

(2021) 03 JH CK 0156

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 5560, 6276 Of 2018

Rajeev Kumar And Anr

APPELLANT

Vs

State Of Jharkhand & Ors

RESPONDENT

Date of Decision : 19-03-2021

Acts Referred:

Citation : (2021) 03 JH CK 0156

Hon'ble Judges : Sujit Narayan Prasad, J;Ratnaker Bhengra, J

Bench : Single Bench

Advocate : Rajiv Ranjan, Ritu Kumar, L.C.N. Sahadeo, Amit Kumar Verma, Bhanu Kumar, Rajeshwar Pandey

Judgement

1. With the consent of the parties, hearing of the matter has been done through video conferencing and there is no complaint whatsoever regarding audio and visual quality.

2. Heard the parties.

3. Reference may be made to order dated 26th February, 2021.

4. This Court vide order 14th December, 2018 made it clear that pendency of this proceeding should not prevent the construction activities of the High Court Building in accordance with all the applicable regulations.

Thereafter, this Court has passed several orders for early completion of the construction of the Building, taking into consideration the fact about paucity of places in view of increase in number of judges; paucity of judge's chamber, and Court Rooms; inadequate space for members of Registry as also for the members of Bar and Advocate Clerks.

This Court has further passed order on 06.09.2019, and 20.09.2019 and in compliance thereof, an affidavit dated 16.10.2019 was filed by the Building Construction Department, State of Jharkhand, stating inter alia therein that certain works are still to be completed, as would appear from paragraph 9 of the

said affidavit.

It has also been brought to the notice of the Court about non-availability of environmental clearance and the revised map from the concerned authorities, for which it was stated that endeavours have been taken to get the clearance from the competent authorities to get the environmental clearance and sanction of revised map.

However, when the environment clearance as also revised map was not sanctioned, this Court vide order dated 4th December, 2020 directed for personal appearance of the Chief Secretary of the State of Jharkhand as also other officers. Pursuant thereto, the Chief Secretary, State of Jharkhand appeared in person through on-line mode on 9th December, 2020 and assured this Court that he personally will monitor through Building Construction Department, so that both the works i.e., Sanction of revised building plan as also environmental clearance from the competent authority, and construction work again be commenced. It has also been brought to the notice of this Court that the Cabinet has approved the amount as per Detailed Project Report to the tune of Rs. 345,86,70,902/- and sum of Rs. 100 crores have been made available for the financial year 2020-21 and rest of the amount, as has been approved by the Cabinet will also be sanctioned.

The Chief Secretary has also apprised this Court orally as also on oath that immediately after issuance of environmental clearance and sanction of revised map, the construction work would be started and there will be no stoppage of work due to paucity of fund, as would be evident from order dated 9th December, 2020.

It appears from order dated 29th January, 2021 that the sanction of revised building plan and the environmental clearance for the project was granted by the competent authorities, but, thereafter an affidavit has been filed on 25.02.2021 wherein at paragraph 6, it has been stated as under:

"6.That the matter is now ready for floating of tender for which all necessary documents like tender document, Bill of Quantity (BOQ) and Notice Inviting Tender (NIT) have been prepared. The proposal for floating of tender has been put up before the higher authorities."

This Court, after hearing counsel for the parties and taking into consideration the stand reflected at paragraph 6 of the affidavit, adjourned the matter to be listed on 19.03.2021 directing the State to file affidavit enclosing therewith the copy of "Notice Inviting Tender".

Today, when the case was taken up, it has been stated that affidavit has been filed today itself, copy of which, has been sent on e-mail of the Court. The same has been placed on record, wherein it has been stated that all legal and technical formalities for issuance of tender is complete and the same has been put up before the Higher Authorities for final approval. In paragraph 6 of the said

affidavit it has been stated as under:

"6. That it is most respectfully stated that as soon as the approval is received from the Higher Authorities regarding the issuance of Tender, the same shall be published immediately and forthwith."

5. It is very surprising and unfortunate that when the Chief Secretary of the State along with the Principal Secretary, Building Construction Department, have assured to this Court orally and on oath that immediately after environmental clearance and sanction of revised map, "Notice Inviting Tender" will be issued, affidavit has been filed that the as soon as the approval is received from the Higher Authorities, the "Notice Inviting Tender" will be issued.

This Court has failed to understand, who is the Higher Authority above the Chief Secretary of the State.

