
(2001) 01 JH CK 0008
In the Jharkhand High Court
Case No : MJC No. 805 of 2000 (R)

Shekhar Bhusan Nag

APPELLANT

Vs

Nirmal Kumar Singhanian and Another

RESPONDENT

Date of Decision : 30-01-2001

Acts Referred:

Citation : (2001) 49 BLJR 649

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

Bench : Single Bench

Judgement

M.Y. Eqbal, J.—Reference may be made to the order, dated 24.1.2000, which reads as under:

"No sooner, the State of Jharkhand has come into existence the officers of the State have started disregarding, disobeying and disrespecting the orders passed by this Court. This case is one of the best example, where the Additional Advocate General, whose voice is the voice of the State has been totally disregarded. The Supreme Court in one decision has settled the law that although the statement made by the Government counsels are not always binding on the state but the statement made by or the undertaking given by the Advocate General and the Additional Advocate General are binding on the State.

In this writ application the only grievance of the petitioner was that the officers of the Transport Department mainly, the Joint Transport Commissioner is not returning back the forms submitted by the petitioner after putting his counter-signature. The writ application was filed on 27.11.2000, but no counter-affidavit was filed and the matter was placed on 5.1.2001. This court took serious view of the matter and directed the joint Transport Commissioner, State of Jharkhand, Ranchi and the District Transport Officer, Jamshedpur put to appear in person on 8.1.2001 and to file appropriate affidavit The Joint Transport Commissioner did not appear on the plea that he was on leave. The Additional Advocate General submitted on that day that whether me order this Court may pass the respondent wilt comply forthwith. On the basis of the statement came from the

mouth of the Additional Advocate General, this Court directed the respondents to return back the books duly counter-signed by the Joint Transport Commissioner latest by 15th January, 2001. It is worth to notice here that till 9.1.2001 no plea whatsoever was taken by the respondent by filing counter-affidavit about their inability or any technicalities in compliance of the order. It was only after this order was passed the respondent filed one application on 12.1.2001 for the modification of the order on the ground inter alia that certain irregularities were found in compliance of the certain provisions of the Motor Vehicle Act by the petitioner and in view of that irregularities it was not proper to counter-sign Form 38 submitted by the petitioner.

From the facts narrated above, I am of the opinion that the Joint Transport Commissioner has committed serious contempt of this Court. However, before passing final order of punishment, I give one more opportunity to the Joint Transport Commissioner to show-cause by filing affidavit on 30th January, 2001. He is directed to appear in person before this Court on 30th January, 2001 at 10.30 a.m. and he shall not be allowed to take plea for his non-appearance on that day save and except he is physically not fit to appear in Court.

Put up this case on 30th January, 2001 at the top of the list. Let a copy of this order be handed-over to JC to Additional Advocate General for immediate communication."

2. Pursuant to that order today, the Joint Transport Commissioner Incharge appeared in person and filed show-cause, wherein he has admitted non-compliance of the order but tendered unqualified apology for the non-compliance of the order within time. Paras 6 and 7 of the show-cause is worth to be quoted here :

"That, it is further stated and submitted that as the regular Joint Transport Commissioner, Ranchi was on leave because of his suffering from Jaundice, he has been (Answering Respondent) given temporary charge of Joint Transport Commissioner, Ranchi for performing his duties on 11.1.2001 and only because of some misunderstanding and confusion on his part, he could not comply the order of this Hon"ble Court passed on 9.1.2001 regarding returning of Form 38 (Fitness Certificate) by 15.1.2001 and for this submission of his duty, the answering respondent once again prays for unconditional apology from this Hon"ble Court. "That, it is further stated and submitted that after the order of show-cause and personal appearance on 24.1.2001, this respondents, who is functioning as temporary Joint Transport Commissioner, Ranchi has in due obedience of the order of this Hon"ble Court has counter-signed 500 Fitness Certificate and returned it, to the petitioner on 24.1.2001 and will continue to do so in accordance with law as per the order of this Hon"ble Court passed in CWJC No. 3081/99R, dated 11.1.2000."

3. Learned counsel for the petitioner has submitted that after this Court passed the order, dated 24.1.2001, the order and direction of this Court has been

complied with.

4. The order quoted hereinabove and the subsequent show-cause filed by the respondent, prima facie shows that how the authorities of State of Jharkhand are started behaving with the Court's order. If, the new State of Jharkhand follows the same procedure which was being followed by the undivided State, it will have to face serious consequences. However, since the order and direction of this Court has been complied with, I do not want to proceed any further in the matter. The contempt proceeding is dropped. "

5. Let a copy of this order be sent to the Chief Secretary of the State of Jharkhand to ensure that in future the officers of the Jharkhand State should give due regards to the Court's order.