

State of Orissa and Others

Vs

Sri Jagannath Jena and Others

Civil Appeal Nos. 67 and 68 Of 1975

(Y.V. Chandrachud, P.K. Goswami JJ)

28.10.1976

JUDGMENT

CHANDRACHUD, J. –

1. We heard these appeals for some time and as we were coming to the end of the arguments, Mr. Gobind Das appearing for the appellants, the State of Orissa, stated that the Government would have no objection to producing the particular file in the court for the inspection of the learned Munsif. In view of this statement it is unnecessary to go into the merits of these appeals.
2. We direct that the Government of Orissa will produce file No. 1-M-33-64 in the trial Court for the inspection of the learned Munsif. If after inspecting the file, the learned Munsif finds that there is any noting or endorsement in the file showing that the then Deputy Chief Minister or the then Inspector-General of Police or both had given any assurance to the plaintiff of the kind mentioned in paragraph 16 of the plaint, that portion of the file and that alone shall be disclosed to the plaintiff. Since the suits are not before us and we are only concerned in these appeals with the question of privilege, we express no opinion as to what use the plaintiffs could make of such nothings. If any, for the purpose of proving their claims in the suits.
3. We would like to observe that the view which the High Court has taken in regard to the disclosure of the particular notings is principally based on the inadequacy of the affidavits filed on behalf of the Government of Orissa. The High Court has summarised the effect of the various decisions of this Court which have a direct bearing on the question of privilege and we are in no doubt that it would not have rejected the State's claim of privilege in regard to departmental nothings contained in official files, except for the fact that the affidavits filed on behalf of the Government did not adequately bring out the involvement of public interest consequent upon the disclosure of the nothings. The judgment of the High Court has therefore to be confined to the particular facts of the case and cannot be used as a precedent in other cases for calling upon the Government to produce confidential notings in official files, if the disclosure thereof is calculated to impair public interest.
4. The appeals are disposed of accordingly. There will be no order as to costs.

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