
(2008) 01 JH CK 0022
In the Jharkhand High Court

Suraj Rai

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 28-01-2008

Acts Referred:

Citation : (2008) 3 JCR 321

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Judgement

R.K. Merathia, J.—Heard the parties.

This writ petition was filed for direction on the respondents not to make any further deduction from the pension of petitioner against possession of the Quarter No. T.I. 141 on the ground that petitioner is not in possession of any quarter, and also for refund of Rs. 22,980/- which was recovered/adjusted from the pensionary benefits as penal rent for occupation of the said quarter.

2. The stand of the respondents is that petitioner did not hand over vacant possession of the said quarter and it is illegally occupied by him. Petitioner was directed to file an affidavit annexing specific proof of handing over vacant possession of the said quarter, which he did not file. By order dated 28.11.2007, this Court ordered for an inspection in presence of the parties. The inspection report has been filed with the affidavit dated 11.1.2008 in which it has been found that petitioner has inducted his son, namely, Dharamnath Rai in the said quarter and petitioner has constructed an unauthorized room adjacent to it and is residing there.

3. After going through the records and hearing the parties. I am satisfied that petitioner took a mischievous stand and tried to mislead this Court and abuse the process thereof. He did not produce any proof in support of his contention that he handed over the said quarter to the respondents after he retired in.31.1.1998. It is informed that petitioner was paid all his retiral dues and therefore penal rent was deducted from his pension.

4. In the circumstances, petitioner is liable to pay penal rent and even on payment of penal rent he cannot be allowed to occupy the Government quarter. If he is allowed to continue, no Government quarter will be vacated. This Court takes judicial notice of the fact that the market rent is much higher even than the penal rent.

5. The petitioner is directed to vacate the said quarter/get it vacated, and hand over the same to the Executive Engineer. Tenughat (Respondent No. 4) by 29.2.2008 failing which the respondent No. 4 is directed to get the same vacated with the help of the concerned Sub-Divisional Officer.

6. Petitioner is further directed to" remove the illegal construction by 29.2.2008, failing which the illegal construction made by the petitioner will be removed/and petitioner will be evicted by 29.2.2008 by the Sub-Divisional Officer.

7. The Sub-Divisional Officer will also enquire and submit a report as to which Government Officers were responsible for allowing such illegal construction on the Government Land. Non-compliance of this order by any person will amount to contempt. On the next date it will also be considered, whether petitioner is entitled to get pension or not.

8. State counsel is directed to file affidavit in compliance of this order.

Put up on 10th March, 2008.

9. Let a copy of this order be handed over to Mr. Shamim Akhtar, S.C II and Mr. Atanu Banrjee, appearing for the petitioner, as prayed.