
(2005) 06 JH CK 0007

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1664 of 2005

Pradip Kumar Tiwary and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 14-06-2005

Acts Referred:

Citation : (2005) 3 JCR 295

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

Bench : Single Bench

Advocate : Mitul Kumar, for the Appellant; M.K. Laik, Sr. SC-I and A. Allam, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—The petitioners have filed this writ petition for quashing the order as contained in letter 4.3.2005 issued under the signature of Law Secretary, Law Department, Government of Jharkhand, whereby the petitioners, appointed as Special Public Prosecutors, have been debarred from conducting the proceedings of Sessions Trial No. 117 of 2002 pending before the Additional Judicial Commissioner, Ranchi.

2. The case of the petitioners is that a criminal case being Sessions Trial No. 117 of 2002 pending in the Court of Sessions Judge, Siwan has been transferred to Ranchi for trial by the order of the Supreme Court in Transfer Petition (CRL) Nos. 3, 94-98 of 2001. It is contended that by the order of the Supreme Court, the petitioners along with their juniors were appointed as Special Public Prosecutors to conduct the trial of the aforesaid Sessions Case having been appointed by the Law Department of Bihar by letter dated 2.7.2002. However, respondent No. 4, the son of the informant, filed a petition in the Supreme Court making a prayer to appoint a different Special Public Prosecutor and the said application was dismissed vide order dated 20.12.2002. It is stated that respondent No. 4 again filed a petition before this Court being W.P. (Cr) No. 34 of 2003 and made a prayer for appointment of another Public Prosecutor, but the said writ petition

was dismissed with a direction to conclude the trial expeditiously.

3. Learned counsel appearing for the petitioners submitted that by virtue of order dated 11th February, 2002 passed by the Supreme Court in Transfer Petition (CRL) No. 3. 94-98 of 2001, the petitioners are entitled to conduct the case as Public Prosecutors. I do not find any force in the submission of the learned counsel. On perusal of the order passed by the Supreme Court in the aforesaid case, it has been categorically ordered that a different Public Prosecutor shall be nominated by the Government. Besides the above, for conducting a fair trial, if the Government of Jharkhand appointed Public Prosecution and the informant has no objection to the said appointment, then the petitioners, who were appointed as Public Prosecutors when the case was pending at Siwan, cannot claim as a matter of right to continue as Public Prosecutors for conducting the said case at Ranchi.

4. It appears from the counter affidavit that on the application filed by the informant in the Sessions Case at Ranchi mentioning the irregularities committed by the present petitioners, the trial Court vide order dated 6.10.2004 requested the Government of Jharkhand to send instructions. The Government of Jharkhand in pursuance of the observation given by the trial Court, issued the impugned order removing the petitioners from conducting the Sessions Trial.

5. In the background of the aforesaid facts and circumstances, I am of the view that the petitioners have no legal right to conduct the proceedings as Public Prosecutors. The instant writ petition is devoid of any merit and accordingly it is dismissed.