

(2004) 08 JH CK 0112
In the Jharkhand High Court
Case No : L.P.A. No. 162 of 2003

Musud Alam and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 11-08-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 4 JCR 743

Hon'ble Judges : P.K. Balasubramanyan, C.J.;R.K. Merathia, J

Bench : Division Bench

Advocate : Dhananjay Kumar Dubey, for the Appellant;

Final Decision : Dismissed

Judgement

P.K. Balasubramanyan, C.J.—Heard Mr. Dubey. counsel for the appellants, in detail.

2. The learned single Judge refused to exercise his discretionary jurisdiction under Article 226 of the Constitution of India in view of the undue delay on the part of the petitioners in approaching this Court. It is seen that the petitioners who are untrained and who were appointed in the year 1983, were terminated in the year 1985. There was a direction by the Supreme Court in an appeal from a judgment of the Patna High Court regarding the line of action to be adopted in respect of persons aggrieved like the writ petitioners. That course was apparently adopted and an advertisement was issued in the year 1994 and the process for implementation of the direction" of the Supreme Court was taken-up. It is the case of the petitioners that the direction of the Patna High Court In the light of the decision of the Supreme Court has not been complied with.

3. The prayer of the writ petitioners is to issue a writ of mandamus directing the respondents to implement the decision of the Patna High Court. In appears to us that such a prayer is unsustainable. The Court is not expected to go on issuing writs, one after another, and that too, to implement its earlier decision. Whatever

it may be the learned single Judge declined to exercise his jurisdiction in the circumstances of the case. We cannot say that in doing so, he has exercised his discretion in such an unreasonable or arbitrary manner as to justify interference in appeal by the Division Bench. On going through the judgment, we are inclined to agree with the view of the learned single Judge that this is not a fit case for our interference; We may also notice that most of the petitioners in the writ petitions, the appellants before us, are already on the wrong side of fifty years. We also find that this appeal purports to be one challenging the decision in different writ petitions. Separate writ petitions had been filed and separate appeals were called for. The claim may have been of a similar nature, but the petitioners in each one of the writ petitions were trying to enforce their rights in their individual capacities and in such a case, merely because a common Judgment was rendered, it is not open to them to file a joint appeal. The appeal is also seen to be defective in that context. Of course, the appellants are free to confine the appeal as being against the judgment in one of the writ petitions, as suggested by Mr. Dubey. For the purpose of this case, this aspect need not be pursued.

4. Since we are of the view that, no case for our interference with the refusal of the learned single Judge to exercise his discretionary jurisdiction is made out. we dismiss the appeal.