
(2000) 12 JH CK 0020
In the Jharkhand High Court
Case No : CWJC No. 4117 of 2000 (R)

M.N. Purty and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 11-12-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 1 JLJR 32 : (2001) 49 BLJR 996

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

Bench : Single Bench

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Heard Mr. R.S. Mazumdar, learned counsel for the petitioners and the learned Government Pleader No. 1.

In this writ application the petitioners seek issuance of appropriate writ for quashing the letter dated 31.8.2000 as contained in Annexure 2 series issued by respondent No. 5, TISCO Adivasi Cooperative Society Ltd., whereby the petitioners have been stopped from working with effect from 1.9.2000.

2. Petitioners' case is that they were time to time appointed as Assistants/Senior, Assistants/Office, Assistants by respondent No. 5, TISCO Adivasi Cooperative Society Ltd. It is stated that the credit department of the Society was engaged in providing loan to share holders besides providing savings bank and other facilities. The business department of the Society is engaged in transport business as stone crusher and printing press, On 14.7.2000 a voluntary retirement scheme was introduced by the Society for its employees which was modified on 14.8.2000. Petitioners were shocked and surprised by seeing the letter dated 31.8.2000 issued by the Chairman of the Society informing the individual employee that they are surplus in the office and they shall be provided voluntary retirement. The petitioners filed detailed representation before the Chairman of the Society on 5.9.2000, but nothing has been done and hence this

writ application.

2. In course of argument, on court's question as to how the action of respondent No. 5 is amenable to writ jurisdiction, Mr. Mazumdar submitted that the decision of the Chairman of the Co-operative Society Ltd. can be challenged under Article 226 of the Constitution of India. In this regard learned counsel relied upon two decisions of the Supreme Court; in the case of *Rarnana Daya Ram Shetty v. International Airport Authority of India*, reported in AIR 1979 SC 1628, and in the case of *U.P. State Cooperative Land Development Bank Ltd. Vs. Chandra Bhan Dubey and Others*, .

4. From perusal of the writ application, it appears that the Chairman, TISCO Adibasi Co-operative Society Ltd., Jamshedpur has been impleaded as a respondent No. 5. There is no pleading in the writ application about the status of TISCO Adivasi Co-operative Society Ltd., i.e. whether it is a Co-operative Society registered under the Co-operative Societies Act or the Society is a creature of any Statute. Although the State of Bihar and the authorities under the Co-operative Society Act have been impleaded as respondent Nos. 1 to 4 but they are formal party and nothing has been said nor any relief has been claimed against these respondents. Obviously respondent Nos. 1 to 4 have been arrayed as respondents only for the purpose of invoking the jurisdiction of this Court under Article 226 of the Constitution of India.

5. As noticed above there is no averment in the writ application that respondent No. 5 is a statutory authority or the service conditions of the petitioners are governed, by any statute or service rules or regulation framed by respondent No. 5 in exercise of any statutory function.

6. In *International Airport Authority case (supra)*, the Apex Court was considering the validity of action of the Government in the matter of contract and the law has been settled that where the Government is dealing with the public, whether by way of giving jobs or entering into contracts or issuing quotas or licences or granting other forms of largess, the Government cannot act arbitrarily at its sweet will and, like a private individual, deal with any person it pleases, but its action must be in conformity with standard or norm which is not arbitrary, irrational or irrelevant. Their Lordships further held that where Corporation is an instrumentality or agency of the Government, it would, in exercise of its power or discretion, be subject to the same constitutional or public law limitations as Government. The rule inhibiting arbitrary action by Government must apply equally where such Corporation is dealing with the public, whether by way of giving jobs or entering into contracts or otherwise.

7. In *U.P. State Co-operative Land Development Bank case (supra)*, the question which came for consideration before the Apex Court was whether U.P. State Co-operative Land Development Bank Ltd. is an authority and instrumentality of the State and, as such, amenable to writ jurisdiction of the High Court. The admitted fact of that case was that of the Co-operative Land Development Bank was

functioning as a Co-operative Society under the Co-operative Societies Act, but it was constituted under the provisions of Uttar Pradesh Co-operative Land Development Bank Act, 1964. The State Government constituted U.P. Cooperative Institutional Service Board. The Board, with the approval of the Governor, promulgated regulation called U.P. Co-operative Society Employees Service Regulations, 1975. Under the regulation the Co-operative Society was empowered to frame service rules for its employees subject to the provisions of the regulation. In that context, the Apex Court held that the appellant-Society is in the instrumentality of the State and the employees of the society had statutory protection. Consequently, the action of the Society is amenable to writ jurisdiction of the High Court under Article 226 of the Constitution of India.

8. As noticed above, in the instant case, there is no pleading at all about the status of respondent No. 5; whether it is instrumentality or agency of the Government or the petitioners are governed by any rule or regulation framed under any statute. There is also nothing in the writ petition to show that the action of respondent No. 5 is arbitrary or unreasonable.

9. For the reasons aforesaid, I am of the opinion that this writ application is not maintainable as against respondent No. 5 and the same is dismissed. However, this order will not be a bar for the petitioners to ventilate their grievances before appropriate forum in accordance with law.

10. Writ petition dismissed.