

(2004) 01 JH CK 0032

In the Jharkhand High Court

Case No : LPA No's. 548, 552 and 553 of 2002

Bharat Coking Coal Ltd. and Others

APPELLANT

Vs

Ram Prakash Singh and Others, Amrendra Kumar Mishra and
Others and Umesh Jha and Another

RESPONDENT

Date of Decision : 21-01-2004

Acts Referred:

Companies Act, 1956 — Section 617

Constitution of India, 1950 — Article 12, 162, 166, 21, 21A

Citation : (2005) 1 JCR 529

Hon'ble Judges : P.K. Balasubramanyan, C.J; Tapen Sen, J

Bench : Division Bench

Advocate : A.K. Mehta and Rajiv Anand, for the Appellant; Rajiv Ranjan, Abhay Kumar Mishra, Shashi Kant, Jawahar Prasad, Manoj Kumar Mishra, P.K. Sinha and A.K. Sahani, for the Respondent

Final Decision : Allowed

Judgement

Tapen Sen, J.—All the three appeals relate to a common Judgment delivered on 10th September, 2002 by a learned Single Judge of this Court whereby and whereunder he was pleased to hold that the pay scale which was given to the clerks of the appellants should also be given to the respondents herein (i.e., the petitioners of the Writ Applications) and other teachers of the concerned schools with effect from the date of the judgment together with all consequential benefits such as Provident Fund etc, A further direction was made to the effect that the Appellants herein must implement the said Judgment within two months from the date of production thereof. However, in so far as the prayer made to the effect that the State of Jharkhand should take over the Ram Kanali School is concerned, the learned single Judge did not pass any order.

2. In CWJC No. 226 of 2000 (R) [subject matter of L.P.A. No. 548 of 2002], the petitioners therein, namely Ram Prakash Singh and others, prayed for an order/writ/

direction upon the appellants herein to fix their pay scale at par with the pay of Government Secondary School Teachers or at par with the Grade-I and Grade-II clerks of the appellants herein. They also made a prayer that the facilities such as Provident Fund, Gratuity, retirement benefits including pension should also be made available to them. A further prayer was made that the State should be directed to take over the management of Ram Kanali Middle-cum-High School under the provisions of the Bihar Secondary Board (Second Amendment) Act, 1980.

3. In CWJC No. 321 of 1999 (R) [Subject matter of L.P.A No. 552 of 2002], the petitioners therein prayed for similar reliefs and also made a prayer that the agreement dated 04.05.1981 entered into between the appellants and the Rashtriya Colliery Mazdoor Sangh be ordered to be implemented. That agreement was contained in Annexure -9 appended to the said Writ Application and it read as follows :

"RCMS representatives indicated that salary of teachers of Primary Schools run through Managing Committee is lower than the teachers of State Government. This needs consideration by the management of BCCL. It was agreed that with regard to such existing schools to which grants are already being given by BCCL., the grants would be suitably enhanced to enable the Managing Committee of these schools to pay existing teachers same salary as being paid to teachers under Education Deptt. Govt. of Bihar."

4. In C.W.J.C. No. 2600 of 2000 (R) (Subject matter of LPA No. 553 of 2002], the sole petitioner, namely Umesh Jha prayed for regular pay scale with all consequential benefits at par with other permanent employees of the appellants following the doctrine of "Equal pay for equal work" and also, to pay arrears of salary since April, 1999 to March, 2000 out of the funds released against Grant-in-Aid.

5. In LPA No. 548 of 2002 the Appellants filed a counter affidavit wherein they specifically stated that the Ram Kanali Middle-cum-High School is not owned by the Appellants and as a matter of fact, no school is owned by them. They also stated that the school in question was initially run by a Managing Committee and the petitioners might have been appointed by the said Managing Committee. It was categorically stated that the petitioners were never appointed by the appellants and therefore they (i.e., appellants) could not be said to be the employers of the writ petitioners, rather the employer is the Managing Committee. It was further stated that no document whatsoever was filed by the writ petitioners to show that they had been appointed by the appellants. It was further stated that the appellants owned different coal mines in the district of Dhanbad and Bokaro and depending upon their financial position, non-recurring grants to the privately managed schools used to be released on the recommendations of the Welfare Committee but such release was always subject to certain conditions. It was further stated that by merely providing such non-recurring grants-in-aid, these schools did not become the schools of the

appellants and consequently any teacher or employee working in such privately managed schools could not be said to become the employees of the appellants herein thereby entitling themselves to receive benefits as available to regular employees of BCCL.

