

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
W.P.(PIL) No.4300 of 2024**

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Court on its own motion

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**CORAM : HON'BLE THE ACTING CHIEF JUSTICE  
HON'BLE MR. JUSTICE RAJESH SHANKAR  
HON'BLE MR. JUSTICE ARUN KUMAR RAI**

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**Order No.02 : dated 1<sup>st</sup> August, 2024**

1. It was brought to the knowledge of the learned Registrar General that one order has been passed by a Division Bench of this Court dated 30.07.2024 in Filing No.:-Cr.Appeal (D.B.) No.17440 of 2024 whereby the operational system of filing brought in effect by way of Standing Order No.9 of 2024 dated 09.07.2024 issued by the order of the then Hon'ble Chief Justice, has been stayed.

2. It has then been queried as to what system of filing would now govern the Registry.

3. Faced with such a situation and after going through the order passed by the learned Division Bench, a Full Bench was constituted in order to deal with the current situation.

4. The learned Division Bench has passed order that the Standing Order is in derogation of the Jharkhand High Court Rules.

5. We are sitting here to test the veracity of the issue and further to see if it is the look out of a Division Bench being critical of the administrative decision of the Chief Justice in

reference to system of filing and listing of cases and going to the extent of staying the order of the Chief Justice.

**6.** We, after going through the said order, have found that the Standing Order No.9 of 2024 dated 09.07.2024 has been considered to be contrary to the Jharkhand High Court Rules. It has been observed in the said order that the Standing Order being an executive instruction, cannot override the Jharkhand High Court Rules which is a piece of subordinate legislation.

**7.** The learned Division Bench has further observed that severe difficulty is being faced by the learned members of the Bar, which has been raised in the Court in one voice. The learned Division Bench, upon this, has considered the propriety of the Standing Order dated 09.07.2024.

**8.** Specific observation has been made that Standing Order is in the teeth of the subordinate legislation and the Standing Order having not been concurred by the Full Court, has led the learned Division Bench in passing the order not to give effect to the Standing Order dated 09.07.2024.

**9.** The learned Division Bench has further observed that till the Jharkhand High Court Rules is amended, the cases will be listed as per the existing provision of the Jharkhand High Court Rules, for ready reference the order dated 30.07.2024 is being referred hereunder as :-

“This matter has been listed today, with a filing number. The matter is yet to be registered.

2. The matter is still defective. Office has also raised an objection on maintainability.

3. Learned counsel for the appellant submits that he was unaware that the matter would be listed today. He submits that he did not even know about the progress of the matter as it was difficult for him to track the matter since the same was not even registered and without being registered this matter has been listed.

4. On query, learned counsel for the appellant and large number of members of Bar submitted that a Standing Order being Standing Order No.9 of 2024 dated 09.07.2024 has been issued under the signature of the Registrar General of this Court and on that basis this matter has been listed without being registered. Members of the Bar in one voice stated that because of the said Standing Order, they are facing severe difficulty. They submitted that even power has been given to the learned Registrar General to dismiss a matter if the defects are not removed. Further to remove the defects, interlocutory application has to be filed and if the matter is dismissed, the same cannot be restored and a fresh application again has to be filed. Filing and listing of case is governed by the High Court of Jharkhand Rules and in effect Standing Order No.9 of 2024 dated 09.07.2024 has superseded the High Court of Jharkhand Rules without any amendment to that effect. Learned counsel also submits that the Standing Order has in fact over ridden the provisions and procedure laid down by the High Court of Jharkhand Rules so far as filing and registration of a case is concerned without amending the said

Rules. They further submit that as per Rule 69 of the High Court of Jharkhand Rules, 'Designated Officer' does not have a power to dismiss a case. It is contended that Rule 70 of the High Court of Jharkhand Rules is also not applicable in this context nor does the Rule 307 of the High Court of Jharkhand Rules. Further, they submit that law of limitation will also get affected by virtue of this Standing Order. They produced a copy of the Standing Order. The same is kept on record.

5. We have perused the Standing Order. In fact, this Standing Order amends the High Court of Jharkhand Rules. The very first line of the aforesaid Standing Order states that notwithstanding any provision contained in the High Court of Jharkhand Rules and previous Office Orders, this order is being issued. This suggests that the High Court of Jharkhand Rules which is a subordinate legislation, has been by-passed by this Standing Order No.9 of 2024 dated 09.07.2024, which is an executive instruction.

