

(2014) 06 JH CK 0003**Jharkhand High Court****Case No:** W.P.(PIL) No. 4153 of 2013

Jharkhand Income Tax Bar
Association

APPELLANT

Union of India

Vs

RESPONDENT

Date of Decision: June 26, 2014

Citation: (2015) 325 ELT 288 : (2014) 4 JLJR 98

Hon'ble Judges: Dhirubhai Naranbhai Patel, J; Amitav Kumar Gupta, J

Bench: Division Bench

Advocate: Biren Poddar, Advocate for the Appellant; Md. Mokhtar Khan, A.S.G.I, Advocate for the Respondent

Judgement

Dhirubhai Naranbhai Patel, J.

This Public Interest Litigation has been preferred by the Jharkhand Income Tax Bar Association, mainly because of the fact that the building where the Bench of Income Tax Appellate Tribunal at Ranchi, is sitting is in a very dilapidated and dangerous condition. Necessary photographs have also been annexed.

2. Learned counsel appearing for the petitioner also has brought to the notice of this Court of various annexures annexed with this petition including Annexure-8, which is dated 26.12.2011, in which it has been stated that the Ministry has approved the proposal for hiring of alternate office accommodation at "Sahdeo Tower" 1st Floor, Block "A" and Block "B" (part) at P.P. Compound, Ranchi on a monthly rent of Rs. 1,28,767/- as certified by C.P.W.D., Ranchi in respect of Income Tax Appellate Tribunal, Ranchi Bench. Counsel for the petitioner further submitted that despite this letter dated 26.12.2011, no amount has been sanctioned by the Central Government. The counsel for the petitioner has further argued that much time has been lapsed after the aforesaid sanction from December, 2011 but even on today, Income Tax Appellate Tribunal, Ranchi Bench is sitting in the same building, which has now become more dangerous and on one or other pretext, respondent-Union of India is not allocating the proper fund and they are sitting

tight upon the file, without taking any decision. Public at large is vitally interested in the building of Income Tax Appellate Tribunal, Ranchi Bench.

3. Counsel appearing for the Union of India-Assistant Solicitor General of India submitted that he has talked with Mr. D. Choudhury, Under Secretary, Ministry of Law and Justice, Department of Legal Affairs, New Delhi and upon his instruction, it is stated that within 15 days, the fund will be allotted and transmitted to the President, Income Tax Appellate Tribunal, Mumbai. It is submitted by the Assistant Solicitor General of India that now he has received a FAX, which reads as under:

F. No. D-11011/1/2014-Admn.III(LA)

Government of India
Ministry of Law & Justice
Department of Legal Affairs

Shastri Bhawan, New Delhi

Dated: 26th June, 2014

To

Shri Md. Mokhtar Khan
Asstt. Solicitor General
Jharkhand High Court,
Ranchi

Sub: WP (PIL) No. 4153 of 2013.,

Sir,

I am directed to refer to the above subject. In this connection, it is submitted that a proposal was received from ITAT, Mumbai in the year 2013, seeking funds for certain renovation and other works in their Ranchi Office. However, the funds could not be released at that time due to non-availability of funds. A fresh proposal has been received from ITAT, Mumbai in the current financial year for release of funds of Rs. 57,04,433/- for this purpose. The matter is under process and necessary funds shall be released within the next two weeks positively. You may apprise the Hon'ble High Court accordingly.

Yours faithfully,

(D. Choudhury)
Under Secretary to the Government of India
Phone No.-23383051

4. Having heard the counsel for both the sides, it appears that it is a misfortune of the Public of Jharkhand that the building, which is in dilapidated condition, is being used by Income Tax Appellate Tribunal, Ranchi since long, under compulsion. The

total budget of Union of India is approximately Rs. 1.5 Lakhs Crore and Rs. 57 Lakhs is the amount, which is required as per the C.P.W.D. report. This figure of Rs. 57 Lakhs (approx.) has been stated by Assistant Solicitor General of India. Counsel has reaffirmed this fact from his record also. Thus, this amount comes to 0.00000004 per cent of the total budget. Such a meager amount ought to have been allocated by the Union of India forthwith before any casualty happens at the building at which Income Tax Appellate Tribunal, Ranchi Bench is sitting. Too much lethargic approach on the part of high ranking officers of Union of India cannot be tolerated by this Court. It appears that the concerned Secretaries are not vigilant enough. Several persons are visiting Income Tax Appellate Tribunal, including senior citizens and senior Advocates.

5. Looking to the annexures, which are at Annexure-5 series, the building at which Income Tax Appellate Tribunal, Ranchi is sitting, there is water logging as well as from the ceiling the iron rods are also visible at several places. The building is absolutely dangerous. There is no controversy that the condition of building of the Income Tax Appellate Tribunal is dilapidated. On the contrary, the Union of India has also filed a report that the condition of the building is not good.