6. The appellants had also stated that BCCL had nothing to do in the running of these private schools except to see that the grants-in-aid given by them was not misutilized. It was also further stated that at present, there was no Managing Committee of Ram Kanali School and, therefore, the grants-in-aid had been stopped. It was also the case of, the appellants that the appointment letter of Nandji Yadav, Head Master was issued by the President of Ram Kanali Colliery High School Managing Committee and not by the appellants herein. The appellants also stated that if any claim was maintainable, the same would lie against the State Government and not against the appellants.

7. In CWJC No. 321 of 1999 (R) [LPA No. 552 of 2002] these appellants filed a Counter Affidavit specifically pleading that the petitioners of that writ application had not been appointed by the appellants as teachers. It was further stated that BCCL does not own any school including the school in question nor did it administer any such school. It was also specifically pleaded that the petitioners were appointed by the Managing Committee and not by the appellants. It was also stated that there was nothing on record to prove or establish that the writ petitioners had been appointed by BCCL. The appellants, in their counter affidavit, also contended that it extends non-recurring as well as recurring grants to the privately managed schools on the recommendations of the Welfare Committee constituted under it subject to conditions. It was further submitted that the mere act of providing of such grants does not make the schools as if they are owned and administered by BCCL, and hence, the petitioners who were not the employees of the appellants, cannot be said to be entitled to receive the same benefits which are made available to regular employees of the appellants. It was also submitted that except release of grants-in-aid, BCCL had no control in the administration of the schools as the schools were not owned by the appellants.

8. These appellants also contended that in the absence of employer-employee relationship, the respondents herein (i.e., the petitioners of the writ applications) were not entitled to any relief from the appellants and a specific denial was made against the statements made by the writ petitioners to the effect that they had been appointed by the appellants and/or that the school in question was a school of belonging to the appellant. It was also denied that salary was being paid by BCCL. At paragraph-25 of the Counter Affidavit, in that writ application, these appellants had stated that "that not a single school is owned, administered and run" by the appellants and that "the Managing Committees were formed only to see that the grants-in-aid released by M/s BCCL is properly utilized."

9. As regards the record note of discussions, it was stated in paragraph-28 of the counter affidavit that "during course of discussions, it was appreciated that the

teachers of privately managed school are paid at a very low rates and by enhancing the grant-in-aid, some assistance can be given to the teachers working in the private schools." It was also stated that "what wages are paid to the teachers of privately managed schools was not their concern as the employees are not the employees of M/s. BCCL." It was further stated that "employees of M/s. BCCL are governed by National Coal Wage Agreement and are paid wages as per the said agreement."

10. In CWJC No. 2600 of 2000 (R) [LPA No. 553 of 2002], these appellants filed a Counter Affidavit wherein they stated that they had never appointed any of the petitioners as teachers and that all these teachers had been appointed by the Secretary of the Managing Committee of the School. They also stated that the Primary School, Alkusa which was subject matter of that writ application was run by the Managing Committee and that M/s BCCL merely gave grants-in-aid as a welfare measure but there was no scope for deeming that grants created a relationship of employer-employee between the writ petitioners and the appellants herein and therefore, there was no question of giving regular pay scale and other consequential benefits to the writ petitioners at par with regular employees of the appellants. They also stated in the Counter Affidavit that only in order to ensure proper utilization of the grants-in-aid to such schools, the management of M/s. BCCL had intended the induction of an official of the appellants so as to ensure that the benefit of grants-in-aid is actually accounted for and such inclusion of an official in the Managing Committee is for a limited purpose but the same cannot mean that the school is under the management of M/s BCCL. At paragraph-15 of the Counter Affidavit, these appellants specifically pleaded that they had never inducted any teacher at any point of time. They stated thus :

"15. That I say as a matter of fact the respondent never even inducted any teacher in the employment of such school in question at any point of time."

11. It was further stated by these Appellants that they had nothing to do with the running and functioning of such privately managed schools except ensuring that the grants-in-aid were properly utilized.

"Ere at this stage, it would be relevant to mention that even from the documents brought on record in these appeals which were part of writ applications, we have also not found any document to establish the claim of the writ petitioners to the effect that they were appointed by the appellants.

