
(2014) 10 RAJ CK 0143

In the Rajasthan High Court

Case No : Civil Writ Petition Nos. 6289, 3818/2014, 8575/2012, 1714/2013, 3132/2013 and 3133/2013

Bhartiya Lok Kala Mandal

APPELLANT

Vs

Jai Prakash Vyas

RESPONDENT

Date of Decision : 07-10-2014

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2014) 10 RAJ CK 0143

Hon'ble Judges : Dr. Vineet Kothari, J

Bench : Single Bench

Advocate : Sajjan Singh, Advocate for the Appellant; Pramendra Bohra, Radheshyam Mankad, Tribhuvan Gupta, Kuldeep Mathur, Trilok Joshi and Ravindra Paliwal, Advocate for the Respondent

Judgement

Dr. Vineet Kothari, J.—The present writ petitions have been filed by the Bhartiya Lok Kala Mandal, Udaipur, a Society registered under the Societies Registration Act, against the impugned orders Annexure-1 dated 19.06.2014 passed by the Rajasthan Non-Government Educational Institutions Tribunal, Jaipur by which, the application under Section 21 of the Rajasthan Non-Government Educational Institutions Act, 1989 ("the Act of 1989") and the Rules of 1993 filed by the respective applicant (respondent herein) Jai Prakash Vyas namely, Application No. 279/2011 came to be allowed, whereby the learned Tribunal quashed the impugned orders passed by the petitioner Mandal on 07.10.2011 prematurely retiring the applicant Jai Prakash Vyas from the post of Lok Kala Trainer. The facts are illustratively taken from S.B. Civil Writ Petition No. 6289/2014 Bhartiya Lok Kala Mandal & Anr. Vs. Jai Prakash Vyas & Ors.

2. The learned counsel for the petitioner Mandal Mr. Sajjan Singh Rajpurohit urged the common issue involved in all these writ petitions that the said Tribunal constituted under Section 22 of the Act of 1989 did not have the jurisdiction to deal with the service matter of the applicant since the petitioner Bhartiya Lok

Kala Mandal was neither a "Non-Government Educational Institution" as defined in Section 2(p) of the Act of 1989 nor a "Recognised Institution" as defined in Section 2(q) of the Act of 1989 and, therefore, the said Tribunal has erred in rejecting the preliminary objection of the petitioner raised about the jurisdiction of the said Tribunal before it by the impugned order and, therefore, the issue of jurisdiction of the said Tribunal deserves to be examined by this Court and the impugned order deserves to be quashed and set aside by this Court by exercising the jurisdiction under Article 226/ 227 of the Constitution of India.

3. On the other hand, the learned counsel for the respondent, Mr. Pramendra Bohra supported the impugned order dated Annexure-1 dated 19.06.2014 passed by the Rajasthan Non-Government Educational Institutions Tribunal, Jaipur and he also submitted that from the facts as stated in the impugned order, it is clear that there was no application of the applicant Jai Prakash Vyas seeking voluntary retirement from the services of the petitioner and the respondent Jai Prakash Vyas was forcibly retired from the services by the present petitioner at the age of 57 years, whereas the retirement age in the petitioner Mandal was 58 years at the relevant point of time.

4. Having heard the learned counsels for the parties and having perused the record of the case including the impugned order Annexure-1 dated 19.06.2014 of the learned Tribunal, it cannot be said that the Tribunal lacked the jurisdiction in any manner. The definition of the "Non-Government Educational Institutions" as defined in Section 2(p) and (q), which are quoted herein below, are wide enough to cover the petitioner Mandal which is Society registered under the provisions of Indian Registration of Societies Act, 1860. Section 2(p) and (q) of the Rajasthan Non-Government Educational Institutions Act, 1989 are as under:-

2. Definitions-In this Act, unless the context otherwise requires,-

(p) "non-Government educational institution" means any college, school, training or any other institution, by whatever name designated or preparing or training students for obtaining any certification, degree, diploma or any academic distinction recognised by the State or Central Government or functioning for the educational, cultural or physical development of the people in the State and which is neither owned nor managed by the State or Central Government or by any University or local authority or other authority owned or controlled by the State or Central Government;

(q) "recognised institution" means a non-Government educational institution affiliated to any University or recognised by the Board, Director of Education or any officer authorised by the State Government or the Director of Education in this behalf;

5. A bare perusal of the said definitions aforementioned makes it clear that even if the petitioner Mandal does not impart any formal education and does not award any degree or diploma and is not controlled or managed by the Department of Education of the State Government, the words "preparing or

training students for obtaining any certificate, degree, diploma or any academic distinction recognised by the State or Central Government" or "functioning for the educational, cultural or physical development of the people in the State" are wide enough to cover the entire spectrum of the activities of the petitioner Mandal which is undoubtedly run with the grant-in-aid provided by the State Government. The fact that the petitioner Mandal is wholly funded by the State Government is not disputed by the learned counsel for the petitioner. The fact that the administrative control of the petitioner Mandal is with the Art and Culture Department of the State Government and not with the Education Department, therefore, does not make any difference between "Non-Government Educational Institution" or "Recognised Institution".

6. The aforementioned definitions clearly provide that a non-Government educational institution would be a institution which does not impart education but prepares or trains the students for obtaining any type of certificate or degree etc. from the recognised institutions or function for the educational, cultural or physical development would be governed by the "Non-Government Educational Institutions" as defined in Section 2(p) of the Act of 1989. It is also not disputed that the petitioner Mandal is funded by the State Government and the financial aid is also provided by the State Government, therefore, the petitioner Mandal is not entitled to raise the question of jurisdiction of the said Tribunal which is constituted under the provisions of the Act of 1989. The autonomy conferred on the petitioner Mandal in functioning for the educational, cultural and physical development of the people in the State with the State aid does not entitle them to question the jurisdiction of the Tribunal which has been constituted by the State Government under a statute and which provides for a remedial forum for the employees of such societies or institutions like the present petitioner, just for the heck of it.

7. Such academic questions even if they were to be taken up by this Court under Article 226 of the Constitution of India, throw a poor light on the working of the petitioner Mandal which seeks to challenge the order of the competent Tribunal given on the merits of the case just on the flimsy reasons like the aforesaid. On a court question, the learned counsel for the petitioner Mr. Sajjan Singh, of course, fairly submitted that as an alternative the respondent could approach the Industrial Tribunal or Civil Court for redressal of his grievances. In the considered opinion of this Court, the said contention of the learned counsel for the petitioner about the jurisdiction of the alternative forums like the Industrial Tribunal or Civil Court need not to be decided because the Non-Government Educational Institutions Tribunal constituted under Section 22 of the Act of 1989 has complete and full jurisdiction to decide the service matters against the present petitioner Mandal also and there is no conflict between the clauses (p) and (q) of Section 2 of the Act of 1989 and, therefore, the question of jurisdiction has rightly been decided by the said Tribunal against the petitioner Mandal and in favour of the respondent employee namely, Jai Prakash Vyas.

8. So far as merits of the cases are concerned, the findings of fact arrived at by the learned Tribunal that the applicant Jai Prakash Vyas was prematurely and compulsorily retired from the services of the petitioner Mandal also do not require any interference under Article 226 of the Constitution of India in the present writ petition. The writ petitions are, thus, devoid of merit and are liable to be dismissed as such.

9. Accordingly and in view of the above, the present writ petitions are dismissed. No order as to costs. A copy of this order be sent to the parties concerned forthwith.