6. The High Court of Jharkhand Rules is a piece of subordinate legislation, which cannot be by-passed by any executive order. There is a procedure to amend these rules.

7. Considering this, to seek clarity in the matter, we requested the learned Registrar General to appear before us.

8. The learned Registrar General is present in the Court and submits that the Rules have not been amended and this Standing Order has been issued and is given effect to. He also stated that there is a proposal to amend the Rules and the proposal has been sent to the appropriate Committee for amending the High Court of

Jharkhand Rules in terms of the Standing Order No.9 of 2024 dated 09.07.2024.

9. The submission of the learned Registrar General is suggestive of the fact that the High Court of Jharkhand Rules has not yet been amended and this Standing Order has been given effect which in fact has the effect of amending the Rules. Cart has been thus put before the horse.

10. The High Court of Jharkhand Rules cannot be amended without the concurrence of the Full Court and admittedly, there is no concurrence of the Full Court.

11. Further, we are of the opinion that without getting the case first registered, we cannot decide the issue of maintainability either way. The instant matter needs to be registered as a case at the first instance, ahead of being placed before the Bench, for adjudication of any issues on merits, including maintainability.

12. Thus, we direct the Registry to immediately get this matter registered and be numbered as a pending case under appropriate nomenclature. Further, the Standing Order No.9 of 2024 dated 09.07.2024 be placed before the Full Court in the Administrative Side immediately. Till the Full Court takes an appropriate decision, the Standing Order No.9 of 2024 dated 09.07.2024 will not be given effect to.

13. Let a copy of this order be placed before the Registrar General for needful.

14. Till the High Court of Jharkhand Rules is amended the cases will be listed as per the existing provisions of the High Court of Jharkhand Rules.”

**10.** This Court has invited the learned members of the Bar including the senior members of the Bar to assist this Court with respect to the aforesaid issue. The copies of the paper book including the order dated 30.07.2024, Standing Order dated 09.07.2024 and the relevant rules have been supplied by this Court to the learned President, Advocates' Association and the Chairman, State Bar Council.

**11.** The learned President of the Advocates' Association along with the Secretary of the Association as well as the Chairman, Bar Council are present.

**12.** Mr. M.S. Mittal, learned senior counsel, has submitted that the system which is on is good and going smoothly, but needs to be further streamlined.

**13.** The learned President, Advocates' Association, has placed a representation addressed to the learned Registrar General, High Court of Jharkhand dated 15.07.2024 for reviewing the Standing Order No.9 of 2024 dated 09.07.2024, particularly, the conditions at Clause Nos. 8 and 9.

**14.** However, it has been submitted orally by Mrs. Ritu Kumar, learned President of the Advocates' Association that the said issue was also mentioned before Hon'ble the then Chief Justice and on the assurance given by Hon'ble the then Chief Justice, even on that count (Clause Nos. 8 and 9) there is no objection as of now since the things which are to be streamlined, will take some time.

**15.** It has been submitted by referring to the order passed by the learned Division Bench wherein it has been observed that large number of members of the Bar are facing severe difficulty, to the best of her knowledge, no such submission has been made in course of the proceeding before the concerned learned Division Bench.

**16.** The learned President, Advocates' Association, has submitted that whatever she has submitted orally, she will file affidavit to that effect.

**17.** The Chairman, Bar Council, is present and has submitted that no difficulty is being faced in filing and listing. He has also submitted that he will also file an affidavit in that regard.

**18.** This Court, before adverting to the issue, needs to refer herein the relevant provisions of the Jharkhand High Court Rules based upon which the Standing Order dated 09.07.2024 has been issued. The relevant provisions are Rule 69, 70, 78, 79, 306 and 307 which are being referred as under :-

**“69.** Except interlocutory Applications (IA), applications, petitions and memos of appeal shall be filed only after stamp report and after the defect, if any, pointed out by the stamp reporter have been removed, unless the Designated Officer be of the opinion that the stamp report regarding the defects is not correct or that the defects can be ignored or that they are not curable:

Provided that the Registrar General, authorised in that behalf, may permit any application, petition or memo of appeal to be filed on the last day of limitation without stamp report.

**70.** On receipt of the document, the officer Incharge of the filing counter shall endorse on the document the date of receipt and enter the particulars of the said document in the register of daily filing and cause it to be sent to the department concerned for examination. If, on scrutiny the document is found in order, it shall be duly registered and given a serial number of registration. It shall also be entered in the Computer as a Data. The Chief Justice may issue instructions from time to time, with regard to the procedure for filing, especially having regard to computerization requirements and once issued, those instructions shall be applicable and enforceable as being part of this Chapter.