12. By reason of the impugned Judgment, the learned Single Judge at paragraph-14 held that even if "the Management of the School Committee is not itself BCCL" even then, "since through these Schools public interest of the State, i.e., BCCL is served, then BCCL is bound to implement" the constitutional mandate as guaranteed by Article 39(d) of the Constitution. It would, therefore, be relevant to quote in verbatim the aforementioned paragraph-14 of the said Judgment of the learned Single Judge :

"14. But the fact is that the schools were opened, after opening of mines, for the welfare of the wards of the employees of the mines. Some schools were functional, such as Ram Kanali Middle School, even prior to the date of the mines being operational in that area. So, these schools were practically aided for the benefit of the wards of the employees of the BCCL and, therefore, the employees of these institutions were serving their interests and if the interest of BCCL being a State were being served, it means that the public interest were being served by these employees i.e. the petitioners in the aforesaid form. So even the management of the School Committee is not itself BCCL, but since through these schools the public interest of the State, i.e. BCCL, is served, then the BCCL is bound to implement the mandate as enshrined in Article 39(d) of the Constitution."

After thus having held that "since through these schools, the public interest of the State, i.e., BCCL is served", the learned Single Judge asked a question to himself in the next paragraph as to how such implementation of the mandate under Article 39(d) has to be done. In that context the learned Single Judge, therefore, held that either the teachers have to be paid salary equivalent to the teachers of the schools of Government of Bihar (now Jharkhand) or be paid at par with clerks of the appellants. Thereafter, at paragraph - 16, the learned Single Judge held that BCCL was a "State" and therefore, bound to implement the provisions of the Constitution and were accordingly liable to pay equivalent scale to the teachers of the schools aided by them.

13. There is no dispute at all the BCCL is a subsidiary of Coal India Limited. M/s Coal India Limited has been established as an Apex Company which monitors and supervises and controls all the Subsidiary Companies which have only one object - and that is the mining and selling of coal through accepted infrastructure and it also includes the integrated development of such a venture i.e. the mining and selling of coal. The learned Single Judge, at paragraphs 14 and 16, has equated BCCL as a "State" for purposes of mandating them to perform their obligations as enshrined under Article 39(d) of the Constitution of India. We respectfully do not agree with this reasoning because the appellant is a "State" for a very limited purpose and i.e. for enforcement of Part-III (i.e., the chapter relating to the Fundamental Rights) of the Constitution of India. The Directive Principles of State Policy is concerned with the duties expected to be performed by the State in relation to "Policies" framed by the Government in exercise of its sovereign and/or governmental functions. M/s BCCL is a Company, which, at least, is a mere commercial venture of the Government. Its activities cannot be equated with the conduct or business of the Government of a State. The word "Government" and/or the word "State" implies the existence of a community or group of people occupying a geographical area or territory in which they permanently reside possessing sovereignty and independence of foreign control and a political organization or agency through which the collective will of the people is expressed and enforced. This last element i.e., expression of the will of the people being enforced is generally called a "Government", Reference in this

context may be made to the case of Pashupati Nath Sukul and Others Vs. Nem Chandra Jain and Others, ". Article 166 of the Constitution of India relates to the conduct of business of a Government of the State and it inter alia lays down that all executive actions of the Government of a State shall be expressed to be taken in the name of the Governor. This power under Article 166 has to be read with Article 162 of the Constitution which also lays down that subject to the provisions of the Constitution, the executive powers of the State shall extend to matters with respect to which the Legislature of the State has power to make laws. In other words, the concept of "State" is something totally different from the concept of a "Government Company" which may be an instrumentality making it a "State" for the limited purpose of Article 12 of the Constitution of India but it can never be said that an instrumentality or a business venture of a State is the same as governmental/sovereign functions.

