

Court on its own Motion Vs State of Jharkhand and Others

Court: Jharkhand High Court

Date of Decision: July 12, 2011

Citation: (2011) 3 JCR 403

Hon'ble Judges: Prakash Tatia, Acting C.J.; Jaya Roy, J

Bench: Division Bench

Judgement

W.P. (PIL) No. 1076 of 2011

1. Today a detailed affidavit has been submitted by the State Government after obtaining factual report from all Deputy Commissioner of

respective districts and in this report it has been disclosed that there are 24 districts in the State of Jharkhand and the State Government received

report from 15 Districts only.

2. Learned Counsel for the State submitted that the State will be submitting the supplementary report in respect of removal of the encroachment

from the Government land/building/premises, after obtaining the information from the remaining 9 districts.

3. For the Ranchi city, only it has been stated that from July, 2010 till 25.06.2011 encroachments from 32 places have been removed. However,

total number of encroachments have not been given for the city of Ranchi, therefore, the information is not complete. It was expected that name of

the places, if that was sufficient, should have been given from where the encroachments have been removed in the city of Ranchi.

4. Following is the position of removal of encroachments district wise:

Sl. No. District Encroachments Encroachments Removed.

1. Simdega 511 511

2. West Singhbhum 1046 975 (Removal of encroachment from 71

places in progress).

3. Gumla No figure 18

4. Ramgarh No figure 708 (Ramgarh Circle) 27 (Patratu

Circle) 1.54 Acres of land in Gola

Circle. 7.88 Acres of land in Mandu

Circle.

5. Saraikella-Kharsawan No figure No figure

6. East Singhbhum No. figure No figure

7. Palamau 3954 in Medininagar, 3006(Removal of encroachment from Chattarpur and 948 places in progress).

Hussainabad Sub

Divisions.

8. Dhanbad No figure 78 people/ institutions have been removed.

9. Sahebganj No figure 175

10. Koderma No figure 831 from both sides of NH-31 along 33 km of length.200 from Jhumri Tillaiya township.

11. Bokaro No figure 477 (Chas) 183 (Chandankiyari) 41 (Jaridih) 23 (Berma) 190 (Petarwar)

Pending 1796 from BCCL Area.

12. Hazaribagh No figure 257 from town98 from both sides of NH-33.

13. Deoghar No figure No figure

14. Godda No figure No figure

5. Along with this affidavit, order issued by the Chief Secretary, Government of Jharkhand dated 06.07.2011 has been annexed informing all

concerned police officers of the area/circle that it will be their responsibility to see that there should not be any re-encroachment as well as

encroachment under Government properties and the matter will be examined periodically and further, any lapses will be found then action will be

taken against the concerned officer. These letter have been addressed to all Deputy Commissioners also giving guidelines.

6. From the details mentioned above, it is clear that report from total 15 places have been submitted which also contains no detailed figures.

However, the Deputy Commissioners have informed that they are making all efforts to remove the encroachments.

7. Learned Amicus Curiae submitted that there is wide spread complaints with respect to the re-encroachments by the law breakers and,

therefore, that fact may be taken note of and State may be directed to submit a detailed report about the allegations of re-encroachments by the

law breakers.

8. We direct the State Government to submit the detailed report with respect to the re-encroachments made by these law breakers so that before

appointing a Court Commissioner to inspect the entire area and obtaining videography, the State itself may correct, if there is a wrong going on.

We are making it clear that all efforts made for cleaning of the cities and towns in the State of Jharkhand should not be ruined by the total inaction

or collusion with any of the Government officials so as to deny relief to the law abiding public.

9. The State Government may also state on oath what steps have been taken for the construction of the flats which the State Government itself

proposed.

10. Put up this case on 10.08.2011.

W.P.(PIL) No. 1783 of 2011

I.A. No. 1983 of 2011

11. Learned Counsel for the Applicant wants to withdraw I.A. No. 1983 of 2011 so as to file a separate Public Interest Litigation. The

Interlocutory Application is dismissed as withdrawn with liberty to file a separate Public Interest Litigation wherein issue can be examined by the

Court as to what public interest is involved in such petition.

