

(2003) 07 JH CK 0136

In the Jharkhand High Court

Case No : Writ Petition (Service) No. 3435 of 2003

Ruplal Manjhi

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 31-07-2003

Acts Referred:

Civil Services (Classification, Control and Appeal) Rules — Rule 49A
Constitution of India, 1950 — Article 226

Citation : (2004) 2 JCR 143

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Rajendra Singh and S. Rahman and N. Singh, for the Appellant; B.S. Lall, AAG, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—This writ petition has been preferred by petitioner against the order No. 1247, dated 11th June, 2003 passed by the Commissioner and Secretary-cum-Inspector General of Registration, Jharkhand, Ranchi whereby and whereunder in exercise of power conferred under Rule 49-A of the Civil Services (Classification, Control and Appeal) Rules, 1930, suspended the petitioner in contemplation of a departmental proceeding.

2. The case of the petitioner is that he has got an unblemished service record and has not committed any illegality as a District Sub-Registrar, Ranchi in Registration of any deed presented before him. He endeavoured to his duty diligently and lawfully through out his tenure and exercising quasi judicial functions under the Registration Act, 1908.

The ground to challenge the order of suspension is that the order of suspension is by way of punishment issued at the instance of 6th respondent, Shri Madhu Singh, Minister, Land Revenue and Registration Department, State of Jharkhand, Ranchi.

3. According to petitioner, as he refused to register a document on the basis of power of attorney of 7th respondent, Jiwan Lal in favour of 8th respondent, Jitan Sahay and 9th respondent, Ram Kinkar Sahay, since it contravenes Section 22A of the Registration Act, 1908 as amended by Registration (Bihar Amendment) Act, 1991 read with Notification dated 5th August, 1996 issued u/s 22A of the Act, the 6th respondent, Shri Madhu Singh with a mala fide motive, ordered to suspend the petitioner by way of punishment.

The action on the part of the respondents is alleged to be mala fide and colourable exercise of power to victimize and punish the petitioner by misuse and threat of disciplinary proceeding.

4. Counsel for the petitioner tried to highlight that the action taken by the petitioner to refuse registration was all in accordance with law but this Court cannot determine the issue whether the action taken by the petitioner is in accordance with law or not as no charge-sheet has been issued till date. Even if the aforesaid charge is framed, it is for the Enquiry Officer to determine whether the charge framed against the petitioner is proved or not on the basis of the evidence on record.

So far as mala fide is concerned, no specific evidence has been placed on record in support of allegation except a letter dated 30th May, 2003 (Annexure 9) issued by Jhonson Ekka, 10th respondent, who is the President of Ranchi Zila Yuba Samata. By the said letter, certain monetary help was sought for.

The aforesaid letter dated 30th May, 2003 shows that it was addressed to one "Marandi Bhaiya". The word "Marandi" was subsequently struck down and the word "Manjhi" was inserted in its place.

4. Counsel for the petitioner suggested that the aforesaid letter was addressed to petitioner, Ruplal Manjhi on behalf of Ranchi Zila Yuba Samata and the 6th respondent, Minister incharge belongs to same party.

5. When the case was taken up on 22th July, 2003, the petitioner was directed to produce the original copy of letter dated 30th May, 2003 written by 10th respondent, Jhonson Ekka (Annexure 9) and the State was also directed to produce the original file relating to suspension of petitioner.

From the original letter produced by petitioner, it appears that letter was written by blue ball pen addressed to one "Marandi Bhaiya". The word "Marandi" has been struck down and the word "Manjhi" has been inserted therein by ball pen having different ink. There is a doubt whether word "Manjhi" has been inserted by striking down the word "Marandi" by the same author of the letter dated 30th May, 2003 or by some other person as there appears to be difference in writing.

It is not possible for this Court to give a finding whether the letter dated 30th May, 2003 (Annexure 9) was addressed by Jhonson Ekka, 10th respondent to one "Mr. Marandi" or the petitioner, Ruplal Manjhi.

7. In the original file, the aforesaid letter dated 30th May, 2003 (Annexure 9) or a copy thereof is not available. It appears that the proposal was given by one of the officer to transfer the petitioner for certain allegation. The Minister Incharge after going through the allegation as was levelled by one Shri R.K. Sahay, the relevant file and the explanation submitted by petitioner, discussed the matter in detail and observed that there is prima facie evidence to suggest illegality committed by petitioner and ordered to suspend the petitioner vide Note dated 10th June. 2003. The note given by Shri Madhu Singh, Minister Incharge does not suggest that the Minister had any biased opinion on the petitioner but he has given some reasoning as to why he was not agreeing with the explanation submitted by petitioner.

8. In any case, whether the observation made by Shri Madhu Singh, Minister Incharge was correct or the explanation submitted by petitioner was correct, cannot be determined by this Court at this stage as the matter to be enquired and to be determined by enquiry officer.

9. This is not the stage to interfere with the order of suspension. There being no merit, the writ petition is dismissed.

Let the original letter dated 30th May, 2003 be handed over to the counsel for the petitioner and the original file be handed over to the learned AAG.