
(2017) 01 JH CK 0057
In the Jharkhand High Court
Case No : W.P.(S) No. 6479 of 2016

Anant Priya Sen

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 06-01-2017

Acts Referred:

Constitution of India, 1950 — Article 16, Article 226

Citation : (2017) 1 AIRJharR 448

Hon'ble Judges : Mr. Shree Chandrashekhar, J.

Bench : Single Bench

Advocate : Mr. Sumeet Gadodia, Mr. Prem Pujari Roy, Advocates, for the Petitioners in rest all cases; Mr. Arbind Kumar, JC to GP II, for the Respondent/ State in W.P.(S) No 6567 of 16; Mr. Indrajit Sinha, Advocate, for the Petitioners in W.P.(S) No. 6632 of 2016; Mr. Manoj Kr. No. 3, SC (Mines), Mr. Raunak Sahay, JC to SC (Mines) and Mr. Sahil, JC to SC (Mines), for the Respondent/State in W.P. (S) No. 6479 of 16; Mrs. Chaitali C. Sinha, JC to AAG, for the Respondent/State in W.P.(S) No. 6538 of 16 and 6560 of 16; Mr. Rahul Kamlesh, JC to SC II, for the Respondent/State in W.P.(S) No. 6632 of 16; Mr. Lalan Kr. Singh, JC to GP I, for the Respondent/State in W.P.(S) No 6563 of 16; Mr. Rakesh Kr. Shahi, JC to AAG, for the Respondent/State in W.P.(S) No 6564 of 16; Ms. Ruchi Rampuria, JC to Sr. SC I, for the Respondent/State in W.P.(S) No 6565 of 16

Final Decision : Dismissed

Judgement

Mr. Shree Chandrashekhar, J. - Pursuant to order dated 16.12.2016, a counter-affidavit has been filed by the respondent, Secretary School Education and Literacy Department, Government of Jharkhand. It is admitted in the affidavit that no specific guidelines for Advertisements for appointment/engagement of teachers for Model Schools were issued. It is stated that after the Centrally sponsored scheme for running the Model Schools discontinued in the year, 2015-16, the State Government took a decision to transfer the programme under State Plan vide Resolution dated 14.06.2016 and responsibility of managing the schools was given to the Jharkhand Secondary Education Project Council. Model Schools are run on the pattern of Kendriya Vidyalaya. It is further stated that for

each Model School 11 posts of Post Graduate Trained Teachers have been sanctioned on which regular appointments would be made after creation of posts.

2. Mr. Ajit Kumar, the learned Additional Advocate General contends that the decision as reflected in letter dated 26.10.2016 was taken in the interest of the students particularly, the students who have been admitted in Class XI. It is submitted that once the required number of posts, that is, 11 posts of teachers in each Model School are created, which exercise is expected to be completed in next four weeks, a regular exercise for appointment on regular basis in terms of the decision taken by the State Government would be undertaken.

3. The object for the temporary engagement of teachers which has been projected on behalf of the State Government is definitely laudable and adequate number of teachers in Model Schools in the State of Jharkhand must be provided by the State Government, however, one thing which prevents me from adjudicating the writ petition finally at this stage and to lift the order of stay granted on 16.12.2016, is, the facts disclosed during the course of hearing. On instructions, the learned Additional Advocate General stated :

(i) In the district of East Singhbhum, no advertisement was issued however, 16 persons have been engaged as teachers on deputation.

(ii) In West Singhbhum, 37 teachers have been engaged on deputation. Date of advertisement, last date for submitting applications etc. are not known at this stage.

(iii) In the district of Ranchi, the advertisement which was issued gave only 6 days" time to the candidates for submitting their application.

(iv) In the district of Giridih, no advertisement was issued. Only a public notice was issued, however, no dates are reflected from the public notice.

(v) In the district of Seraikella, no advertisement was issued.

(vi) In the district of Hazaribagh, no advertisement was issued for the alleged engagement of teachers in view of deficiency in the number of teachers in the Model Schools.

(vii) The advertisement issued for the district of Koderma reflects that last date for submission of applications was 10.11.2016. Though the date of the advertisement is not known at this stage, one thing is clear that the said advertisement has been issued only pursuant to the instructions contained in letter dated 26.10.2016.

4. The facts noticed herein above unerringly disclose that no proper opportunity to all eligible candidates was provided and, that too, in the matter of public employment.

5. It has been contended at Bar that engagement of teachers pursuant to letter dated 26.10.2016 has been made as a purely stopgap and temporary

arrangement and the appointees would have no right of regular appointment on the basis of the present engagement. It has also been contended that all the writ petitioners have not raised a grievance as to issuance or non-issuance of the advertisements and while so, the writ petitions warrant dismissal at this stage.

6. Having considered the above contentions in the light of the facts noticed herein-above, I am not inclined to dismiss the writ petitions on a technical plea. Prima facie, the procedure adopted by the respondents for the alleged engagement of the teachers on the alleged plea of scarcity of teachers in the Model schools cannot be sanctioned in law. The policy decision as contained in letter dated 21.04.2011 also mandates appointment/engagement of teachers "after advertisement". In the counter-affidavit filed on behalf of the respondent no. 1 the number of applicants and number of teachers selected in each district of the State have not been disclosed. It has further not been disclosed whether those appointees have been issued appointment letters or not. Way back on 14.06.2016 a decision was taken by the State Government to transfer the programme under the State Plan, however, for more than 4 months nothing happened and now a plea is raised that appointments have been made in the interest of the students.

7. Without commenting on the aforesaid issues, respondent no. 1 is directed to file further affidavit disclosing all necessary facts including, the proposal for selection of teachers and the manner and method of their selection by the Committee for the forthcoming session. Let such an affidavit be filed on or before 13.01.2017.

8. On request of the learned Additional Advocate General, post the matter on 13.01.2017.

9. Interim order dated 16.12.2016 shall continue.