I.A. No. 1983 of 2011 is dismissed with the liberty aforesaid.

I.A. No. 2043 of 2011

12. Learned Counsel for the Applicant wants to withdraw I.A. No. 2043 of 2011 so as to file a separate Public Interest Litigation. The

Interlocutory Application is dismissed as withdrawn with liberty to file a separate Public Interest Litigation wherein issue can be examined by the

Court as to what public interest is involved in such petition.

I.A. No. 2043 of 2011 is dismissed with the liberty aforesaid.

Heavy Engineering Corporation Ltd. (H.E.C. Ltd.)

13. In pursuance of the order dated 04.07.2011, learned Counsel for the H.E.C. submitted that there were total six persons in the category of

dignitaries as given by the C.B.I. who encroached upon certain premises of the H.E.C. and the notice, as ordered by order dated 04.07.2011

published in the newspaper disclosing the names of six dignitaries. By now all those six persons termed as dignitaries by CBI have vacated the

premises of the H.E.C. We appreciate the efforts made by the H.E.C. in taking action against these persons who were termed as dignitaries by the

CBI and this is a good example of taking action against the high and mighty persons.

14. Learned Counsel for the H.E.C. submitted that there were total 1241 encroachments in the H.E.C. premises and out of which 1088

encroachments have already been removed by now. This effort of H.E.C. indicate that if there is a will then the action can be taken for removal of

encroachments to the extent of more than 1000 in number and, therefore, for this also H.E.C. requires appreciation. However, there are six

unauthorized occupants in the premises of the H.E.C. for which learned Counsel for the H.E.C. submitted that there is a reasonable reason for

regularization as they are occupying the premises because they are contract workers and their case is under consideration of the Management for

regularization and if it will be found worth regularization, then only the H.E.C. will regularize their possession and not otherwise.

15. Learned Counsel for the H.E.C. submitted that approximately 315 acres of land is under encroachment, apart from the properties mentioned

above, for which notices have been issued to all persons but because of the festival, date for vacating the land was given 18th July, 2011. Learned

Counsel further submitted that because of non-delivery of possession of this land on 315 acres, the H.E.C. is not getting the money to the tune of

Rs. 111 Crores which the State is agreeable to pay only on the condition that vacant possession is delivered to the State Government. This clearly

indicates that a Public Sector Undertaking is suffering still because of the encroachments on the land of the H.E.C. The H.E.C. was revived by the

order of the Court in Company Petition and H.E.C. can get then Rs. 111 Crores but H.E.C. as well as State and ultimately the public is yet to get

the fruit of that settlement between the Public Sector Undertaking and the State Government. Therefore, we again reiterate that the H.E.C. as well

as the State should act fast to avoid further loss to the public Sector Unit and to the public ultimately.

SAIL/BSL

I.A. No. 2089 of 2011

16. Learned Counsel for the SAIL-BSL submitted that there were total 18 quarters/bungalows of the SAIL under occupation of unauthorized

occupants and in pursuance of the order of this Court dated 04.07.2011 the names of all those persons have been published in the newspapers on

06.07.2011. Out of 18, six persons have vacated the quarters and as per information received just now, one more person has vacated the quarter.

17. Learned Counsel for the SAIL-BSL submitted that he is hopeful that all other will vacate the quarters within a few days only. We appreciate

the efforts of the SAIL-BSL as well as we also appreciate the gesture shown by the persons in vacating the quarters immediately after the order of

this Court.

18. We hope that rest of the persons shall also vacate the quarters of the SAIL. The SAIL may submit affidavit within a week's time about the

progress in getting the quarters vacated from the persons whose names published in the newspapers irrespective of the date given in this case.

19. Learned Counsel for the SAIL-BSL also submitted a chart which indicates that total cases to evict the unauthorized occupants were 2081 and

out of which in 1393 cases, eviction orders were passed and orders in 1343 cases have been executed and encroachments have been removed.