6. Mr. Md. Mokhtar Khan, Assistant Solicitor General of India, appearing for the Union of India submitted that P.K. Malhotra, Secretary, Ministry of Law and Justice, Department of Legal Affairs, Shashtri Bhawan, New Delhi, is responsible, if the amount is not released within 15 days, as stated hereinabove. Looking to Annexure-8 dated 26th December, 2011 since long the concerned Officer has not taken case of repair of existing place of Income Tax Appellate Tribunal, Ranchi Bench building nor any care is taken to get the said building repaired. If this Officer is need of extension of time, interlocutory application may be preferred, giving reason for delay in grant of necessary amount for the purpose of shifting of Income Tax Appellate Tribunal in new building. There are norms, which are at Annexure-6 for the area of office accommodation required for the newly sanctioned Bench of the Income Tax Appellate Tribunal for a single Bench as prescribed by the Directorate of Estate. Both counsels have referred this Annexure-6. It is expected from Union of India that new accommodation should be in accordance with the minimum norms prescribed as per the Annexure-6 and thus requirement of minimum accommodation is also referred in detail in paragraph 13 of this writ petition and there is gross violation of these norms also by Union of India. There is no specific reply given by Union of India for violation of norms at Annexure-6 as stated in paragraph 13 of the memo of the Public Interest Litigation. The stoic attitude on the part of Union of India reflects that the high ranking officers of Union of India are not vigilant at all towards the building in which the Income Tax Appellate Tribunal is sitting at Ranchi. The concerned departments cannot expect that all the persons, who are visiting frequently at Income Tax Appellate Tribunal, Ranchi, including senior citizens and senior Advocates, should continue to sit in such a dilapidated and dangerous building. Either it should be repaired forthwith or it

should be transferred forthwith in the building, which is already sanctioned by the respondent, since 26th December, 2011.

7. It is a misfortune that the Assistant Solicitor General of India is not getting the correct facts from the concerned officer from Delhi. In paragraph 7 of the counter affidavit filed by the Union of India, it has been submitted that the amount at Rs. 82,30,884/- is required and there is no fund available for the Civil/Electrical work and for purchasing necessary furniture and there is no fund to undertake the above civil/electrical work for the Financial Year 2012-13. Thus, it appears that there is a discrepancy in the facts given to the Assistant Solicitor General of India, which is about Rs. 57 Lakhs allotment whereas in the affidavit, there is mentioning about requirement of Rs. 82,30,884/- as on particular date. There is always a price escalation by the efflux of time.

8. Looking to the urgency of the matter, urgent decision is required to be taken by the Union of India. As stated hereinabove, the percentage of the total budget is highly a negligible amount to be allotted for this purpose. Thus, we expect from Union of India that at least, over and above Rs. 57 Lakhs, the amount, which is stated in paragraph 7 of the counter affidavit, should be allotted and transferred to the concern office or President, Income Tax Appellate Tribunal, Mumbai, so that the Tribunal may sit in Ranchi at safe place. In fact, the Assistant Solicitor General of India has partly argued on the basis of oral instruction and partly relied upon the counter affidavit filed in oath, but unfortunately, so far as the allocation of amount, as stated hereinabove, is concerned, there is discrepancy in his oral argument and the written affidavit.

9. Whether for the aforesaid amount, any budgetary provision has been made or not by the concerned department, the Assistant Solicitor General of India has talked with Mr. D. Choudhury, Under Secretary, Ministry of Law and Justice, Department of Legal Affairs and upon his oral instruction, it is submitted that they have not prepared any budgetary provision for this amount. They have not demanded the amount for aforesaid purpose in budget. Thus, it appears that the promise, which is given by Union of India, cannot be easily fulfilled because unless there is a proposal in a budget, years after years will pass, but nothing will be sanctioned at all. After Annexure-8, letter dated 26.12.2011, several years have already passed. The amount cannot be allocated by Finance Department unless the concerned Departments are making proposal in their budget either in regular budget or in a supplementary budget. It appears that the concerned officers, who are In-charge of this file, are absolutely lethargic and Head of the Department should have taken note in their confidential report that since last 2-3 years, though C.P.W.D. etc. are giving their reports and there is a sanction also, as per Annexure-8 to this Public Interest Litigation, but, the concerned Department is neither putting the proper budgetary proposal in the regular budget nor the concerned department is inserting this amount in the supplementary budget also. It is a misfortune of the rank and file of

State of Jharkhand. Their future is in the hands of lethargic Officers of the concerned Department. Their oral submission is running counter to the affidavit. Even, budget is not prepared for the whole sanctioned amount; perhaps the Department is avoiding the query of this Court. Public at large cannot await for an indefinite time, especially when the building is in dilapidated and dangerous condition, even as per the Union of India and when there is no proper counter affidavit controverting about the position of building, Government should have allocated this amount forthwith because it is a very negligible part of the total budget of Union of India, which is 0.0000004 per cent.

10. Time, as prayed for by the Union of India, is granted.

11. Matter is adjourned to be listed on 28th July, 2014.