
(1998) 01 PAT CK 0024

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 7963 of 1997

Bihar Minority Secondary Teacher's Association Unit

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 06-01-1998

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 32

Citation : (1998) 1 BLJR 725

Hon'ble Judges : R.M. Prasad, J

Bench : Single Bench

Judgement

R.M. Prasad, J.—This Writ Petition has been filed by the Bihar Minority Secondary Teachers' Association Unit, Gopalganj. through its Secretary seeking direction to the respondents to make full payment of salary on monthly basis from Treasury to the teaching and non-teaching staff of Minority Secondary Schools and further to pay difference of salary of 22 months at a time, of Fourth Pay Revision Committee which benefit was given from 1.3.1989. but payment was made from 1.4.1991 and also difference of salary of selection grade and time bound promotion from due date, besides other similar general type of reliefs.

2. The petitioner claims to be a registered Association and has filed this writ petition in the representative capacity.

3. A preliminary objection has been raised on behalf of the respondents which respect to the maintainability of the writ petition at the instance of the Association. It was contended that the petitioner has neither "annexed any document regarding registration nor has even mentioned the registration number of the Association. It was also contended that this writ petition has been filed through the Secretary, but nothing has been mentioned as to whether he is duly authorised to file this writ petition in the representative capacity, Learned Counsel for the State submitted that the petitioner has not even produced the by laws of the Association in order to show that the Secretary can file writ petition on behalf of the Association in the representative capacity and that the decision

in the case shall bind all such teachers.

4. Mr. Singh, learned Counsel appearing for the petitioner, in reply, submitted that in the present case a large body of persons with a common grievance exists and the technical objection raised on behalf of the State has to be overruled in view of the decision of the Apex Court in the case of Akhil Bharatiya Soshit Karamchhari Sangh (Railway) represented by its Assistant General Secretary on behalf of the Association Vs. Union of India (UOI) and Others, .

5. I find substance in the submission of Mr. Singh. This aspect has been considered by the Apex Court in paragraph 63 of the said decision which I consider useful to quote hereunder:

63. A technical point is taken in the counter-affidavit that the 1st petitioner is an unrecognised association and that, therefore, the petition to that extent, is not sustainable. It has to be overruled. Whether the petitioners belong to a recognised union or not, the fact remains that a large body of persons with a common grievance exists and they have approached this Court under Article 32. Our current processual jurisprudence is not of "individualistic" Anglo-Indian mould. It is broad-based and people-oriented and envisions access to justice through "class action". "Public interest litigation", and "representative proceedings". Indeed, little Indians in large numbers seeking remedies in Courts through collective proceedings, instead of being driven to an expensive plurality of litigations, is/are affirmation of participative justice in our democracy. We have no hesitation in holding that the narrow concept of "cause of action" and "person aggrieved" and individual litigation is becoming obsolescent in some jurisdictions. It must fairly be stated that the learned Attorney General has taken no objection to a non-recognised association maintaining the writ petitions.

6. The grievance in the writ petition is against non-payment of full salary on monthly basis from Treasury to the teaching and non-teaching staff of the Minority Secondary Schools and the difference of salary of 22 months at a time, pursuant to the benefit made available to them, as claimed, as per the Fourth Pay Revision Committee recommendation with effect from 1.8.1989.

7. Despite service of notice of the writ petition on the learned Advocate General appearing for the respondents on 30th August, 1997, no counter affidavit has been filed.

8. Vide Annexures 1 and 2 and Annexures 4 to 7. the State Government in the Education Department issued instructions/resolutions with respect to the payment of salary, allowances and other financial benefits of teaching and non teaching staff of the recognised Minority Secondary Schools. Despite the said instructions/resolutions, when such teachers were not paid salary and allowances, they filed a representation before His Excellency the Governor of Bihar on 20.9.1996. However, it appears that when they failed and in some cases salaries were not paid since 1981, they filed the present writ petition, It also appears that earlier the Aided and Minorities Primary Teachers' Association,

Jamshedpur had moved this Court in C.W.J.C. No. 1338 of 1987(R) seeking direction to give them all the benefits that the teachers in Government Primary Schools are getting, and this Court entertained the writ petition and granted relief, vide order dated 30th September, 1988, contained in Annexure 9.

9. There cannot be any dispute that if the teachers of Minority Secondary Schools are entitled for the benefits as claimed by the petitioner in the instant case, as per the Government decision, then the denial of the same so far is arbitrary, illegal and violative of Articles 14 and 16(1) of the Constitution of India.

10. However, in the absence of counter affidavit. I consider it expedient to only issue direction to the Secretary, Secondary and Primary Education, Government of Bihar, Patna and the Director. Secondary Education. Patna (respondents No. 3 and 4 respectively) to examine the grievance of the petitioner and take appropriate step's for release of the fund to pay the dues of all such teachers expeditiously, preferably within four months of the receipt/production of a copy of this order, in accordance with law.

11. The writ petition is, accordingly, disposed of.