
(2011) 08 JH CK 0091

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1998 of 2010

Harilal Rajak

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 19-08-2011

Acts Referred:

Citation : (2011) 08 JH CK 0091

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Judgement

D.N. Patel, J

1. Counsel for the Petitioner submitted that the Petitioner was awarded major punishment as per Bihar State Elementary Teacher (Transfer & Disciplinary Action), Regulations, 2002 for which inquiry ought to have been conducted and opportunity of being heard ought to have been given to the Petitioner and without following this proceeding, major punishment has been imposed by the Respondents and, therefore, the order at annexure-2 dated 27th April, 2006 as well as the order dated 18th May, 2008, which is at Annexure-5 to the memo of petition, should have been quashed.

2. Counsel for the Respondents submitted that a detailed counter affidavit has been filed by one Shri Banke Bihari Singh, son of late Ram Charitra Singh, who is District Superintendent of Education, Bokaro and it has been stated in para. 7 that as per Bihar State Elementary Teacher (Transfer & Disciplinary Action), Regulations, 1994, the punishment inflicted upon the Petitioner is a minor punishment and, therefore, there is No. need to any inquiry to be conducted.

3. It appears that the Regulations upon which the Respondent No. 2 is relying upon is No. more in existence. The Regulations of 1994 have been replaced by the Regulation of 2002. The State Officers ought to have keep in mind the present and correct law while pointing out in counter affidavit. The said Respondent has misguided this Court by citing a Regulation which is No. more in

existence. I, therefore, direct Shri Banke Bihar Singh, D.S.E., Bokaro to personally appear before this Court on the next date of hearing at 10.30 A.M.

4. Counsel for the State will convey this order to Shri Banke Bihari Singh, District Superintendent of Education, Bermo at Tenughat.

5. The Secretary, Human Resources Department, Govt. of Jharkhand, will also take note of the fact that the aforesaid officer has filed an affidavit on behalf of Respondent No. 2 and Respondent No. 2 in the writ petition is the Circle Officer, Bermo at Tenughat. I direct the Secretary to henceforth inform his officers that any counter affidavit being filed in the High Court should be affidavited by the Secretary or the Deputy Secretary. Registry is directed to send a copy of this order to the Secretary, Human Resources Department, Govt. of Jharkhand, Project Bhawan, Ranchi.

6. Matter is adjourned to be listed on 5th September, 2011.