IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7319 of 2011

==

1. Phoolan Prasad Son Of Late Balam Prasad Resident Of Moh. Jawahar Tola, Mushar Toli Ke Paschim, P.S. Ara Nawada, Distt.-Bhojpur

.... Petitioner/s

Versus

1. The Union Of India Through The Chief Commissioner, Central Excise, Central Revenue Building, Birchand Patel Path, Patna 1
2. The Commissioner of Central Excise, Central Revenue Building, Birchand Patel Path, Patna 1
3. The Joint Commissioner (Prev.), Central Excise and Service Tax, C.R. Building, B.C. Patel Path, Patna 1
4. The Assistant Commissioner (Prev.), Central Excise (H), Central Revenue Building, Patna-1
5. The Superintendent, Central Excise (Prev.), HQ, Patna 1
6. The Chief Accounts Officer, Central Excise (H), Patna 1
7. Sri Shamrendra Singh, Ex-Inspector, Central Excise (H) Patna-1.

.... Respondent/s

==

Appearance :

For the Petitioner : Mr. Pranav Kumar, Advocate.
For the Respondent -Central
Excise Department : Mr. Nivedita Nirvikar, Sr. Standing Counsel

==

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 21-09-2015

Heard Mr. Pranav Kumar for the petitioner and Ms. Nivedita Nirvikar Sr. Standing Counsel , Central Excise Department.

The writ petition filed under Article 226 of the Constitution of India seeks a direction for setting aside the order dated 01.04.2011 (Annexure-6) passed by the appropriate authority of the respondent-Union of India whereby the claim for review of the payment of reward amount to the petitioner has been considered and rejected.

Prefatorial facts are as under:

The petitioner informed the respondent about clandestine transportation of contraband items in a truck. On his information, it is stated, a raid was carried out and the truck was intercepted on 20.2.1993 and 85 pieces of silver bricks stored in artificial chamber created inside the truck was/were recovered. As the petitioner was the informer tentatively a sum of Rs. One lakh was paid to him on 25.4.1994 as interim reward being the whistle blower. Remaining reward amount could not paid to him which propelled him to file writ petition in this Court vide CWJC No. 219 of 2006. The said writ petition was disposed of on 11.02.2011 after having noticed that remaining reward amount in the sum of Rs. three lakhs was paid to the petitioner. Immediately, thereafter a review petition was filed by the petitioner for payment of enhanced reward amount. Same was rejected for the reasons recorded therein. Aggrieved thereby the present writ petition has been filed.

Counsel for the petitioner submits that the exact weight of the silver bricks recovered on his information by the respondent- Central Excise on 20.2.1993 was not known to him. From the affidavit, which the respondent filed in CWJC No. 219 of 2006 disposed of on 11.02.2011, he could know about the actual weight of the silver bricks. Relying on the amended scheme (copy whereof is enclosed as Annexure-8 to the rejoinder), it has been submitted that the petitioner was actually entitled to at least a sum of Rs. six lakhs and/or one thousand Rupees per kg of silver recovered. The actual weight of silver bricks is more than three thousand kgs. In such circumstance, review petition was filed which was arbitrarily rejected by the respondents.

In contra, it has been submitted on behalf of the respondents that it was the case of the petitioner himself in the writ petition vide CWJC No. 219 of 2006 that 40 kgs of silver bricks was/were recovered on the information given by the petitioner. Interim reward of Rs. one lakh was paid to him as per the incentive scheme formulated by the department . Remaing reward amount found payable to him was also paid. The grant of reward has to be considered after weighing diverse circumstances including the accuracy/efficacy of the information given by the informant. A committee is constituted for this purpose which after weighing all relevant facts take a decision. In the case of the petitioner, the matter was considered by the said committee and the remaining sum of Rs. Three lakhs as the final reward amount was approved, sanctioned and paid to the petitioner. The Court accepted the same and the petition was disposed of. The present writ application would not be maintainable for the same relief as no liberty was sought by the petitioner to agitate the said grievance again before the respondent and thereafter before this Court.

On a consideration of rival submissions it appears to this Court is that the petitioner claimed reward amount claiming 40 kgs of silver bricks recovered by the respondent on the clue given by the petitioner. The Court in the light of such statements in the said writ petition computed the reward payable to the petitioner in the sum of Rs. four lakhs. A sum of Rs. one lakh was already paid to him by way of ad interim reward and as such under the order of the Court the matter was examined by the Committee of officers and a sum of Rs. three lakhs was found payable, which was sanctioned and paid in full settlement of the claimed reward amount. The Court accepted the same and disposed of the writ petition. The present writ petition, has been filed stating that from the affidavit which the respondents filed in the previous writ petition it was revealed that the actual weight of the silver bricks recovered from the truck on the information given by the petitioner was nearly three thousand kgs. The respondents have disputed the aforesaid contention of the petitioner and stated that in the previous writ petition, the petitioner himself had stated that 85 pieces of silver bricks total weighing 40 kg of silver bricks was recovered. The writ petition was disposed of granting no liberty to petitioner to agitate this matter further either before the respondent or before this Court. If no such liberty was sought and granted then the said matter cannot be re-agitated in this Court. The law on this point is almost settled. Reference may be made to the case of **Sarguja Transport Service vs. State Transport Appellate Tribunal, Gwalior & Ors. [AIR 1987 SC 88].**

That apart, what the petitioner is claiming is not his statutory right. His claims stems from a scheme which has been formulated by the Union of India in the Department of Finance to provide incentives to such informers. The matter pertains to the year 1993. It cannot be allowed further to survive considering the claim of the petitioner under the orders of the Court, was finally disposed of in 2011. Now, by filing the present writ petition, the petitioner wants to again rake up the issue which, in my view, cannot be countenanced. Writ jurisdiction being discretionary in nature cannot be invoked.

For all these reasons, this Court finds no merit in the application. Dismissed.

(Kishore Kumar Mandal, J)

Shyam/-

U			