

Sitaram Vs. State of C.G. and Others

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Court : Chhattisgarh

Decided On : Apr-22-2010

Judge : Shri Satish K. Agnihotri, J.

Appeal No. : WRIT PETITION No. 4153 of 2006

Appellant : Sitaram

Respondent : State of C.G. and Others

Advocate for Def. : Shri Akhilesh Kumar, Adv.

Advocate for Pet/Ap. : Shri Vivek Sharma, Adv.

Judgement :

Judegment

1. The petitioner, claiming himself to be a resident of Gram Panchayat Jamdi, Janpad Panchayat Jaijaipur, District Janjgir-Champa, has preferred this petition on the ground that a complaint was made by him on 06.12.2005 (Annexure P/1) with regard to non-payment of amount of Rs. 10,000/- under the Pradhanmantri Gramoday (Gramin Awas) Yojna, Year 2003-2004 and various other complaints with regard to certain financial irregularities committed by the respondent No. 6. The respondent No. 6 was removed after enquiry by order dated 03.05.2006 (Annexure P/5) but thereafter, he was reinstated in service by order dated 05.06.2006 (Annexure P/6).

2. The question in this petition is as to whether the petitioner has any locus to prefer this writ petition seeking a writ of mandamus to quash the order of reinstatement of respondent No. 6 and further, a direction to enquire into the various complaints.

3. It is well settled that a writ is maintainable only at the instance of the aggrieved person/party. The petitioner may be a resident of the same village and he might have filed a complaint, but he is not personally aggrieved by the order of reappointment of the respondent No. 6. It is a case of the petitioner that enquiry is still pending against the respondent No. 6 which has not culminated into exoneration.

4. Law is clear on the above point that no relief can be granted to a person who is not personally aggrieved by an order or any action. It is well settled that person approaching this Court must be 'aggrieved person'. The writ petition at the instance of third party is not maintainable except in case of public interest litigation petition, habeas corpus or quo warranto.

5. The Supreme Court, in *D.Nagaraj & Others v. State of Karnataka & Others*¹, observed as under: "7. The sole question that requires to be determined in these appeals is whether the appellants could maintain the aforesaid writ petitions. It does not describe the classes of persons entitled to apply thereunder, the existence of the right is implicit for the exercise of the extraordinary jurisdiction by the High Court under the said Article. It is also well established that a person who is not aggrieved by the discrimination complained of cannot maintain a writ petition."

6. Further, in *Vinoy Kumar v. State of U.P. & Others*², the Supreme Court observed as under: "2. Generally speaking, a person shall have no locus standi to file a writ petition if he is not personally affected by the impugned order or his fundamental rights have neither been directly or substantially invaded nor is there any imminent danger of such rights being invaded or his acquired interests have been violated ignoring the applicable rules. The relief under Article 226 of the Constitution is based on the existence of a right in favour of the person invoking the jurisdiction. The exception to the general rule is only in cases where a writ

applied for is a writ of habeas corpus or quo warranto or filed in public interest. It is a matter of prudence, that the court confines the exercise of writ jurisdiction to cases where legal wrong or legal injuries are caused to a particular person or his fundamental rights are violated, and not to entertain cases of individual wrong or injury at the instance of third party where there is an effective legal aid organisation which can take care of such cases."

7. The petitioner seeks a roving enquiry on the basis of certain allegations which cannot be granted in a writ jurisdiction. It is for the authorities to consider the complaint of the petitioner and if so warrants, the respondent authorities may take appropriate steps. 8. The Supreme Court, in *Dharampur Sugar (Kashipur) Ltd. v. State of Uttaranchal & Others*³, observed as under: "83. It is, therefore, necessary for the person making such allegations to supply full particulars in the petition. If sufficient averments and requisite materials are not on record, the court would not make "fishing" or roving enquiry" 9. Further, in *Kurapati Mariadas v. Dr. Ambedkar Sewa Samajan & Others*⁴, the Supreme Court observed as under: "It seems that in this case, the High Court has gone out of its way, firstly in relying on the xerox copies of the service record of the appellants and then at the appellate stage, in calling the files of the Electricity Board where the appellant was working. This amounted to a roving enquiry into the caste of the appellant which was certainly not permissible in writ jurisdiction." 10. Applying the well-settled principles of law as aforesaid to the facts of the case wherein the petitioner is not personally aggrieved by reinstatement of the respondent No. 6, and secondly, a roving enquiry cannot be directed under the garb of this petition, the petition is bereft of merit and is accordingly dismissed. No order as to costs.

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