

(2006) 06 PAT CK 0037

In the Patna High Court

Case No : Civil Review No. 204 with M.J.C. No. 1391 of 2005

The State of Bihar and Others

APPELLANT

Vs

Krishna Kant Prasad
 Krishna Kant Prasad Vs The State
of Bihar and Others

RESPONDENT

Date of Decision : 19-06-2006

Acts Referred:

Citation : (2006) 3 PLJR 174

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Judgement

Navin Sinha, J.—This order shall dispose-off M.J.C. No. 1391 of 2005 and Civil Review No. 204 of 2005 arising out of C.W.J.C. No. 11930 of 1999 disposed-off on 28.2.2005. The original petitioner came to this Court in the writ application aforesaid assailing the order of his dismissal dated 11.8.1999.

2. This Court accepted the pleadings and submissions of the petitioner in the writ application that he was not furnished with a copy of the enquiry report and neither was he issued a second show cause notice against the proposed punishment before the order of dismissal came to be passed. In that view of the matter, the writ application was allowed on 28.2.2005. M.J.C. No. 1391 of 2005 was then filed by the original writ petitioner alleging noncompliance of the order of the writ court by the respondents. Civil Review No. 204 of 2005 also came to be instituted by the opposite parties for review of the order dated 28.2.2005 in C.W.J.C. No. 11930 of 1999 on the grounds as urged therein.

3. The primary contention of the opposite parties, both in contempt matter and in civil review application is that the original writ petitioner was duly furnished a copy of enquiry report. He was also issued a second show cause notice with regard to the proposed punishment based on the enquiry report. The original writ petitioner, in fact, also filed his reply to the second show cause notice. Reply filed by the petitioner has been enclosed both to the show cause in the contempt matter as also in the civil review application. On the basis of the aforesaid, it is

submitted that the writ application is fit to be dismissed for suppression of material facts.

4. Faced with the aforesaid predicament, learned counsel for the original writ petitioner was unable to satisfy the Court any further in the matter.

5. This Court, in the facts and circumstances of the case, is satisfied that the original writ petitioner had suppressed and misrepresented the material facts in C.W.J.C. No. 11930 of 1999 resulting in grant of relief. The Court is, therefore, not persuaded to proceed any further in contempt jurisdiction. M.J.C. No. 1391 of 2005 is therefore, dismissed.

6. The order dated 28.2.2005 in C.W.J.C. No. 11930 of 1999 was passed on suppression and misrepresentation of material facts. For the reasons of the materials now placed on record, Civil Review No. 204 of 2005 has to be allowed. The order dated 28.2.2005 in C.W.J.C. No. 11930 of 1999 is therefore recalled. The writ application stands dismissed for suppression and misrepresentation of material facts.

7. A disturbing feature noticed by this Court is that in C.W.J.C. No. 11930 of 1999, despite repeated adjournments the records of the departmental proceeding against the petitioner were not placed before this Court. The counter affidavit also was silent to the petitioner's assertion that he was not furnished with a copy of the enquiry report and that no second show cause notice of the proposed punishment was given to him. It is apparent that the State did not place the correct facts before this Court which led to the writ application being allowed. In the civil review application, no grounds have been urged as to the circumstances in which the proper facts and materials were not placed before this Court on behalf of the State. The court is satisfied that this aspect of the matter requires serious consideration by the State. In the facts and circumstances of the case, the District Magistrate, East Champaran, Motihari is directed to hold an enquiry and fix responsibility to the circumstances under which the proper facts and materials were not placed before this Court on behalf of the State, leading to an order adverse to the interest of the State. Based on the report of the said enquiry, the District Magistrate shall proceed further in the matter administratively by initiating proper proceeding against the delinquent/s. Let this be done within a period of two months. Let the District Magistrate file a proper affidavit affirmed by him on or before 29th of August, 2006, placing on record the result of such enquiry and the consequential action taken by him.