

CASE NO.:
Appeal (civil) 681 of 2008

PETITIONER:
AJAY KUMAR MISHRA

RESPONDENT:
STATE OF JHARKHAND & ORS

DATE OF JUDGMENT: 25/01/2008

BENCH:
CJI K.G. BALAKRISHNAN & R.V. RAVEENDRAN

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NO.681 OF 2008
(@SPECIAL LEAVE PETITION (CIVIL)NO.14474 OF 2006)

Leave granted.

The appellant herein was an I.A.S. Officer from Bihar cadre. On the basis of a complaint, an F.I.R. was registered under various sections of the Indian Penal Code and also under Sections 5(2) read with 5(1)(c) and (d) of the Prevention of Corruption Act on 22.1.1985 in regard to acts done in 1982. The allegation against him was that he had sanctioned a loan of Rs.15 lacs in favour of a firm for financial gain and that he had awarded a contract to an advertisement agency without inviting tenders and caused financial loss while he was the Managing Director of a Public Sector Undertaking. The investigation report dated 21.4.1986 did not show any criminal liability on the part of the appellant. It was also decided to

drop the criminal proceedings against the appellant. The sanction was not accorded for prosecution. When matters stood thus, nearly 20 years later (17 years after FIR was registered) on 12.12.2003 the sanction was granted. The appellant challenged the same. The learned Single Judge set aside the sanction holding that it is an old case and further trial would be an harassment to the appellant. The State went in appeal and the Division Bench held that the order of the learned Single Judge has to be set aside and ordered the authorities to proceed in accordance with law.

Heard both sides.

Evidently, the incident had happened in the year 1982-83. The authorities had examined the case and held that the sanction was not to be granted and after a long period, the matter was considered and the sanction was granted. The learned Single Judge had given valid reasons for quashing the sanction. In view of the long delay and the earlier report that he was not responsible, it is not just and proper that the appellant should be prosecuted. We do not think that the further prosecution of the appellant is necessary since the appellant has alr

eady
retired from service. The Division Bench ought not to have interfered with the order of
the
learned

Single Judge. We set aside the order of the Division Bench and uphold the order of the
learned Single Judge.
The appeal is disposed of accordingly.

JUDIS