
(2016) 12 JH CK 0024
In the Jharkhand High Court
Case No : W.P.(C) No.1205 of 2015

Albert Horo

APPELLANT

Vs

Jharkhand Academic Council

RESPONDENT

Date of Decision : 05-12-2016

Acts Referred:

Citation : (2017) 2 JBCJ 14 : (2017) 1 JCR 716 : (2017) 1 JLJR 312

Hon'ble Judges : Mr. Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Mr. A.K. Sahani, Advocate, for the Petitioner; M/s Sohail Anwar, Afaque Ahmad, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

Mr. Aparesh Kumar Singh, J. - Heard learned counsel for the petitioners and learned counsel for the Respondent, Jharkhand Academic Council (JAC).

2. Petitioners have prayed for a direction upon the Respondents to declare their result of the Primary Teachers Training Examination-2012 held by the Respondent no.2. Petitioners were admitted in Primary Teachers Training College, Bundu for the session 2010-12 and have thereafter also appeared in the Teachers Training Examination, 2012. Since, their result was not published, they have approached this Court.

3. Inquiry was held in the matter of certificates produced by not only these petitioners but few others also by the Respondent-JAC. The inquiry revealed that the N.C.C. Certificates produced by petitioner no. 2 and 4 were forged. Similarly the certificates of physical handicap produced by the petitioner no.1 and 3 were also found to be forged. Petitioners and other such students undertaking the Teachers Training Course were asked by the Committee constituted by the Respondent-JAC to furnish their reply as per the communication bearing letter no. 777 dated 21.9.2012 issued through the Principal of the Teachers Training College, Bundu. Explanation were submitted through the Principal before the

Committee vide letter no. 286 dated 21.9.2012. Though the concerned students in their reply to the show cause claimed that the certificates were genuine but no proof of genuinity was produced on their behalf. Their explanation were found to be unsatisfactory as is recorded in the minutes of the decision taken by the Committee in its meeting held on 15.12.2012 (Annexure-A to the counter affidavit) comprising the Regional Deputy Director of Eduction, South Chotanagpur Division, Ranchi, Secretary, Regional Transport Authority, Ranchi, District Education Officer, Ranchi and Principal of the Teachers Training College, Bundu.

4. Respondent-JAC have also enclosed letter no 6.4.2013 and 2.5.2012 (Annexure-B & C respectively) being communication between the Principal of the College and Secretary, JAC on the question of cancellation of petitioners" enrolment , submission of their reply to the show cause and the reply furnished by the Principal of the College enclosing such explanation furnished by the students.

5. None of these facts averred in the counter affidavit supported by Annexure-A, the decision, has been controverted by the petitioners. Though this counter affidavit has been filed on 26.11.2015 but no rejoinder thereto has been filed thereafter either. Petitioners have in the writ petition also not made any averments relating to submission of their reply to the show cause, as evident from the letter dated 21.11.2012 bearing no. 286 of the Principal of the College referred to in the decision at Annexure-A of the Committee constituted by the Respondent-JAC.

6. Learned counsel for the petitioner in the state of facts noticed herein above has tried to built up a case that decision not to declare the result of the petitioners is not preceded by any show cause notice to the petitioners. Petitioners have been denied opportunity to reply and defend themselves. This is evident from the enclosure-B & C, which are later correspondences to decision enclosed at Annexure-A. It is submitted that decision to cancel their enrolment was already taken, where after formality of asking show cause has perhaps been undertaken. Learned counsel for the petitioners further submit that after the petitioners" enrolment and due verification of their credentials and upon completion of courses pursuant thereto, they have appeared in Examination,2012. The Respondent could not have cancelled their enrolment nor withheld their results. There is no averments relating to cancellation of enrolment either in the counter affidavit. Reliance has been placed upon a judgment rendered by the Apex Court in the case of Sri Krishna v. Kurukshetra University, Kurukshetra reported in AIR 1976 SC 376 in support of his submission.

7. Learned counsel for the Respondents-JAC submits that the Respondents have duly inquired and sent notice to the petitioners and upon consideration of the reply of the students have taken the decision, which is not under challenge in the writ petition. Though the counter affidavit was filed more than 1 year back, however none of the averments of the counter affidavit have been rejoined by

the petitioners. The contention relating to violation of principles of natural justice is not made out. If the petitioners have indulged in fraud, entire substratum of their claim is non-est. No student undertaking Primary Teachers Training Course can claim publication of his result on the basis of admission taken on forged certificates. Therefore, petitioners should not be allowed any relief in the matter.

8. I have considered the submission of the parties and relevant materials on record. Upon consideration of the materials on record as noticed herein above, the plea of the petitioners seems to be misplaced. They have neither enclosed any show cause reply nor documents in support of the genuineness of their certificates. They have miserably failed to controvert the categorical statement of the Respondent JAC through their counter affidavit. The decision taken at Annexure-A clearly shows that upon verification the relevant N.C.C certificates and Physical handicap certificates were found to be forged. The students were asked to furnish their reply which were also considered before taking such decision. Annexure-B and C are of later date and they would not improve the case of petitioner any further. In any case, the decision not to publish the result were taken by the Respondent-JAC after due consideration of the reply of the students after the certificates were found to be forged on verification, which stand un-refuted by the petitioners on any count. The admission to the college was taken on forged certificates, which has vitiated the entire process. Reference may be made to the judgment of the Hon'ble Supreme Court in the case of District Primary School Council, West Bengal v. Mritunjoy Das and others (2011) 15 SCC 11, wherein Respondent had obtained admission in the Training Courses for Primary Teachers by inflating their marks. After due notice and show-cause and after coming to a finding that they had resorted to a fraud while obtaining admission, they were dismissed from service. The Apex Court in the aforesaid facts, which bear similarities to the facts of the present case, held as follows:

"9. On going through the records placed before us, what we find is that the contesting respondents herein inflated their marks in order to obtain admission in the Primary Teacher's Training Institute. Had the marks not been inflated in the aforesaid manner, the contesting respondents would not have got the admission in that particular Institute as it is disclosed from the records. Therefore, the admission sought for was through an illegal means which is to be deprecated. The conduct of the contesting respondents being such, we cannot find fault with the course of action taken by the appellant herein. It is not that the contesting respondents were not given any opportunity of hearing. They were given a show-cause notice and were also given an opportunity of hearing which opportunity they did not accept although they submitted a reply to the show-cause notice. There is, therefore, no violation of the principles of natural justice in the present case. If a particular act is fraudulent, any consequential order to such fraudulent act or conduct is non est and void ab initio and, therefore, we cannot find any fault with the action of the appellant in dismissing the service of the contesting respondents. In this context we refer to the decision of this Court in Ram Preeti Yadav v. U.P. Board of High School and Intermediate

Education for the proposition that no person should be allowed to keep an advantage which he has obtained by fraud."

9. It is settled proposition of law "Fraud avoids all judicial acts, ecclesiastical or temporal". The writ Court while exercising its equitable jurisdiction, should prevent perpetration of illegality/fraud. Fraud and justice never dwell together. Reliance may also be placed on the judgment rendered by the Apex Court in the case of Devendra Kumar v. State of Uttaranchal and others [(2013) 9 SCC 363].

10. Having taken note of the entire facts and the grounds urged, no case is made out on the part of these petitioners warranting interference in the matter. The writ petition being devoid of merit is accordingly dismissed.