
(2014) 04 JH CK 0020
In the Jharkhand High Court
Case No : W.P. (PIL) No. 1108 of 2013

Ataur Rahman

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 28-04-2014

Acts Referred:

Bihar State Minorities Commission Act, 1991 — Section 6, 8

Citation : (2014) 3 JLJR 481

Hon'ble Judges : R. Banumathi, C.J.;S. Chandrashekhar, J

Bench : Division Bench

Advocate : Shresth Gautam and Piyush Chitresh, Advocate for the Appellant;
Ajit Kumar, AAG, Advocate for the Respondent

Judgement

R. Banumathi, C.J.—This Public Interest Litigation is filed seeking for a direction upon the respondents to show cause as to under what authority the respondents have passed the Notification No. 39 dated 8.1.2013 issued by the Welfare Department, Government of Jharkhand, u/s 4(2) of the Jharkhand State Minorities Commission Act, 2001, since in the said reconstituted Committee, all the minority communities have not been given adequate representation and also for quashing the notification dated 8.1.2013 passed by the respondent-authorities, in view of the fact that the minority communities have not been given adequate representation. The object of the Bihar State Minority Commission Act, 1991 (as adopted by the State of Jharkhand) is to make provision for appointment and function of a Commission for investigating, ensuring and safeguarding the rights conferred upon the religious and linguistic minorities of the State by the Constitution of India and other connected matters. Section 6 of the Act deals with functions of the Commission and Section 8 provides power granted to the Commission to investigate. Section 4, which deals with constitution of the Commission, provides that the Commission shall consist of a Chairman, two Vice Chairman and maximum eight members, who shall be nominated by the State Government. After creation of the State of Jharkhand, the Bihar State Minority Commission Act, 1991 was adopted by the State of

Jharkhand and the same was renamed as the Jharkhand State Minority Commission Act, 2001. In exercise of power conferred u/s 4 of the Jharkhand State Minority Commission Act, 2001, the Government of Jharkhand through its Welfare Department reconstituted the State Minority Commission by the Notification No. 39 dated 8.1.2013 and nominated a Chairman, two Deputy Chairmen and eight Members, comprising of five Muslims and three others.

2. The petitioner claims to be a businessman operating a taxi. The grievance of the petitioner is that the Board so constituted is basically of such members who belong to one group itself and other minority groups, like Sikh, Jain and Christian, are not represented in the Minority Commission. According to the petitioner, the reconstitution of the Commission, vide Notification dated 8.1.2013, is a glaring example of arbitrary use of power and against the very spirit of setting up of the Minority Commission and the petitioner has filed this PIL seeking for setting aside of the notification.

3. Learned counsel for the petitioner, Mr. Shresth Gautam, contended that all minority communities, such as Parsi, Christian, Jain, Sikh, are not given adequate representation in the Minority Commission. Learned counsel submitted that in the Committee, five members are from Muslim community and all other minority communities have not been given opportunity of being represented in the Committee and therefore, the petitioner seeks for quashing of the Notification dated 8.1.2013.

4. Learned Additional Advocate General, Mr. Ajit Kumar, submitted that for the purpose of carrying out the objects of the Act and in order to maintain communal harmony in the State, it is prerogative of the State to provide adequate representation to those of the minority communities, which the State thinks proper. Learned counsel contended that the petitioner himself being a Muslim cannot make a grievance about the inclusion of five Muslims as Members of the Committee and there is no bona fide in this PIL.

5. As per Section 4 of the Act, the Commission shall consist of a Chairman, two Vice Chairman and maximum eight members. By Notification No. 39 dated 8.1.2013, the State Government reconstituted the State Minority Commission and nominated a Chairman, two Deputy Chairman and eight Members. Out of the eight Members, five are Muslims.

6. In paragraph 12 of the counter-affidavit filed by the respondent-State, it is stated that the State Minority Commission has been reconstituted for the welfare of minorities and for maintaining communal harmony in the State. There is no provision in the Act, 2001 to give representation to each and every religious or linguistic minority in the Commission. It is pertinent to note that other communities have not made any grievance regarding reconstitution of the said Commission. As rightly contended by the learned counsel for the respondents, the petitioner himself being a Muslim cannot have any valid grievance regarding the nomination of five Muslim as Members in the Commission. In order to

maintain communal harmony in the State, State Government in its wisdom thought it fit to include five Muslim Members. We do not find any arbitrariness in the action of the State Government. The fact that petitioner himself being a Muslim and his grievance about nomination of five Muslim as Members raises serious doubts as to the petitioner's bona fide in filing this Public Interest Litigation. We do not find any public interest involved in this Public Interest Litigation, which is accordingly dismissed.