
(2015) 02 JH CK 0097

In the Jharkhand High Court

Case No : L.P.A. No. 296 of 2014 and I.A. No. 4252 of 2014

Gopi Nath Mahato

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 20-02-2015

Acts Referred:

Citation : (2015) 02 JH CK 0097

Hon'ble Judges : Pramath Patnaik, J.;Dhirubhai Naranbhai Patel, J.

Bench : Division Bench

Advocate : Manoj Tandon, for the Appellant; Shadab Bin Haque, J.C., Advocates for the Respondent

Final Decision : Dismissed

Judgement

Dhirubhai Naranbhai Patel, J.—This Letters Patent Appeal has been preferred against the judgment and order passed by the learned Single Judge in W.P. (S) No. 2747 of 2014 dated 1st July, 2014 whereby the writ petition preferred by this appellant was dismissed and the prayer for continuing this appellant (original petitioner) as Incharge Headmaster of Middle School, Manjhaladih, Nala, Jamtara was rejected.

2. Having heard both sides and looking to the facts and circumstances of the case, we see no reason to entertain this Letters Patent Appeal mainly for the following reasons and facts:-

(i) This appellant is the original writ petitioner in W.P. (S) No. 2747 of 2014 in which grievance was ventilated to the effect that this appellant (original petitioner) was transferred to Middle School, Manjhaladih, Nala, Jamtara, and he was made Incharge of the said School. With effect from 09.06.2004 he continued upto 2014 as Incharge Headmaster and now the School has appointed another person as Incharge Headmaster. Therefore, he filed a petition.

(ii) It appears that this appellant has no legitimate right to continue as Incharge Headmaster as he has been appointed from 09.06.2004 as an Incharge

Headmaster. It has become habit for this appellant to become Incharge Headmaster, but that habit should be added , because this cannot be a ground for appointment at all.

(iii) It further appears that the respondents-State is also not taking any step in the State of Jharkhand for regular appointment of Headmaster of the institution. Time and again it has become habit for the State of Jharkhand to continue the person as head of the institution. We have come across in a several matters of Engineers also that Incharge Heads are continued in several institutions. This case is not exception to this general habit of the State.

(iv) It further appears from the facts of the case that this appellant is a Grade-III, whereas, the person appointed as Incharge Headmaster of the School, namely, Girja Nand Mahto is in Grade-IV. Grade-IV is superior than Grade-III. This is a vital difference between this appellant and Girja Nand Mahto who has been made Incharge Headmaster of the School.

(v) It further appears that necessary party has not been joined as a respondent. Girja Nand Mahto is appointed as Incharge Headmaster in the year 2014. The appellant (original petitioner) is praying in the writ petition that he should be continued as Incharge Headmaster and Girja Nand Mahto should be removed as Incharge Headmaster of the School. It ought to have been kept in mind by this appellant that he should have joined Sri Girja Nand Mahto as a necessary party respondent. This is a major defect in filing of the writ petition.

(vi) Counsel for the appellant has submitted that he was appointed on 25.04.1980 in the School, whereas, Girja Nand Mahto was appointed in the year 1988 and, therefore, he is senior to said Sri Girja Nand Mahto. We are not accepting this contention mainly for the reason that there may be difference in the date of joining, but when Incharge Headmaster post is to be given, it was given to Girja Nand Mahto, who was in a Grade-IV at the relevant time, whereas, this appellant (original petitioner) was in Grade-III in the year 2014 when Girja Nand Mahto was given post of Incharge Headmaster. Moreover, in the absence of Girja Nand Mahto as a respondent, it is very difficult to controvert the fact as stated by the counsel for the appellant for the said party. He ought to have been joined as a party respondent to give reply to all the allegations levelled by this appellant. In fact, the whole petition is preferred against Girja Nand Mahto and he has not been joined as a party-respondent in the writ petition.

(vii) Counsel for the appellant (original petitioner) submitted that he has also preferred I.A. No. 4252 of 2014 in this Letters Patent Appeal to join Girja Nand Mahto as a party-respondent. We are also not accepting this contention mainly for the reason that in Letters Patent Appeal, we are not allowing now a necessary party to be joined because he was not given any opportunity to give reply of the allegation levelled by this appellant (original petitioner) in the writ petition preferred by this appellant.

(viii) It is now high time for the State of Jharkhand not to continue the Incharge

Headmaster for a longer time. There is a limit for such type of lethargic approach of the State of Jharkhand. For 10 long years i.e. from 09.06.2004 to 2014 this appellant was continued as Incharge Headmaster. Therefore, we, hereby, request the Chief Secretary of the State of Jharkhand to bring an end this type of methodology of the State to continue several heads of the institutions as Incharge. There is bound to be a regular appointment once the Head of the institution is retired, dismissed or resigned. As this appellant continued for 10 years, it has become habit for him to remain as Headmaster, but as stated herein above, Incharge Headmaster is not a post at all. It is an adhoc arrangement or stop-gap arrangement and nobody can claim as a matter of right that he should be made Incharge Headmaster. All these facts have been properly appreciated by the learned Single Judge and no error has been committed in dismissing the writ petition preferred by this appellant. It is expected from the State that phase-wise step should be taken by the Chief Secretary of the State of Jharkhand to bring an end this type of adhoc arrangement which has been continued in the State sometimes for three years, sometimes for five years and sometimes for one decade.

3. As a cumulative effect of the aforesaid facts and reasons, there is no substance in this Letters Patent Appeal and we uphold the decision of the learned Single Judge in W.P. (S) No. 2747 of 2014 dated 1st July, 2014. This Letters Patent Appeal is dismissed.

4. Registrar General of this Court is directed to send a copy of this order to the Chief Secretary of the State of Jharkhand as well as the Principal Secretary, Human Resources Development Department, State of Jharkhand, Ranchi, initially by fax and thereafter by registered post for taking necessary steps to bring an end of adhocism on such type of posts of the institutions.