In fact the conduct of business of the Government of a State as provided under Article 166 of the Constitution relates to discharging the functions as a "sovereign" and not in the nature of "commercial" ventures. The position of a Government Undertaking or a Government Corporation has been taken note of by the Hon"ble Supreme Court in the case of Heavy Engineering Mazdoor Union Vs. State of Bihar and Others, wherein the Apex Court at paragraph-4 has held as follows :

"..... The words "under the authority of mean pursuant to the authority, such as where an agent or a servant acts under or pursuant to the authority of his principal or master. Can the respondent--company, therefore, be said to be carrying on its business pursuant to the authority of the Central Government? That obviously cannot be said to a company incorporated under the Companies Act, whose constitution, powers and functions are provided for and regulated by its Memorandum of Association and the Articles of Association. An incorporated company, as is well known, has a separate existence and the law recognizes it as a juristic person separate and distinct from its members. The new personality emerges from the moment of its incorporation and from that date the person subscribing to its Memorandum of Association and others joining it as members are regarded as a body incorporate or a corporation aggregate and the new person begins to function as an entity [cf. Saloman v. Saloman and Co. 1897 AC 22. Its rights and obligations are different from those of its share holders. Action taken against it does not directly affect its share holders. The company in holding its property and carrying on its business is not the agent of its share holders. An infringement of its right does not give a cause of action to its share holders. Consequently, it has been said that if a man trusts a corporation he trusts that legal persona and must look to its assets for payment; he can call upon the individual share holders to contribute only if the Act or charter creating the corporation so provides. The liability of an individual member is not increased by the fact that he is the sole person beneficially interested in the property of the corporation and that the other members have become members merely for the purpose of enabling the corporation to become incorporated and posses only a

nominal interest in its property or hold it in trust for him [cf. Halsbury's Laws of England, 3rd Ed. Vol. 9 p. 9). Such a company even possesses the nationality of the country under the laws of which it is incorporated, irrespective of the nationality of its members and does not cease to have that nationality even if in times of war it falls under enemy control. (cf. *Janson v. Driefontain Consolidated Mines* 1902 AC 484 and *Kuenig v. Donnersmarck* 1955 1 QB 515. The company so incorporated derives its powers and functions from and by virtue of its Memorandum of Association and its Articles of Association. Therefore, the mere fact that the entire share capital of the respondent company was contributed by the Central Government and the fact that all its shares are held by the President and certain officers of the Central Government does not make any difference. The company and the share holders being, as aforesaid, distinct entitles the fact that the President of India and certain officers hold all its shares does not make the company an agent either of the President or the Central Government. A notice to the President of India and the said officers of the Central Government, who hold between them all the shares of the company would not be a notice to the company; nor can a suit maintainable by and in the name of the company be sustained by or in the name of the President and the said officers.

It is true that besides the Central Government having contributed the entire share capital, extensive powers are conferred on it, including the power to give directions as to how the company should function, the power to appoint director and even the power to determine the wages and salaries payable by the company to its employees. But these powers are derived from the company's Memorandum of Association and not by reason of the company being the agent of the Central Government. The question whether a corporation is an agent of the State must depend on the facts of each case. Where a statute setting up a corporation so provides, such a corporation can easily be identified as the agent of the State as in *Graham v. Public Works Commissioners* 1901 2 KB 781 where Phillimore, J. said that the Crown does in certain cases establish with the consent of the Parliament certain officials or bodies who are to be treated as agents of the Crown even though they have the power of contracting, as principals. In the absence of a statutory provision, however, a commercial corporation acting on its own behalf even though it is controlled wholly or partially by a Government department, will be ordinarily presumed not to be a servant or agent of the State. The fact that a minister appoints the members or directors of a corporation and he is entitled to call for information, to give directions which are binding on the directors and to supervise over the conduct of the business of the corporation does not render the corporation an agent of the Government. [see *The State Trading Corporation of India Ltd. and Others Vs. The Commercial Tax Officer, Visakhapatnam and Others*, per Shah, J. and *Tamlin v. Hannaford* 1950 1 KB 25. Such an inference that the corporation is the agent of the Government may be drawn where it is performing in substance governmental and not commercial functions [Cf *London County Territorial and Auxiliary Force Association v. Nichols* 1948 2 All ER 4321. (underlining made is of this Court).

14. In the case of "Anupam Food Pvt. Ltd. v. The State of Bihar and Ors." reported in 2002(2) JLJR 571, one of us, following the aforementioned Judgment referred to above, held the BICICO is a mere Government Company which may be an instrumentality of the State for a limited purpose under Article 12 of the Constitution but such an instrumentality or a business venture cannot be equated with government/sovereign function of the State.

