
(2011) 03 JH CK 0086
In the Jharkhand High Court
Case No : Writ Petition (S) No. 4672 of 2009

Bahamani Tuti

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 29-03-2011

Acts Referred:

Citation : (2011) 03 JH CK 0086

Hon'ble Judges : Sushil Harkauli, J

Bench : Single Bench

Judgement

Sushil Harkauli, J.—The Annexure-B to the counter affidavit of Respondent No. 2 is a set of service rules framed under Proviso of 309 of the Constitution of India which is dated 08.07.1993 when the State of Bihar and Jharkhand were united. No order of the Government or of the Director of Education can override these Rules which will apply in the State of Jharkhand under the Re-organisation Act.

2. In the circumstances, prima facie the appointment of the teacher of Basanti Kongari to the post of principal was not permissible, as she was not eligible for that post.

3. Finding her ineligible, she has been reverted back to her basic post of teacher in the college. Consequently, the Petitioner, who was appointed in the vacancy caused on the post of teacher due to the promotion of Smt. Basanti Kongari to the post of principal, has been ordered to be removed.

4. The counter affidavit of the Committee of Management of the college has informed that in the mean time another vacancy has arisen because of retirement of another teacher namely Saloni Soy.

5. A recommendation has been made by the management to the D.S.E. for granting approval to the appointment of the Petitioner against the vacancy which is available now due to such retirement.

6. Considering the fact that the appointment order of the Petitioner did not

mention that it was an ad-hoc appointment on an ad-hoc vacancy created on an ad-hoc promotion to the post of principal, it appears to be necessary in order to adjust equities that the District Superintendent of Education, district-Khunti, should examine the request made by the management, for grant or refusal of his approval with reasons, within a period of two weeks from the date on which a certified copy of this order is presented before him either by the management or by the Petitioner. The result of such consideration will be intimated by the D.S.E., Khunti to this Court by means of a supplementary counter affidavit within a week of the taking of such decision.