Rs. 15,000/- for the trailer would be just and proper compensation. Since respondents have admitted their liability for payment of compensation the petitioner would also be entitled to get interest on the said amount.

8. This writ application is therefore allowed and the respondents are directed to pay total sum of Rs. 1,40,000/-(Rupees one lakh forty thousand) being compensation for the loss and damage of tractor and trailer which belongs to the petitioner. The said amount shall carry interest at the rate of 10% per annum from 16.2.98 till date of payment of aforesaid amount. In the facts and circumstances of the case, there shall be no order as to costs.