

(2025) 07 JH CK 1195
In the Jharkhand High Court
Case No : W.P. (C) No. 1753 Of 2025

Ram Sahay Paswan

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 01-07-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 144, 145

Citation : (2025) 07 JH CK 1195

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : Mahesh Kumar Sinha, Gaurav Priyadarshi, Anup Kumar Yadav,
Twinkle Rani, Sweta Shukla

Final Decision : Allowed

Judgement

Gautam Kumar Choudhary, J

1. Can a Circle Officer direct the Officer-in-Charge of a Police Station to stop the construction work of a party on the basis of an order passed under Section 144 of the Cr.P.C. which lapsed about 7 – 8 years ago?

2. This is the pivotal question that has been raised in the instant writ petition, wherein vide Memo No.149 dated 22.06.2024, Circle Officer, Chalkusa, Hazaribag (respondent no.5) directed the Officer-in-Charge, Chalkusa, Hazaribag to stop the construction work over the land of the petitioner in view of the order passed in Case No.17/2016 under Section 144 of the Cr.P.C.

3. It is submitted by the learned counsel on behalf of petitioner that it is common knowledge that no order under Section 144 of the Cr.P.C remains in force for a period more than two months. The above stated order was passed on 13.04.2016 and no further proceeding under Section 145 of the Cr.P.C. was initiated with respect to the land in question. Despite this, the Circle Officer without any authority of law, has directed Officer-in-Charge of the Police Station to stop the construction work over the land of the petitioner on which he has

right, title and possession.

4. Learned counsel on behalf of State seeks adjournment to file counter affidavit.

5. The impugned order, prima facie, is a glaring example of capricious exercise of jurisdiction. Order under Section 144 of the Cr.P.C was passed way back in 2016, whereas the impugned direction of stopping construction is after about eight years, after the said order lost any force.

6. Passing such an order was without any basis, reflects either mala fide on the part of the officer issuing such an order or that he was not even aware of the fundamentals of law. It is difficult to accept ignorance of law of a public servant.

7. The impugned order is accordingly set aside.

8. Public servants are clothed with power and responsibility which is expected to be exercised in a capricious manner which has no sanction of law. It has been held in *Nandkishore Ganesh Joshi v. Commissioner, Municipal Corporation of Kalyan & Dombivali*, (2004) 11 SCC 417 that a discretion conferred on a statutory authority, it is well settled, must be exercised in public interest and judiciously. There is no place for any whim or caprice in exercise of such discretionary power.

9. Deputy Commissioner, Hazaribagh to initiate an appropriate disciplinary proceeding against the Circle Officer for passing such an order causing harassment to the petitioner.

Writ Petition is allowed. Interlocutory Application, if any, is disposed of.