6. In the backdrop of these facts, this Court is concerned for early completion of the "New High Court Building", part of which has been constructed which is dilapidating day by day and if the construction is not completed at an earliest, the constructed part of the building will be dilapidated, which will ultimately cause excess burden to be incurred on the State exchequer in repairing.

Further, this Court is also concerned that the very purpose of construction of the New High Court Building to provide basic infrastructure for providing better justice delivery system, would be frustrated, if the building is not constructed at an earliest.

7. This Court has also considered the order dated 02.08.2010 passed by Hon'ble Apex Court in All India Judges Association & Ors Vs. Union of India & Ors in an Interlocutory Application being I.A. No. 279 of 2010 in W.P.(C) No. 1022 of 1989, wherein at paragraphs 10 and 11, the Hon'ble Court has observed as under:

"10. The court development plan should comprise of three components - a short term (or annual plan); a medium term plan (or a five year plan); and a long term plan (ten year plan). The annual plans so prepared shall be incorporated into the five year plan which, in turn, rolls into the ten year plan. While focussing on judicial infrastructure, due regard has to be given to adequate and model court building, furniture, fixture, judges chamber, record/file storage, adequate sitting and recreation arrangement for staff and officers, sitting/waiting room for litigants and bar members, latest gadgets and technology. In other words, the core factors in the design of a court complex must reckon -

a) optimum working conditions facilitating increased efficiency of judicial officers and the administrative staff; b) easy access to justice to all and particularly to the underprivileged, persons with disability, women and senior citizens; c) safety and security of judges, administrative staff, litigants, witnesses and under-trial prisoners. The court complex must consist of: -

I. COURT BUILDING ? Court rooms ? Judges' chambers ? Judges' residential

complex ? Litigants' waiting area ? Administrative offices ? Conference Hall/ Meeting Room ? Video conferencing rooms ? Mediation centre/Legal Services Authority ? Common rooms for male/female staff ? Staff canteen ? De-stress rooms for male /female staff ? Office space for Government pleader/Public prosecutor/ Advocate General/Standing Counsel for Union of India with separate cubicles for conducting conferences and including space for accommodating their Secretarial staff and files ? Support facilities like ramp, crèche, etc. II. SPACE FOR LAWYERS/LITIGANTS ? Bar rooms for ladies and gents ? Consultation rooms and cubicles Stamp vendors and notary public/oath commissioner/typist/ photocopy/business centre ? Library ? Canteen for lawyers and litigants ? Facilitation counter for litigants/visitors ? Support facilities III.FACILITY CENTRE providing for common facilities for functioning of the complex unrelated to courts such as bank, post office, medical facility, disaster management, etc. IV.UTILITY BLOCK for accommodating the utility services such as A.C. plant, electrical sub-station, DG set/Solar panel, STP, Repair workshop, storage, garage, etc. V. JUDICIAL LOCK-UPS.

VI.STRONG ROOM FOR RECORD PRESERVATION. VII.ADEQUATE PARKING SPACE for judges, lawyers, litigants and other visitors.

VIII.IT INFRASTRUCTURE FOR COMPUTERISATION AND eCOURTS.

11.The finance needed for court infrastructure should be ideally placed under the head of planned expenditure which will be more specific, better managed and obviate any cut by the Governments. The budgeting must be from the demand side and cannot be from the supply side."

8. This Court, therefore, is of the view that the basic infrastructure is required as referred herein above, coupled with the observation made by Hon'ble Apex Court as above that there is urgent need for compliance of justice delivery system, for which, a building is required to be constructed but even after all riders having been crossed as per the State and tender document, BOQ and NIT have been prepared and required fund as per estimate has been approved by the Cabinet but "Notice Inviting Tender" has not been issued rather it has been stated in the last two affidavits that the matter is pending for approval before the Higher Authorities.

9. In view thereof, the Chief Secretary, State of Jharkhand and Principal Secretary, Building Construction Department is directed to appear in person through on-line mode on the next date of hearing, and explain to this Court:

(I).As to why the "Notice Inviting Tender" could not be issued in spite of specific direction of this Court and even after assurance/undertaking given by the Chief Secretary of the State of Jharkhand?

(II).Who is the Higher Authority above the Chief Secretary of the State of Jharkhand before whom the matter pertaining to issuance to NIT is pending for approval?

10. Office of the learned Advocate General is directed to communicate this order to the concerned authorities.

11. List these matters be posted on 26th March, 2021 at 4.00 p.m.