
(2012) 06 JH CK 0064

In the Jharkhand High Court

Case No : Writ Petition (C) . No. 5668 of 2006

Md. Jamaluddin Ansari, Md. Moinuddin Ahmad, Md.
Amanullah and Francis Lakra

APPELLANT

Vs

State of Jharkhand and others

RESPONDENT

Date of Decision : 28-06-2012

Acts Referred:

Citation : (2012) 06 JH CK 0064

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Sumeet Kumar Gadodia, for the Appellant;

Judgement

Aparesh Kumar Singh

1. The order impugned in this writ petition is issued by the Respondent No. 3. Sub Divisional Officer, Simdega whereby the allotment of shops of petitioners have been canceled vide order dated 19.9.2006 with effect from 20.9.2006. Further prayer has been made to quash the order by which petitioner has been directed to vacate the premises within one week and also consequential prayer to allow them to run their shops. It appears that notices were issued by the S.D.O., Simdega for the alleged violation of the agreement by which the shops allotted to the petitioners were sublet to other persons and they were directed to file their show cause. The respondent- authority, thereafter, proceeded to issue the impugned order canceling the allotment of petitioners' shops and for their evictions from the shops in question.

2. The respondents have appeared and filed their counter affidavit wherein it has been stated that shops of the petitioners have been canceled as they were found to be illegally subletting the shops to other persons, which was disclosed by the occupants, as named in para 16 and 27 of the counter affidavit. It has further been stated that in another Writ Petition No. 4859 of 2004(annexed to the counter affidavit as annexure-A) in the case of Abdul Kalam Vrs. State of

Jharkhand & others wherein the impugned order passed by the Circle Officer, Simdega directing the said petitioner to vacate the shop was challenged. This court had disposed of the writ petition vide order dated 7.7.2006 directing the Sub Divisional Magistrate to personally make an inquiry and issue notice to all those persons who have been running shops either on the basis of sublease or on the basis of purchaser. It was further directed that all the persons illegally occupying shops and running the business shall be noticed to show cause and after getting the shops vacated to be re-allotted to the needy persons including the persons who shall be evicted and this exercise must be completed within a period of six months from the date of order. The respondents have, thereafter, taken steps to issue notices to each of those persons, whose name are contained in annexure- B to the counter affidavit and thereafter, they appeared and submitted their show cause, which was taken into account, where after the impugned order was passed.

3. It has further been stated in the counter affidavit that those persons have been evicted in pursuance to the impugned order dated 4.10.2006. Further, respondents have stated that vide order dated 26.9.2006 passed by this court, it was directed for not taking coercive action against the petitioners, but the copy of the said order was received in the office of respondents only on 11.10.2006, while the shops were sealed on 4.10.2006 itself. However, after receipt of the order process of re-allotment of shops has been stopped.

4. It has been submitted on behalf of the petitioners that in view of the order dated 7.7.2006 passed by this court in W.P.C. No. 4859 of 2004, the respondents should consider the case of the petitioners also who have been evicted taking into account that they are also needy persons.

5. After hearing both the parties and carefully going through the records as well as notices issued to the petitioners and the impugned order, it appears that the respondents have in obedience to the order passed by this court in W.P.C. No. 4859 of 2004 taken diligent step to inquire as to such cases in which the allotment was made to those persons who had sublet the premises to other sub tenant by giving show cause notices. Only after giving opportunity to them the impugned order has been passed and that has also taken effect pursuant to their eviction, as already stated in the counter affidavit.

6. Petitioners have not filed any rejoinder to the said counter affidavit, which has been filed as far as back on 6.12.2006. The contention of the respondents, therefore, has not been disputed.

7. In the aforesaid facts and circumstance, I do not find any infirmity in the impugned order. However, as pointed out by learned counsel for the petitioner, respondents may in obedience of the order passed in W.P.C. 4859 of 2004 dated 7.7.2006, wherein it was indicated that shops will be re-allotted to needy persons, should allow the petitioners to make a representation for consideration of re-allotment of shops if available, to the person's who are found to be needy.

With the aforesaid observation, this writ petition is disposed of.