

Harendra Kumar Singh Vs. the State of Jharkhand and ors.

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Court : Jharkhand

Decided On : Jul-22-2008

Reported in : [2008(4)JCR392(Jhr)]

Judge : Gyan Sudha Misra, C.J. and; D.K. Sinha, J.

Appellant : Harendra Kumar Singh

Respondent : The State of Jharkhand and ors.

Judgement :

1. The appellant, Harendra Kumar Singh, has preferred this appeal, challenging the order dated 8.5.2008 passed in I.A No. 1448/2008, wherein the applicant-appellant, Harendra Kumar Singh, had prayed for expunging the remarks made against him by the learned Single Judge in the order dated 10.4.2008.

2. It appears that the appellant, Harendra Kumar Singh, who was functioning as the Standing Counsel and was representing the respondent-State in the matter of Hari Bansh Pandey v. State of Jharkhand and Ors. bearing W.P (S) No. \$836 of 2002, had failed to appear before the learned Single Judge to defend the State in spite of the direction of the Court to appear in the matter. The learned Single Judge, therefore, had recorded his observation against the Standing Counsel, Harendra Kumar Singh, who is the appellant herein, against which the appellant felt aggrieved and filed I.A No. 1448/2008, offering an explanation therein that he was not entrusted with the case, in which he was directed to appear, and it was

the Advocate General who had to appear in the case. He (the appellant) prayed before the learned Single Judge for expunction of the remarks recorded against him in the order dated 10.4.2008, as the same could adversely affect him and his career in future. Besides, the appellant-Counsel also tendered unqualified apology before the Court of the learned Single Judge.

3. The learned Single Judge thereafter was pleased to dispose of the Interlocutory Application by observing clearly that any remark made against the counsel, Mr. H.K. Singh, in the order dated 10.4.2008 shall not be treated as a stigma or adverse remark against him for any purpose. It is, thus, crystal clear that any remark that was made against Mr. Harendra Kumar Singh practically and in effect stood expunged. In spite of this, the erstwhile Standing Counsel, Mr. H.K. Singh, has preferred this appeal and submitted that the observation of the learned Single Judge has removed him from the post of Standing Counsel for the State, but in view of the expunction of the remarks by the learned Single Judge, the order of his removal should have been withdrawn by the State. He has further submitted that he did not fail in his duty by not appearing before the learned Single Judge when the writ petition, W.P (S) No. 5836 of 2002, was heard as he had not been entrusted with the matter.

4. The appellant, Harendra Kumar Singh, although might be having reasonable justification for not appearing in the matter before the learned Single Judge as also for assailing the order of his removal from the post of the Standing Counsel, this cannot be considered in this appeal as the question of his removal was not raised before the learned Single Judge. The appellant- Counsel has failed to realize that the order of his removal from the post of Standing Counsel is a fresh cause of action, which he is at liberty to challenge by taking recourse to the appropriate remedy under the law. He clearly appears to have misunderstood the fact that the question before the learned Single Judge in I.A No. 1448/2008 was only for expunction of the observation made by the learned Single Judge in the order dated 10.4.2008 and that relief has already been granted to the appellant by the learned Single Judge himself.

5. We, thus, fail to appreciate the anxiety of the appellant-Counsel, Harendra Kumar Singh, by filing this appeal. This appeal, therefore, is dismissed with liberty to the appellant, Harendra Kumar Singh, to challenge the order of his removal from the post of Standing Counsel, if he so pleases, before the appropriate forum. As the appellant-Counsel appears to be acutely anxious about his future, we deem it appropriate to clarify and emphasize in the interest of justice that the order passed by the learned Single Judge has gone in his favour as the remarks recorded against him has to be treated as expunged in view of the order passed by the learned Single Judge.

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