
(2003) 12 JH CK 0012

Jharkhand High Court

Case No: Writ Petition (C) No. 19 of 2002

Hari Nath Ram

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: Dec. 18, 2003

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2004) 2 JCR 483

Hon'ble Judges: Amareshwar Sahay, J

Bench: Single Bench

Advocate: G.K. Sinha, for the Appellant; D.K. Malityar, JC to AAG, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Amareshwar Sahay, J.

Heard Mr. G.K. Sinha learned counsel for the petitioner and Mr. D.K. Maliyar J.C. to AAG.

2. In this writ application the petitioner has challenged the order dated 17.9.2001 as contained in Annexure-5 to the writ petition whereby the Deputy Commissioner, Garhwa has rejected the appeal filed by the petitioner against the order dated 1.7.1999 passed by the S.D.O. Garhwa cancelling the agreement for running fair price shop.

3. Against the order dated 8.11.1999 passed by the Deputy Commissioner, Garhwa by which the appeal filed by the petitioner was dismissed, the petitioner had earlier moved before this Court by filing CWJC No. 3642 of 1999(R) and by order dated 15.6.2001 while disposing of the said writ application, this Court set aside the order of the Deputy Commissioner, Garhwa on the ground that the impugned order was non-speaking order and it was passed without application of his mind and the

matter was remitted back to the Deputy Commissioner to determine and pass a speaking order within one month from the date of receipt/production of a copy of this order. After the matter was remitted back, the Deputy Commissioner by his order dated 17.9.2001, though he has not noted in his order that High Court has directed to pass speaking order, but still without any assigning any reason and without applying his own mind he has mechanically dismissed the appeal affirming the order passed by the S.D.O.

4. The learned counsel for the State also could not support the order of the Deputy Commissioner.

5. In that view of the matter, this application is allowed and order of the Deputy Commissioner as contained in Annexure-5 to the writ application is hereby quashed and the matter is again remitted back to him to pass fresh order by giving specific finding after considering the point raised by the petitioner and also considering the relevant materials on record. It is expected that the Deputy Commissioner, Garhwa shall apply his own mind and pass fresh speaking order pursuant to the order dated 15.6.2001 passed in CWJC No. 3642 of 1999(R) within the period of one month from the date of receipt/production of a copy of this order.