

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.16701/1999

(From the judgement and order dated 12/05/1998 in CMWP 16668/87
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

RAM ASHREY MISHRA

Petitioner (s)

VERSUS

STATE OF U.P. AND ORS.

Respondent (s)

(With prayer for interim relief)
(With Appln(s). for urging addl. grounds)

Date : 28/11/2000 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M. JAGANNADHA RAO
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Petitioner (s) Mr.Prasanjit Keswani,Adv.
Mr.J. Pookatt,Adv.
Mr. Prashant Kumar,Adv.

For Respondent (s) Mr.Praveen Swarup,Adv.
Mr. Pramod Swarup,Adv.
Ms.Pareena Swarup,Adv.

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

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Leave granted. The appeal is disposed of with no
order as to costs.

(Usha Bhardwaj)
P.S. to Registrar

(D.D.Jindal)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO...../2000
(Arising out of SLP(Civil) No.16701 of 1999)

Shri Ram Ashrey Mishra

.....Appellant

versus

State of Uttar Pradesh & Ors.

....Respondents

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Special leave granted.

The appellant before us was suspended on 5.7.71. The enquiry was conducted into misappropriation and it was concluded that he was guilty of misappropriation of Rs.2,84,938.48. The said order was passed by the Director of Agriculture on 22.12.81. It was also mentioned that the sum was to be recovered as per rules from his movable and immovable properties and his sureties. The Administrative Tribunal dismissed the Claim Petition No.483/F/III/81 on 3.4.87. It observed that the amount will have to be recovered but as to what would be the mode of realization was a different aspect. It observed that no specific action was being suggested nor was any suggestion being made as to the mode of recovery. However, as to how the amount could be recovered would be decided by the department itself.

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This order was affirmed by the High Court and on 12.5.98 in CMWP.No.16668/87. The learned judges of the High Court observed that the disciplinary authority had merely said that the amount had to be recovered.

The net result of the above discussion is that as of today the liability of the appellant to the State in the above said amount has been declared during disciplinary proceedings but the amount is not being recovered under the disciplinary rules, inasmuch as the said rules do not provide specifically for the mode of recovery. The Tribunal and the High Court therefore took Court to observe that the mode of recovery was a separate question. We make it clear therefore that it will be for the Government to decide in what manner and under what law they will recover the said amount from the appellant. Of course, the same cannot be recovered by any procedure in the service rules.

The appeal is disposed of accordingly. There shall be no order as to costs.

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.....J.
(M.Jagannadha Rao)

New Delhi,
November 28, 2000

.....J.
(Doraiswamy Raju)