Sushil Kumar Modi and ors. Vs. the State of Bihar and ors.

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Court : Patna

Decided On : Mar-20-1998

Judge : S.N. Jha and S.J. Mukhopadhaya, JJ.

Appeal No. : C.W.J.C. Nos. 602 of 1617 of 1996 (R)

Appellant : Sushil Kumar Modi and ors.

Respondent : The State of Bihar and ors.

Judgement :

S.N. Jha and S.J. Mukhopadhaya, JJ.

1. The CBI and the Income Tax Department have filed their respective progress reports. Heard the counsel for the parties. Also heard Joint Director, CBI. Sri U.N. Biswas in person.

2. Permission is accorded to the repatriation of the present Superintendents of Police, CBI, Patna, Dhanbad and Ranchi Branches, on suitable replacement being provided in consultation with the Joint Director.

3. The Director, CBI, is directed to post a regular full-fledged DIG to look after the investigation of Fodder Scam cases in place of Sri R.N. Kaul, who has since been promoted as Joint Director and stationed at New Delhi, at the earliest.

4. On 23.8.96 this Court had desired to know from the CBI as to why, in view of the nature of the materials already collected in course of investigation of the cases already instituted by them, separate case with respect to the offence prescribed under Section 13(1)(e) of the Prevention of Corruption Act, 1988 has not been instituted against the concerned persons. It appears that two cases in this regard, namely, RC 97A/96 and RC 28A/97 have since been instituted. The investigation in those cases, however, does not appear to have made much headway. We are given to understand that this is on account of some misunderstanding as to the import of the orders of this Court. Necessary direction/clarification has, therefore, been sought. In our view, hardly any formal and further direction is called for. The case having been instituted in the light of the materials collected during course of investigation, it is the duty of the CBI to take the aforesaid cases to their logical end. However, in order to obviate any doubt or confusion, we would direct the CBI to do the needful and to conclude investigation of those cases too at the earliest.

5. Sri Ganga Prasad Roy, Additional Advocate General, State of Bihar, and Sri Ajay Kumar Tripathi, Additional Standing Counsel, Central Government, are directed to find out from the concerned authorities the reasons for delay in granting sanction in cases, the particulars of which shall be furnished to them by the CBI counsel.

6. Liberty is given to the State of Bihar to proceed further the case instituted by the State Police/CID in respect of the unnatural death of Harish Khandelwal in accordance with law. It will be open to the accused persons of the case to seek their remedy against such action in a competent Court in accordance with law.

7. We record our displeasure with the manner in which the matters are being dealt with by the Income Tax Department. Mr. Rastogi has promised to show better re-suits in the next month. We may observe that if tangible progress is not made within next month, we will be constrained to make observations against the Department and/or its officials.

8. List these cases for further directions on 24.4.1998. The CBI and the Income Tax Department shall file their respective progress reports as usual.

9. Let a copy of this order be handed over to Sri Ganga Prasad Roy, Additional Advocate General No. III, Sri Ajay Kumar Tripathy, Additional Standing Counsel. Central Government, and Sri L.N. Rastogi, standing' counsel, Income Tax Department.

10. Copy be also given to one of the counsel for the petitioners.