Therefore, there are still 50 encroachers against whom the orders have not been executed. We hope that the SAIL authorities will execute those

orders and shall get the premises vacated. In another column, it has been disclosed that 224 cases were lodged and in 13 cases eviction orders

were passed and 5 have been executed. This was the position as on 26.06.2011, therefore, as on 27.06.2011 there were 8 orders of eviction

remained un-executed. We hope that the process of eviction will be expedited by the SAIL in these matters.

20. Learned Counsel for the SAIL-BSL pointed out that this Court on 01.04.2011 passed specific order for removal of the encroachments from

the premises of the Bokaro Steel Plant.

21. We perused the order dated 01.04.2011 and we may recapitulate again that on 28.02.2011 this Court registered this Public Interest Litigation

No. 1076 of 2011 on finding that serious irregularities are being committed by the Ranchi Regional Development Authorities and Ranchi Municipal

Corporation in the matter of unauthorized constructions and giving permission contrary to the law and Rules and thereafter, it was noticed that a

news item was published in the Times of India that ""If you don't have a place to live in, walk into the city of Bokaro and select a piece of land for

yourself"" and this fact was taken note of by the Division Bench of this Court in March, 2011. Then on 16.03.2011 this was brought to the notice of

this Court that in view of the direction given by Hon"ble Supreme Court in Jagpal Singh v. State of Punjab 2011 AIR SCW 990, the State

Government is required to prepare an exhaustive scheme for the entire State for removal of the encroachments and on 29.03.2011 the counsel for

the BSL (SAIL) informed that process of removal of encroachment is going on from the premises of the B.S.L. and this Court ordered on

29.03.2011 that B.S.L. and the State Government will come out with their proposed action against all those who have alleged to have violated the

terms of allotment of land to B.S.L. and so was ordered after taking note of the fact that the B.S.L. itself did not take any step to remove the

encroachments from their premises. On 01.04.2011 this Court observed that the State Government and B.S.L. are not only slow but are

articulating their submissions before this Court in such a design that the B.S.L. is removing the encroachments, but in fact, they are not removing.

This Court observed that "this situation is not satisfactory" and then ordered that affidavit filed by the B.S.L. is not accepted as compliance of the

order of this Court. This Court directed the State Government and B.S.L. that they should come out clean. The Court took a strong view and

clearly indicated that "If the stand of the authorities continue to be what it is today, then they will be ordered to be proceeded for contempt on the

next date of hearing" (Order dated 01.04.2011). Then this Court observed as under "Notwithstanding the aforesaid assurance from the State

Government, refusal to remove encroachments in the garb of non assistance by the State Government cannot be appreciated. The allegation that

the land has been distributed by the officer to their near and dear would be available to the inferred, and as aforesaid, proceedings will be initiated

against the officers of Bokaro Steel Limited". By this order dated 01.04.2011 one I.A. No. 1037 of 2011 filed by the Applicants were dismissed.

22. I.A. No. 1037 of 2011 was submitted by 30 persons by stating in para 1 "That the interveners are the residents of Kashmir Colony and

Addaqui, Bokaro for taking up their genuine grievance as residents of aforesaid colonies and they apprehend to evident (eviction) from the said

colony by the order of this Hon"ble Court without initiating any proceedings or giving any notice by the State". The interveners thereafter stated

that on 22.07.2010 there was a meeting between authorities of B.S.L. and representatives of Addaqui and Kashmir Colony with S.D.O. Chas

for rehabilitation of 348 families which would be evident from the resolution passed by S.D.O. Chas on 23.07.2010 and copy of this resolution

was submitted by those Applicants along with I.A. No. 1037 of 2011 as Annexure-1 to the Interlocutory Application.

23. As we have already stated that the said I.A. was rejected by the order dated 01.04.2011 by this Court. These Applicants of I.A. No. 1037 of

2011 preferred Special Leave to Appeal (civil) No. 10631 of 2011 before the Hon"ble Apex Court and Hon"ble Apex Court passed the

following order on 13.04.2011 while disposing of the said SLP No. 10631 of 2011:

We find no merit in this petition. However, in the interest of justice, we deem it appropriate to give time up to 30th June, 2011 to the Petitioners to

vacate the premises on their individually filing undertakings before the Registry of this Court within two weeks from today. This order would be of

no avail to the Petitioners if they do not file undertakings before the Registry of this Court, as directed.

