

(2010) 09 RAJ CK 0038
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2907 of 1997

Dinesh Kumar Sharma

APPELLANT

Vs

Chambal Ghati Vidyapeeth Society and Others

RESPONDENT

Date of Decision : 30-09-2010

Acts Referred:

Rajasthan Non-Government Educational Institutions Act, 1989 — Section 2(p)

Citation : (2010) 09 RAJ CK 0038

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mohammad Rafiq, J.—This writ petition is directed against judgment dated 22.04.1997 of Rajasthan Non-Government Education Institution Tribunal, Jaipur (for short, "the Tribunal") by which appeal filed by petitioner against order of termination of his services by respondent No. 1 was rejected as being not maintainable.

2. It is contended by learned Counsel for petitioner that learned Tribunal has erred in law in rejecting petitioner's appeal by holding that Ayurvedic compounder/nurse training center run by respondent No. 1 being not controlled by either Director of Education or Director of Ayurved or Director of Technical Education, cannot be treated as Non-Government Educational Institution for the purpose of Rajasthan Non-Government Educational Institutions Act, 1989 (for short, "the Act of 1989"). Learned Counsel submitted that the Tribunal, in doing so, failed to appreciate definition of Non-Government Educational Institutions given in Section 2(p) of the Act of 1989, which includes any college, school training institute or any other institution, by whatever name designated, established and run with the object of imparting education or preparing or training students for obtaining any certificate, degree, diploma or any academic distinction recognized by the State or Central Government. Section 2(q) of the Act of 1989 defines "recognized institution" which means a non-Government

educational institution affiliated to any University or recognized by the Board, Director of Education or any officer authorized by the State Government or the Director of Education in this behalf. The Director of Ayurved Department had recognized the respondent Institution and this Institution was affiliated to University of Rajasthan and, therefore, restrictive interpretation taken by Tribunal is wholly unjust and uncalled for. Even otherwise, learned Counsel for petitioner submitted that Section 18 of the Act of 1989 refers to recognized institution and respondent Institution was very much recognized. Dismissal of appeal as being not maintainable was wholly illegal.

3. Learned Counsel for respondent opposed writ petition and sought to rely on earlier judgment dated 05.06.1996 of the Tribunal in Dr. Vinod Kumar v. State of Rajasthan and Dr. Shambhu Dayal Sharma v. State of Rajasthan, wherein similar view was taken by it. It was argued by learned Counsel that respondent institution was a non-Government educational institution but a training institution which is not controlled by Director of Education or Director of Sanskrit Education or Director of Technical Education; it could not be therefore taken as educational institution for the purpose of entertaining of appeal under provisions of Section 19 of the Act of 1989. No relief now can be granted to petitioner because the institution has been closed down in the year 1997.

4. Upon hearing learned Counsel for parties and perusing material on record, I find that merely because respondent institution was running a training institution, it cannot be said that it was not an educational institution because definition of non-Government education institution given in Section 2(p) covers not only any school/college but also training institute or any other institution, by whatever name designated, established and run with the object of imparting education or preparing or training students for obtaining any certificate, degree, diploma or any academic distinction recognized by the State or Central Government. Even according to definition of Section 2(q) of the Act of 1989, a recognized institution means a non- Government educational institution affiliated to any University or recognized by the Board, Director of Education or any officer authorized by the State Government or the Director of Education in this behalf. If respondent Society was affiliated to University of Rajasthan or was recognized by any officer authorized by State Government, that was sufficient for the purpose of entertaining petitioner's appeal on merits. The Tribunal, in my view, was not justified in rejecting the appeal as not maintainable. Merely because the institution has been closed down in the year 1997, it cannot be a reason for not deciding the matter on merits. Although this fact may be taken into consideration while deciding as to what relief should be ultimately granted to the petitioner.

5. In the result, writ petition is allowed. Impugned order dated 22.04.1997 of the Tribunal is set-aside. Matter is remanded back to the Tribunal for its decision afresh in accordance with merits. Keeping in view that this matter arises out of appeal filed before the Tribunal way back in the year 1997. Tribunal is directed to decide this matter treating it to be an appeal of 1997 and pass final order within

six months from the date copy of this order is received by it.