**78.** All defect free applications, petitions, memos of appeal etc. including such applications, petitions, memos of appeals in which the defects have been ignored or are considered to be not curable, shall be numbered under the respective heads of cases.

**79.** Defect free applications, petitions, memos of appeal, affidavits etc., shall immediately be sent to the concerned Section for being listed before the Bench.

**306.** No case which falls in the category of Lawazima matter shall be listed in the Court unless it has been dealt with by the Lawazima Boards, as prescribed in this Order.

Explanation.—All matters relating to service of the parties, furnishing particulars or better particulars for the purposes of service, filing

requisites, filing applications for condonation of delay in time-barred cases, filing additional copies of pleadings or documents, making up of deficiency in Court fees, or judicial stamps etc. shall be included in the Lawazima Board. Other matters may later on be also included in the Lawazima Board.

**307.** The Chief Justice may amend the aforesaid explanation, by way of variation, modification or addition to the subjects/items included therein and may also, from time to time, issue administrative instructions for implementation of and carrying into effect the provisions of this Chapter. Such administrative instructions, as and when issued, shall be deemed to be part of this Chapter.”

**19.** It is evident from perusal of Rule 69 of the Jharkhand High Court Rules which stipulates that except interlocutory Applications (IA), applications, petitions and memos of appeal shall be filed only after stamp report and after the defect, if any, pointed out by the stamp reporter have been removed, unless the Designated Officer be of the opinion that the stamp report regarding the defects is not correct or that the defects can be ignored or that they are not curable.

**20.** The provision as contained in Rule 69 is with respect to the stage of filing and the filing means that the moment the case is filed, the same will be accepted by issuance of token number or the diary number. If the case is defect free, the same is to be listed in view of the provision of Rule 78. However, in case the petition is not defect free, the stamp

report is required to be there and after removal of the defect, such cases will be listed in view of the provision of Rule 78 of the Jharkhand High Court Rules.

**21.** The issue which has been considered by the learned Division Bench is that the Standing Order is an executive instruction and in derogation of the Jharkhand High Court Rules, particularly, the provisions as under Rule 69 and 78 under Chapter-VIII.

**22.** However, we, after going through the Standing Order dated 09.07.2024, *prima facie*, are of the view that there is no such conflict, rather, it is reiteration of the aforesaid provisions and to streamline the filing and listing system. For ready reference, the Standing Order is being referred as under :-

“Notwithstanding any provision contained in the High Court of Jharkhand Rules, 2001, previous Office Orders and practice directions, in exercise of the powers conferred under Rule 70 and 307 of the High Court of Jharkhand Rules, Hon'ble the Chief Justice has been pleased to issue the following instructions regarding filing, stamp reporting, defect removal and registration of cases, which shall come into force from 10.07.2024 and will remain effective till the suitable amendment is made in the corresponding High Court of Jharkhand Rules:

- 1) In new filing, in all nature of cases, after generation of Filing number/Token number (Diary number), Stamp Reporting will be done on the same day and even if the file

remains pending, the remaining files to be reported on the next working day, except in cases where connected case is necessarily required, in which stamp reporting must be done within two days from the date of filing. If the case is defect free, registration of case shall be done on the same day or by the following day. If the case is defective, Stamp Reporter will send the file directly to Defect Removal Section without delay on the same day and details of defects to be uploaded on the website as soon as Stamp Reporting is done. An SMS alert may be sent to the learned lawyers or party-in-person with message that the case is defective and compliance date is one week.

- 2) All nature of defect free cases shall be registered and sent to respective Judicial Sections by the succeeding working day following Stamp Reporting.
- 3) All nature of defective cases shall be directly sent to Defect Removal Section by the Stamp Reporting Section without any delay. File will remain in Defect Removal Section for seven (7) working days and defect may be removed before the Assistant Registrar and Section Officer of Defect Removal Section.
- 4) After removal of defects, the case shall be registered and sent to respective Judicial Section by the succeeding working day.
- 5) The aforesaid registered cases received by the Judicial Section shall be listed before the Roster Bench immediately.
- 6) All nature of defective cases, in which defects are not removed in defect removal section within a week, will be sent to respective

Judicial Section which will feed those defective cases in Data Bank of Lawazima Board of Joint Registrar (Judicial). Ld counsel/Party-in-person will be allowed two weeks time in normal cases, and three weeks time in exceptional and rare cases by the Lawazima Board to remove the defects.