15. For the foregoing reasons, therefore, we have no hesitation in holding that there is an intrinsic fallacy in the reasoning given and the approach made by the learned Single Judge Holding that BCCL is a State and therefore bound to implement the duties which the State should have performed. In coming to this conclusion, the learned Single Judge perhaps could not draw the subtle line of distinction between the meaning of the word "State" when referred to in the context of an "instrumentality" and in the context where it exercise sovereign/governmental functions. Consequently, the mandate of Article 39(d) of the Constitution of India, albeit directory in nature, could not have been applied to the facts and circumstances of these case. Moreover, there is absolutely nothing on record to prove or establish the existence of employer - employee relationship between the Petitioners and the Appellants.

16. As we have already noticed earlier, M/s. BCCL is a subsidiary of the Coal India Limited and a Government Company within the meaning of Section 617 of the Companies Act. Its predominant object is to raise coal and to sell coal. Imparting of education is not its predominant object. It is governed by Labour Laws and other enactments relating to Industrial matters such as Industrial Disputes Act, Factories Act and so on and so forth.

17. To that extent, therefore, the prayer made in one of the Writ Applications that the appellants should be mandated to act in terms of the Bihar Non Government Secondary School (Taking over of Management and Control) Act, 1980, in the opinion of this Court, is hopelessly misconceived. In this context, it is relevant to mention that one of us had the occasion to deal with a matter relating to the teachers of the Indian Copper Complex managed school, Mosabani Mines, Mosabani. In those cases, the teachers were informed that their services were no longer required by the management and the management decided to abolish the posts and to release them from their services. In those cases, the teacher Petitioners had also made a prayer that the State should be directed to take over the school and that they should be allowed the benefits under the voluntary retirement scheme treating them to be their employees.

Dealing with the issues in those cases, it was held at paragraphs 29, 30 and 31 as follows :

"29. Now, the question therefore, that falls for consideration before this Court is as to whether the Teacher-Petitioners are entitled to for issuance of a Writ directing the Management of Hindustan Copper Limited, Indian Copper Complex, Ghatshila to rescind and/or cancel the order dated 30.05.2001, take back/

reinstate the Teacher - Petitioner in service and continue to either run the Schools themselves or allow them to hand over their schools to the State Government?

30. In order to find answer to the aforementioned questions, one has to take into consideration the pleadings and the law pleaded and involved in these cases. One thing that stands out very loud and clear and which cannot be a subject matter of doubt is that the dominant object of M/s. Hindustan Copper Limited is mining of copper and engaging itself in activities which are incidental and ancillary to the extraction and excavation of copper. Education is definitely not its dominant object and the subject "education" cannot be said that it is incidental or ancillary to the extraction and excavation of copper. The law which governs the Management of Hindustan Copper Limited are the Labour Laws including the Industrial Disputes Act and in relation to their application for closure, the appropriate authority under the Government of India, Ministry of Labour, by Annexure "B" granted them permission for such closure of the Industrial establishment at Mosabani Mine with effect from 01.12.1997. That being the position, an activity which is alien to the dominant object of the Company cannot be enforced to be carried on in perpetuity even if such a field of activity related to educating the wards of the employees of the Management because, such an education or an activity or an educational activity cannot be said to an industrial process with which the Company is exclusively and solely concerned with. It was very noble on the part of the Management to initiate steps for educational advancement of the wards of the employees, but such a noble object cannot be stretched to a limit of making it or deeming, it to be an integral part of the dominant object. In this context, the Judgment of the Hon'ble Supreme Court of India in the case of Bharat Barrel and Drum Mfg. Co. Private Ltd. Vs. Govind Gopal Waghmare and Another, is worth referring to. At paragraph 6 of the said judgment, the Hon'ble Supreme Court of India has inter alia observed as follows :

"Education seeks to build up the personality of the pupil by assisting his physical, intellectual, oral and emotional development. To speak of this educational process in terms of industry sounds so completely incongruous that one is not surprised that the Act has deliberately so defined workmen u/s 2(s) as to exclude teachers from its scope. Hence, it is clear that any problem connected with teachers and their salaries are outside the purview of the Act, and since the teachers from the sole class of employees with whose cooperation education is imparted by educational institutions, their exclusion from the purview of the Act necessarily corroborates the conclusion that education itself is not within its scope."

