
(1998) 01 PAT CK 0041
In the Patna High Court
Case No : C.W.J.C. No. 2448 of 1997 (R)

Sudhir Kumar

APPELLANT

Vs

Ranchi University and Others

RESPONDENT

Date of Decision : 15-01-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 1 PLJR 591

Hon'ble Judges : R.A. Sharma, J;A.K. Prasad, J

Bench : Division Bench

Advocate : B.K. Kanth, for the Appellant; A.K. Mehta, for Respondent Nos. 1 and 2, A.P. Sharma, Pankaj Kumar and B.P. Mishra for Respondent No. 3 and Sanjay Kumar and A.B. Kumar, for the Respondent

Final Decision : Dismissed

Judgement

R.A. Sharma, J.—The Petitioner has filed this writ petition, under Article 226 of the Constitution, as a Public Interest Litigation, seeking writ of mandamus directing the Ranchi University, Ranchi (Respondent No. 1) and its Vice Chancellor (Respondent No. 2) to lodge a criminal case against Respondent Nos. 3 to 6 for misuse of official power, committing misappropriation of public fund and cheating the Respondent University in conspiracy with each other and also to initiate a proceeding for recovery of huge public fund, which has been misappropriated by paying salary to Respondent No. 3 as teacher of Mandar College, teacher of Women's College, Ranchi, and also in the head of Junior Research Fellowship, at a time, causing serious wrongful loss to the Respondent No.1 in conspiracy with each other and under the influence of the Respondent No. 3, who is the husband of the Respondent No. 4. Prayer for initiation of disciplinary proceeding against the said Respondents has also been made.

2. Pursuant to the notice issued by this Court, the Respondents have appeared through their respective counsel and have filed counter-affidavits. The Petitioner has not filed rejoinder affidavit in reply thereto. We have heard the learned

Counsel for the parties.

3. The basis for seeking aforementioned relief are the allegations contained in the writ petition to the effect that the Respondent No. 4 has withdrawn salary from the two Colleges, besides stipend under Junior Research Fellowship from the University Grants Commission during the same period. Elaborating further, it has been stated that the Respondent No. 4 has withdrawn Rs. 600/-per month till October, 1985 as stipend under Junior Research Fellowship from the University Grants Commission and during the same period she joined Ranchi Women's College and received a cheque for a sum of Rs. 535/- towards salary for the period from 31.3.1985 to 30.4.1985 from that College. It is also stated that Respondent No. 4 also received Rs. 400/- as salary in March, 1985, from Mandar College, Mandar.

4. The allegations made by the Petitioner in his writ petition have been specifically denied by Respondents No. 3 and 4 in their counter affidavits. Respondent No. 4 in paragraph No. 11 of her counter affidavit has stated that she had not received any salary from any college for the period in question and what she actually received was a cheque for Rs. 535/- for doing invigilation work and for evaluation of answer books on the request of her guide for Ph.D research. She has also stated that she has never received the amount of Rs. 400/- from Mandar College Mandar, and the Petitioner has filed fabricated documents alleged to be acquittance Roll for the month of March, 1985 containing her forged signature. In this connection Respondent No. 4 has stated in her counter affidavit that an enquiry was conducted by the Vice Chancellor regarding payment of Rs. 535/- and it was found that the allegations made against her were incorrect. It has also been pointed out by her that a criminal case, being Criminal Case No. 2 of 1992, was also instituted against her with the similar allegations by another person and the learned Chief Judicial Magistrate, Ranchi, vide order dated 30.4.1993 dismissed the complaint holding that she has not committed any wpong and no case is made out against her.

5. The Petitioner has not filed any rejoinder affidavit disputing the averments made by Respondent No. 4 in her counter affidavit. Respondent No. 3, who is the husband of Respondent No. 4 has also filed a counter affidavit, in which the allegations made by the Petitioner in the writ petition have been denied and it has further been stated that false allegations have been raised in the writ petition in order to damage his reputation. The Petitioner has not filed any rejoinder affidavit in reply to this counter affidavit also.

6. From the pleadings of the parties and the documents annexed in support thereof, it is apparent that the Petitioner has filed the instant writ petition containing serious allegations of misappropriation and misconduct committed by the Respondent No. 4 without verifying the facts. From the uncontroverted averments made by Respondent No. 4 in her counter affidavit it is clear that she has neither misappropriated the fund nor has she committed any misconduct. During the Felowship she had received a sum of Rs. 535/- but it was for doing

invigilation work and for evaluation of answer books. This was not the salary she received during that period. She has also denied the receipt of Rs. 400/- as contained in Annexure-1 to the writ petition, and has further stated that on the said document her signature has been forged. There is no denial of the said averments by the Petitioner by filing rejoinder affidavit. Such a serious issue should not have been raised by the Petitioner without verification of the relevant facts. In this connection reference may be made to the case of S.P. Anand Vs. H.D. Deve Gowda and others, , wherein the Supreme. Court has laid down as under:

...It is of utmost importance that those who invoke this Court's jurisdiction seeking a waiver of the locus standi rule must exercise restraint in moving the Court by not plunging in areas wherein they are not well versed. Such a litigant must not succumb to spasmodic sentiments and behave like a knight-errant roaming at will in pursuit of issues providing publicity. He must remember that as a person seeking to spouse a public cause, he owes it to. the public as well as to the Court that he does not rush to Court without undertaking a research, even if he is qualified or competent to raise the issue. Besides, it must be remembered that a good cause can be lost if Petitions are filed on half-baked information without proper research or by persons who are not qualified and competent to raise such issue as the rejection of such a petition may affect third party rights....

The same principle will apply if a person invokes the jurisdiction of this Court seeking appropriate writ by way of Public Interest Litigation.

7. The writ petition lacks merit and it is, accordingly, dismissed with cost.

A.K. Prasad, J.

I agree.