- 7) If any defect is not ignored by the Lawazima Board, the Learned Counsel/ Party-in-person shall have liberty to file an Interlocutory Application for ignoring defect within the stipulated period given by the Lawazima Board of Joint Registrar (Judicial), which shall be listed before the Bench as per roster with Filing/Token number of case along with the said I.A.
- 8) All nature of defective cases, where defects are not cured or ignored by Lawazima Board and in the event, no I.A is filed, the case will be rejected by the Designated Officer to be appointed by Hon'ble the Chief Justice and information regarding the same will be uploaded in the website of Hon'ble Court by the concerned section weekly, on the first working day of a week.
- 9) In defective cases where issue of maintainability, locus and nature of cases is pointed out by the Stamp Reporter, the same shall be sent to Judicial Section by the Stamp Reporting Section and the Judicial Section will list the case with Filing/Token number before the Bench as per the roster.”

**23.** Further, Rule 70 of the Jharkhand High Court Rules also needs to be referred wherein the Chief Justice has been given absolute power to issue instruction from time to time

with regard to the procedure of filing, especially having regard to computerization requirements and once issued, those instructions shall be applicable and enforceable as being part of this Chapter.

**24.** Thus, the aforesaid statutory provision as contained under the Rules gives absolute power to the Chief Justice of this court to regulate the system of filing and listing of the case.

**25.** Reference is made to the judgment rendered by Hon'ble Apex Court in the case of ***State of Rajasthan v. Prakash Chand and Others*** reported in ***1998 (1) SCC 1*** wherein at paragraph 59 it has been observed that ***the administrative control of the High Court vests in the Chief Justice alone.***

**26.** The learned Division Bench has observed in the order dated 30.07.2024 that the Standing Order was required to be concurred by the Full Court. In the aforesaid context, it will be purposeful to refer the Rule 15(1) of the Jharkhand High Court Rules which provides the matters required to be referred before the Full Court. For ready reference, Rule 15(1) is being referred as under :-

“15. (1) On the following matters decision shall be taken by the Judges at a meeting of the Full Court  
:—

(i) All appointments which by law are to be made by the High Court and which are not otherwise expressly provided for by the rules in this Chapter;

- (ii) All recommendations for the dismissal from office of Judicial Officers;
- (iii) Proposals for designating Advocates as Senior Advocates under Section 16(2) of the Advocates Act, 1961;
- (iv) Matters relating to the service conditions, facilities and amenities of the Judges of the Court;
- (v) Constitution of Rule Committee under Section 123 of the Code and nominating Members of the Rule Committee;
- (vi) Consideration of matters relating to the Chief Justices' Conference;
- (vii) High Court Calendar.”

**27.** It is evident from the aforesaid Rule that there is no reference that this issue is required to be sent before the Full Court for its concurrence and the reason is obvious that when the absolute power has been conferred to the Chief Justice of this Court to issue instruction which shall be enforceable as being part of Chapter-VIII and in such circumstances, if the decision taken in the administrative side by the Chief Justice of this Court in regulating the procedure of filing and listing is sent before the Full Court for concurrence, then the power conferred to the Chief Justice of this Court will be abrogated.

**28.** In such circumstances, the issues which require consideration by this Court are -

- (i) Whether the stipulation made in the Standing Order No.9 of 2024 dated 09.07.2024 can be considered to be in supersession to the Jharkhand

High Court Rules, particularly the provision as contained under Rule 69 and 78 thereof?

- (ii) Whether the stipulation so made in the Standing Order is in consonance with the provision of Rule 69 and 70 and is there any requirement to send it before the Full Court?
- (iii) Whether the reference which has been made by the learned Division Bench for placing the Standing Order before the Full Court for its concurrence is required?
- (iv) Whether contrary to the condition put under Rule 15(1) where the matters to be considered by the Full Court have been provided, can the procedure of filing and listing be sent before the Full Court for its concurrence?
- (v) Whether it would be considered to be in conformity with the principle of judicial discipline for a Single or Division Bench of the High Court to interfere with the decision taken by the Chief Justice on the administrative side, particularly, concerning administration on filing and daily listing of the cases, even on judicial side?

**29.** Let the learned Registrar General of this Court be impleaded as a party.

**30.** The learned Registrar General is directed to file affidavit showing the occasion for issuance of the Standing Order No.9 of 2024 dated 09.07.2024.