31. In that view of the matter, all the arguments of the learned counsel for the petitioners must fail because for the primary reason that the process of imparting education can never be said to be an industrial process nor can it be said to be an integral part of the dominant object of the Company and therefore a writ of Mandamus cannot be issued enforcing the Management to continue with an

activity which is not included in its objects and functions-education being neither a mining activity nor an industrial process. Therefore, the judgments cited by the learned counsel for the Petitioners cannot come to their rescue."

[emphasis/underlining by this Court]

18. It was also held in those cases that the teacher--Petitioners of those schools not being employees of the Management, cannot be deemed to be employees of the Management. The prayer in relation to issuance of writ of mandamus to the State to take over the school was also rejected. The relevant portion of paragraph-35 of the aforementioned Judgment is also therefore relevant to be quoted.

".....the learned counsel for the petitioners have also submitted that education is not only a part of the Directive Principles of State Policy, but by reason of the 86th amendment to the Constitution by the amendment Act of 2002. "Article 21-A" has now been inserted making the right to education a fundamental right. Article 21-A casts a mandate upon the State to provide free and compulsory education to all children of the age of 6 - 14 years in such manner as the State may, by law, determine. In the instant case, the State has finally come out with a specific plea that they have taken a decision not to take over the schools, but they would ensure the admission of the students in other Government Schools within the area. To that extent therefore, in this case, it cannot be said that the State has failed in ensuring the mandate of Article 21-A of the Constitution of India or of the Directive Principles of State Policy. It is well known that a writ of Mandamus cannot be issued directing the Government to take over a School or to open a school. Reference for the aforesaid proposition may be had from the judgment of a Full Bench of the Patna High Court in the case of Sri Sidheshwar Prasad and Ors. v. The State (etc.) reported in (1999) 3 PLJR 490 and a judgment of a Single Judge of the Patna High Court in the case of Ramnath Rani and Ors. v. The State (etc.) reported in 1995 (1) PLJR 359. To that extent therefore and taking into consideration the stand of the Government, a writ of mandamus cannot be issued upon the Government of Jharkhand to take over the Schools, save and except to record a sincere desire of this Court that they may reconsider the matter."

19. Article 21-A of the Constitution of India casts a mandate upon the State to provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by Law, determine. In other words, the aforementioned provision which has recently been inserted by the Constitution (86th Amendment) Act, 2002 is dependent upon the State's governmental functions and casts a mandate upon them to regulate the imparting of compulsory education free of cost and such regulation is to be done on the basis of legislation to be made by it. The language used in this newly inserted provision clearly points to the fact that such an act is to be performed by the State exercising legislative/governmental/sovereign functions. It cannot be stretched to mean that an "instrumentality" is bound to give effect to the

dominant object under lying Article 21-A of the Constitution of India because it does not perform legislative/governmental/sovereign functions. It concerns itself ONLY within the peripheries carved out by its own Memorandum and Articles of Association and deals exclusively in giving effect to its own objects so carved out therein. It has no authority to overstep and travel beyond such an encompassed periphery and confer upon itself the task of governance of a state/nation.

20. For the reasons stated aforesaid, we are of the opinion that no writ of mandamus could have been issued directing BCCL to "implement the mandate as enshrined in Article 39(d) of the Constitution" because Article 39(d) is a part of the Directive Principles of State Policy which a State exercising governmental/sovereign functions is required to observe and follow. BCCL has nothing to do with this.

21. We also hold that there being no element of employer- employee relationship between the Writ Petitioners and the Appellants, no writ of mandamus could have been issued upon M/s BCCL directing them to give the same pay scale as are given to the clerks of BCCL together with all consequential benefits as ordered in paragraph-17 of the impugned Judgment.

22. We also hold that the impugned Judgment of the learned Single Judge equating BCCL with the State for purposes of ensuring the implementation of Directive Principles of State Policy was totally erroneous because BCCL, as has been already held, is a mere commercial venture of the State and has nothing to do with State/sovereign functions.

For the reasons stated aforesaid, all these appeals must succeed and they are, accordingly allowed to do so. Consequently, the judgment of the learned Single Judge delivered on 10.09.2002 passed in CWJC No. 2226 of 2000 (R), CWJC No. 321 of 1999 (R) and CWJC No. 2600 of 2000 (R) is hereby set aside and the Writ Petitions are consequently dismissed. There shall however be no order as to costs.