
(2008) 02 JH CK 0092
In the Jharkhand High Court

Tileshwar Sahu

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 18-02-2008

Acts Referred:

Arms Act, 1959 — Section 27

Penal Code, 1860 (IPC) — Section 120B, 302, 307, 323, 34

Water (Prevention and Control of Pollution) Act, 1974 — Section 4

Citation : (2008) 2 JCR 358

Hon'ble Judges : M.Y. Eqbal, J; Dilip kumar sinha, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. We have heard Mr. Anil Kumar, learned Counsel for the appellant and Mr. Sumeet Gadodia, learned JC to AG.

2. This appeal under Clause 10 of the Letters Patent is directed against the judgment dated 6.11.2007 passed in WP (C) No. 1578 of 2007 whereby the writ petition filed by the petitioner-appellant for quashing the notification dated 16.3.2007, removing him from the post of Chairman, Jharkhand State Pollution Control Board, has been dismissed.

3. It appears that petitioner-appellant was earlier appointed as Chairman, Jharkhand State Pollution Control Board (hereinafter referred to as "the Board") by notification dated 11.5.2005. After the re-constitution of the Board in terms of Section 4(1)(2) of the Water (Prevention and Control of Pollution) Act, 1947 (hereinafter referred to as "the Act") petitioner-appellant was allowed to continue as the Chairman of the Board. In 2006 the order was issued for removing the petitioner-appellant from the post of Chairman of the Board which was challenged in WP (C) No. 6370 of 2006. The said writ petition was allowed on the ground that before removing the petitioner-appellant neither any show-cause notice was given nor the petitioner-appellant was informed about the grounds on which he was sought to be removed from the post of Chairman. After

disposal of the writ petition, show-cause notice was issued alleging that the petitioner-appellant is involved in a criminal case being Kamdara P.S. Case No. 46 of 2006 registered under Sections 341/323/504/506/307/302/120B/34, IPC and Section 27 of the Arms Act. The petitioner-appellant was arrested in respect of the said case on 27.9.2006 and was remanded to judicial custody. However, he was released on bail on 1.11.2006. It was also alleged that petitioner-appellant is also involved in another criminal case being Khunti P.S. Case No. 130 of 2006 registered under Sections 302/120B/34, IPC and 27 of the Arms Act. The petitioner-appellant was also arrested in connection with the said case on 21.12.2006 and remanded to judicial custody and was released on bail on 12.1.2007.

4. The main thrust of the petitioners appellant before the learned single Judge was that he was not given personal hearing after filing of the show-cause which amounted to violation of principles of natural justice. Learned single Judge after considering the entire facts of the case and relevant provisions of the Act came to the conclusion that show-cause notice was given to the petitioner-appellant stating his involvement in the criminal cases which affected the functioning of the Board. It was also mentioned that as he was taken into custody because of the criminal cases, the image of the Board has been seriously tarnished. The learned single Judge took the view that the provision does not specifically provide for an opportunity of oral hearing, the said opportunity cannot be sought as a matter of right in addition to right of representation.

5. Admittedly, there is no provision in the Act for giving personal hearing to the Chairman before issuing order of removal from the post of Chairman. In the show-cause notice, the reason for his removal was categorically mentioned and it was not disputed by the petitioner-appellant that he is involved in the aforesaid criminal cases. Since there was no dispute with regard to the involvement of the petitioner-appellant in criminal cases, even after giving opportunity of personal hearing the case of the petitioner-appellant would not have been improved any more. We are, therefore, of the definite view that such person may not continue to the post of Chairman of the Board.

6. Petitioner-appellant earlier also filed LPA No. 165 of 2007 against the interlocutory order by which the learned single Judge refused to stay the impugned order removing him from the post of Chairman. This Court, while disposing of the appeal, observed as under:

6. This Court, therefore, is constrained to observe that such an important post of statutory authority should be filled up by most competent person having clean records and beyond any shadow of doubt about his integrity.

7. In the aforesaid backdrop and in view of the fact that the writ petition has been admitted for final hearing, we direct that all subsequent notifications issued by the Government appointing Chairman of the Pollution Control Board shall remain stayed and till the writ petition is finally heard and disposed of the Chief

Secretary, Government of Jharkhand shall remain in-charge of the post of Chairman, Pollution Control Board.

8. This appeal is, accordingly, disposed of with the above direction and observation with a request to the learned single Judge to take up the writ petition for hearing on 21st June, 2007.

7. We have been informed by the learned JC to AG that the Chief Secretary is holding the charge of Chairman of Pollution Control Board.

8. We, therefore, reiterate that if the Government intends to fill up the post of Chairman of Pollution Control Board a very competent person having clean records and beyond any shadow of doubt his integrity be appointed as a Chairman of the Board. With the aforesaid observation this Letters Patent Appeal is dismissed.