**31.** The State Bar Council through its Chairman and the Advocates' Association through its President be impleaded as party.

**32.** Let respective affidavits be filed by the Association and the Council on or before the next date of hearing.

**Ad interim order**

**33.** The learned Division Bench has also issued direction as contained in paragraph 12 and 14. For ready reference paragraphs 12 and 14 are being referred as under :-

“**12.** Thus, we direct the Registry to immediately get this matter registered and be numbered as a pending case under appropriate nomenclature. Further, the Standing Order No.9 of 2024 dated 09.07.2024 be placed before the Full Court in the Administrative Side immediately. Till the Full Court takes an appropriate decision, the Standing Order No.9 of 2024 dated 09.07.2024 will not be given effect to.

**14.** Till the High Court of Jharkhand Rules is amended the cases will be listed as per the existing provisions of the High Court of Jharkhand Rules.”

**34.** At paragraph 12, the direction has been issued by learned Division Bench observing that till the Full Court takes an appropriate decision, the Standing Order No.9 of 2024 dated 09.07.2024 will not be given effect to.

**35.** Further, at paragraph 14 it has been directed that till the Jharkhand High Court Rules is amended, the cases will

be listed as per the existing provisions of the High Court of Jharkhand Rules.

**36.** The law is well settled that while granting *ad interim* stay, three principles are required to be considered –

- (i) Prima facie case;
- (ii) The irreparable loss; and
- (iii) Balance of convenience.

**37.** In ***Dalpat Kumar and Another vs. Prahlad Singh and Others***, reported in ***AIR 1993 SC 276***, the Hon<sup>ble</sup> Apex Court has explained the scope of interim order i.e. the phrases “prima facie case”; “balance of convenience” and “irreparable loss” are not rhetoric phrases for incantation but words of width and elasticity to meet myriad situations presented by man’s ingenuity in given facts and circumstances, but always is hedged with sound exercise of judicial discretion to meet the ends of Justice. The facts are eloquent and speak for themselves. It is well-nigh impossible to find from facts *prima facie* case and balance of convenience.

**38.** Reference is also required to be made with respect to the principle governing the field while granting ad-interim stay by the Court of Law as has been held by the Hon<sup>ble</sup> Apex Court in the case of ***M. Gurudas & Ors. Vrs. Rasaranjan & Ors.***, reported in ***AIR 2006 Supreme Court 3275***, wherein at para-19, it has been laid down that while

considering the application for injunction, the Court should pass an order thereupon having regard to prima facie case, balance of convenience and irreparable injury.

**39.** We, after going through the order passed by the learned Division Bench, have found that the principle for granting an interim stay, as has been laid down by the Hon'ble Apex Court in the judgments referred hereinabove, has not been taken into consideration.

**40.** Further, the observation has been made that the learned members of the Bar are facing severe difficulty, however there is no material to that effect since the Advocates' Association has not been called upon and no complaint or grievance has been made by any of the parties.

**41.** It also needs to be referred herein that the Standing Order has not been questioned by anyone and, as such, in absence of any motion, the said order has been passed.

**42.** The Court has reached a preliminary satisfaction that order passed by the learned Division Bench staying the Standing Order No.9 of 2024 dated 09.07.2024 suffers from non-consideration of the above mentioned provisions as contained in Rule 69 and 78 of the Jharkhand High Court Rules.

**43.** Further, in testing the order of learned Division Bench, we are also satisfied that if immediate recourse is not taken, it will result into irreparable loss and injury as the entire

filing system will get altered creating a mess and chaos in the Registry and filing system.

**44.** Moreover, this Court finds that the element of balance of convenience is also met in staying the order passed by the learned Division Bench as the damage caused would not be in a position to be restored, if such directions are allowed to be given effect to.

**45.** Therefore, being satisfied in three tests, this Court is of the view that the order passed by learned Division Bench merits stay of its operation during the pendency of the matter.

**46.** Hence, the order dated 30.07.2024 passed in Filing No.:-Cr.Appeal (D.B.) No.17440 of 2024 is stayed so far as it relates to the issue of *ad interim* stay of the Standing Order No.9 of 2024 dated 09.07.2024.

**47.** List this matter 06.08.2024.

**48.** So far as Filing No.:-Cr.Appeal (D.B.) No.17440 of 2024 is concerned, the office is to proceed in accordance with rule/Standing Order.

**(Sujit Narayan Prasad, A.C.J.)**

**(Rajesh Shankar, J.)**

**(Arun Kumar Rai, J.)**