

ITEM NO.1

COURT NO.2

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) Nos.9729-9730/2022

(Arising out of impugned final judgment and order dated 13-05-2022 in WPPIL No.4290/2021 17-05-2022 in WPPIL No.4290/2021 passed by the High Court of Jharkhand at Ranchi)

THE STATE OF JHARKHAND

Petitioner(s)

VERSUS

SHIV SHANKAR SHARMA & ORS.

Respondent(s)

(With I.R. and IA No.78131/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.78136/2022-EXEMPTION FROM FILING O.T., IA No.78402/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No.78131/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.78136/2022 - EXEMPTION FROM FILING O.T. and IA No.79353/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 24-05-2022 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Petitioner(s)

Mr. Kapil Sibal, Sr. Adv.
Mr. Rajiv Ranjan, Sr. Adv.
Mr. Arunabh Chowdhury, Sr. Adv.
Ms. Pragya Baghel, Adv.
Mr. Jayant Mohan, Adv.
Ms. Pallavi Langar, AOR
Ms. Anusha, Adv.

Ms. Aparajita Jamwal, Adv.
Mr. Krishna Raj Thakar, Adv.

For Respondent(s) Mr. Tushar Mehta, SG
Mr. Kanu Agrawal, Adv.
Mr. Shantanu Sharma, Adv.
Mr. Bhuvan Kapoor, Adv.
Mr. Om Prakash Shukla, Adv.
Ms. Deepabali Dutta, Adv.
Mr. Mukesh Kumar Maroria, AOR

For R-6 Mr. Mukul Rohatgi, Sr. Adv.
Ms. Ranjeeta Rohatgi, Adv.

For R-1 Mr. Nirmal Kumar Ambastha, AOR
Mr. Rakesh Kumar Singh, Adv.
Ms. Ashmita Bisarya, Adv.
Mr. Prashant Kumar Srivastava, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 A batch of three writ petitions is pending before the Division Bench of the High Court of Jharkhand:
 - (i) In Writ Petition (PIL) No 4632 of 2019; the petitioner, Arun Kumar Dubey, seeks, *inter alia*, a direction to the Directorate of Enforcement to investigate 15 FIRs pertaining to alleged offences arising out of the disbursement of MANREGA funds to Khunti Zila Parishad implicating offences under Sections 406, 409, 420, 423, 429, 465 and 120B of the Indian Penal Code and Sections 11, 12(2) and 13(1)(e) of the Prevention of Corruption Act, 1988;
 - (ii) In Writ Petition (PIL) No 4290 of 2021; the petitioner, Shiv Shankar Sharma seeks a direction for an investigation into the alleged transfer of

monies by the Soren family in the names of respondent Nos 8 to 13 through the instrumentality of certain shell companies; and

- (iii) In Writ Petition (PIL) No 727 of 2022; the petitioner Shiv Shankar Sharma seeks a direction for sanctioning the prosecution of the Chief Minister for obtaining a mining lease in his own name implicating offences under the provisions of the Prevention of Corruption Act, 1988 and the Indian Penal Code.
- 2 On 22 April 2022, when Writ Petition (PIL) No 4290 of 2021 came up before a Division Bench presided over by the Chief Justice, the Court recorded the submission of the counsel for the State that “an identical writ petition was dismissed with costs by this Court filed by the same counsel and the matter went up to the Supreme Court” where the Special Leave Petition was dismissed. After issuing certain procedural directions for the impleadment of the Registrar of Companies, the Division Bench directed that the proceedings in Writ Petition (PIL) No 4290 of 2021 be placed along with the records of Writ Petition (PIL) No 4218 of 2013 on 13 May 2022.
- 3 On 13 May, 2022, the High Court, *inter alia*, noted the submissions of the State of Jharkhand objecting to the maintainability of the petition. This was dealt with in the following extract:

“At this juncture, Mr Kapil Sibal, learned Senior Advocate, appearing for the State of Jharkhand, has made a submission that he has to raise a preliminary objection regarding the maintainability of the case itself.

We would consider the preliminary objection and then the merit also, if required, on the next date of hearing”

- 4 The High Court posted the proceedings on 17 May 2022. On 17 May 2022, the High Court, after perusing a sealed cover which was tendered on behalf of the Directorate of Enforcement, noted the submission of the petitioner that WP (PIL) No 4362 of 2019 may be placed along side the petition which the High Court was considering on the next date of hearing and accordingly the proceedings were adjourned to 19 May 2022. On 19 May 2022, the High Court has passed separate orders in Writ Petition (PIL) Nos 727 of 2022, 4632 of 2019 and 4290 of 2021. The High Court posted the proceedings on 24 May 2022.
- 5 The Special Leave Petitions have been instituted by the State of Jharkhand in order to challenge the orders dated 13 May 2022 and 17 May 2022 in Writ Petition (PIL) No 4290 of 2021.
- 6 We have heard Mr Kapil Sibal, senior counsel appearing on behalf of the State of Jharkhand, Mr Mukul Rohatgi, senior counsel appearing on behalf of the sixth respondent (Shri Hemant Soren) and Mr Tushar Mehta, Solicitor General appearing on behalf of the Central Bureau of Investigation and the Directorate of Enforcement.
- 7 The sequence of events narrated in the earlier part of the present order indicates that the High Court had, by its order dated 13 May 2022, specifically noted that it would consider the primary objection to the maintainability of Writ Petition (PIL) No 4290 of 2021 and deal with the merits thereafter, if required, on the next date of hearing.
- 8 Mr Kapil Sibal, senior counsel appearing on behalf of the petitioner has adverted to the provisions of the Jharkhand High Court (Public Interest Litigation) Rules, 2010, more particularly the provisions of Rules 4, 4-A, 4-B and 5.

- 9 Since the High Court has observed in its order dated 13 May 2022 that it would deal with the maintainability of the petition upfront, we are of the considered view that it would be appropriate in the interests of justice that the Division Bench presided over by the learned Chief Justice does so before without proceeding to the merits of the public interest litigation.
- 10 The issue of maintainability should be dealt with by the High Court on the next date of listing when the proceedings are taken up. Based on the outcome of the objections to the maintainability of the proceedings, the High Court may thereafter proceed in accordance with law.
- 11 The Special Leave Petitions are disposed of in the above terms.
- 12 This Court has had no occasion to deal with the merits of the rival contentions which arise in the Special Leave Petitions or nor has it become necessary for this Court to express any view on the allegations which are levelled in the writ petition since that is a matter which is pending consideration before the High Court.
- 13 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Court Master