The SLP is disposed of accordingly.

24. A bare perusal of the order of Hon"ble Supreme Court dated 13.04.2011 clearly indicate that the plea of the Applicants in I.A. No. 1037 of

2011 was found having no merit by Hon"ble Apex court which has been specifically mentioned in the order by the Supreme Court. Not only this,

while disposing of the S.L.P., Hon"ble Supreme Court granted indulgence that the encroachers may vacate the premises by 30th June, 2011 but

on their individually filing undertaking before the Registry of Hon"ble Supreme Court within two weeks from the date of order and made it clear

that the order of Hon"ble Supreme Court dated 13.04.2011 would be of no avail to the Petitioners if they do not file undertaking before the

Registry of the Hon"ble Supreme Court as directed in the order dated 13.04.2011. All these facts have been taken note of today again by this

Court in continuation of this Court's observations made in order dated 09.06.2011.

25. In continuation to the above, we observe that one another Public Interest Litigation W.P. (PIL) No. 1783 of 2011 is pending wherein

specifically the issue of encroachments over the land of four big Public Sector Undertakings namely Heavy Engineering Corporation Limited

(H.E.C. Ltd.), Central Coalfields Limited (C.C.L.) Bokaro Steel Limited (B.S.L.) and Bharat Coking Coal Limited (B.C.C.L.) is involved and

orders have been passed for removal of encroachments from the premises/properties of those four Public Sector Undertakings. In the said petition

W.P.(PIL) No. 1783 of 2011, on 13.06.2011, after considering the contention of the counsel for the SAIL-BSL this Court observed that

In view of the above reasons, the State is directed to provide adequate support to the B.S.L. so that the order may be implemented and the

encroached area may be got vacated and that too without asking any particulars of individual person as it is not necessary that the miscreants will

be only persons of that area will be creating problems as the others may also join hands with such miscreants. However, the situation is required to

be assessed by the State by having the meeting with the B.S.L. Officers and the resistance which may come in the way of implementing the order is

required to be taken care which is the duty of the State. This type of relief is required to be given to all the P.S. Us.(referred above) by the State.

26. The direction issued in the order dated 13.06.2011 in W.P.(PIL) No. 1783 of 2011 is in furtherance to the spirit of the order of the Hon"ble

Supreme Court dated 13.04.2011 wherein when the show cause notice for eviction of the unauthorized occupants was sought to be challenged, it

was negated by the Court and any encroacher could have availed the benefit of decision till 30th June, 2011 upon furnishing the undertaking as

ordered by the Hon"ble Supreme Court. The process is the same for eviction of all persons and keeping the spirit of the Hon"ble Supreme Court's

order as well as in view of the order dated 13.06.2011 and particularly, direction given in that order and quoted above, the State Government is

required to do its job in the matter of removal of encroachments from the land of the Public Sector Undertakings.

27. We have passed this detailed order only to reiterate that the removal of encroachments from the premises of the Public Sector Undertakings

cannot be tolerated because of any procedural defects and because of only raising voice by miscreants ignoring the public interest and national

interest for which the Public Sector Units are paying heavily from the tax payers' money and the Government is using the land for implementation

of its scheme.

28. We are not going into the details of the events which occurred during the past uptill today as indicated by the SAIL-BSL which only indicate

that the parties i.e. B.S.L. and State Government still could not work out how to implement the orders passed by this Court in consonance with the

views expressed by the Hon'ble Supreme Court in the case of Jagpal Singh v. State of Punjab (Supra) and the order passed by this Court in these

two Public Interest Litigations. However, we expect that the process will be completed in no time preferably within the month of July, 2011 itself

by the B.S.L. and the State Government. We also, on request of the counsel for the State, want to know the contention of the State for which they

may file a counter to the I.A. No. 2089 of 2011 which has been filed by the B.S.L. today.