

(2001) 09 PAT CK 0021
In the Patna High Court
Case No : L.P.A. No. 1075 of 2001

Subhash Chandra Pandey

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 26-09-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 4 PLJR 514

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kr. Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Better sense ought to have prevailed on the Appellant Subhash Chandra Pandey after the order dated 20 August 2001 was passed on his petition being CWJC No. 8450 of 2001: Subhash Chandra Pandey v. State of Bihar and Ors. instead of filing the present appeal.

2. The court is not repeating the contents of the order and fully reiterates every word of it which has been written. Suffice it to say that the writ court has virtually charged the Appellant for abusing the writ jurisdiction of the court on producing forged records, papers which have been certified as bogus, evidence which has been created so as to be otherwise than the original record, false affidavit not excluded, including impersonation carried to its limit. That also by an Appellant, who is intending to become a judicial officer and was making an attempt to sit as a candidate at Public examination conducted by Bihar Public Service Commission. The Appellant took advantage of a coincidence in a common name, and wore somebody else's clothes. Rightly, the Hon'ble judge dismissed the petition and desired that the Bihar Public Service Commission and the State-Respondents would institute a criminal complaint for the prosecution of the Petitioner-Appellant on his producing fraudulent and bogus records/papers and having abused the process of the court. Cost of Rs. 5,000/- was also awarded.

3. With a finding resting on record of fraud and impersonation and imposition of special costs, the Appellant still justified himself. Undaunted, he has filed the present Letters Patent Appeal and has been advised to take the matter to its last resort. Clearly, the submission on behalf of the Appellant and as made by his counsel is that the order of the learned lodge on the petition be set aside. Is this possible? During the proceedings in the writ petition there was an adjournment granted twice. It was offered as an opportunity to the Petitioner-Appellant and his counsel to unwind themselves from whatever be the game and take their petition out of the court and not give an occasion to pass an order on the writ petition. Instead the court was told by the counsel that his client is not prepared to give up the claim as he is the real candidate. This left the Hon'ble Judge with JO option but to give his considered opinion on the state of the record.

4. In so far as the Appellant is consumed even his paternity belies the record. The rest of the details are contained in the order of the learned judge on the petition. In so far as this Court is Concerned there would never have been an occasion to deliver this order had both the Petitioner-Appellant and his lawyer not advised each other to yet chase an imposter's claim, certified as such on their motion of certiorari as varying from the truth. The educational certificates do not tally with the original. The parentage is different. The spelling of the name differs. The date of birth differs. The entries in options for subjects differs. The place of examination as given in the educational certificates differs. The certificates tendered by the Petitioner-Appellant have been certified as "bogus". The Petitioner has been certified as an ineligible candidate. With the remark that "The conclusion is irresistible that there has been clear attempt to impersonate the real Subhas Chandra Pandey by the Petitioner". The conclusion drawn by the learned Judge is "Indeed, he has tried to play fraud not only on the Commission but also this Court and, thus, abused the process of the Court to get appointment" (emphasis). this Court signifies High Court.

5. The action of the Petitioner-Appellant has been certified as "prima facie" constituting "criminal offence", thus, the Bihar Public Service Commission was under a direction to institute a criminal case. And, for prosecuting a bogus claim at the High Court he was to pay costs.

6. The Petitioner and his lawyer should have dropped the matter at this, stage. But they did not. This appeal reopens a closed chapter.

7. The Court has no hesitation in reiterating every word of the order of the learned judge that there has been impersonation on record. A bogus claim has been manufactured for a legal proceeding. False evidence has been presented to fortify a forged identity. This offends public justice within the meaning of Chapter IX of the Indian Penal Code, 1860.

8. The writ jurisdiction has to be kept pure and clean as a white sheet and litigants and lawyers cannot be permitted to taint this jurisdiction of extra ordinary legal remedies to render a state of affairs so that the record is

attempted to be presented otherwise than it originally lies. This message must go to the Petitioner-Appellants and Respondents of future as also their advisors and lawyers. Should they twist facts and knowingly present and submit manufactured and false evidence, they will be joined as abettors or in conspiracy to the cause. In a writ" petition, a prerogative jurisdiction under Article 226 of the Constitution of India the record is permitted to be presented on affidavits with copies of the record for the convenience of the parties, otherwise when a writ of certiorari issues the original record is meant to be before the court. To submit on affidavits with copies of the record is only an indulgence granted by the High Court. Unquestionably, the Petitioner-Appellant has approached the High Court with unclean hands and his counsel consciously submits on a tainted, manufactured and a forged brief.

9. In the circumstances, the court has been left with no choice but to require the Registrar General of the Patna High Court to institute a separate complaint against the Petitioner-Appellant and also his lawyer by enlisting the false statements, which have been made on the record of the writ petition and this Letters Patent Appeal. The conduct of the litigant and his attorney, both, insults the concept of justice, equity and good conscience which is the foundation of this High Court as a superior court of record. It would otherwise insult public justice and any court proceeding. The circumstances display contempt to legal proceedings.

10. The Registrar General shall have separate complaints filed before the Chief Judicial Magistrate, Patna, taking into account the false evidence created and utilised in court proceeding on two counts in addition.

11. The appeal is dismissed.