

(1999) 06 SHI CK 0003
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 189 of 1999

Ishwar Dass

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 07-06-1999

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (1999) 3 ShimLC 77

Hon'ble Judges : D. Raju, C.J.; Lokeshwar Singh Pantia, J

Bench : Division Bench

Advocate : Inder Singh and Vijay Thakur, for the Appellant; Sanjay Karol, General, for the Respondent

Final Decision : Dismissed

Judgement

D. Raju, C.J.—CMP No. 371/99 Allowed. CMP No. 189/99.

The above writ petition has been filed by a Member of the State Legislative Assembly said to be representing the Constituency of Anni seeking for a writ to quash the notification dated 15.5.1999 filed as Annexure PA which reads as follows:

NOTIFICATION

The Governor, Himachal Pradesh is pleased to order that the HPPWD Division Nirmand presently under the control of 11th Circle HPPWD Rampur shall now function under the Administrative/Technical Control of 6th Circle HPPWD Kullu with immediate effect in the public interest.

By Order.

2. The grievance of the Petitioner is that being a Member of the Legislative Assembly representing the Constituency in question from 1967 onwards with small breaks in between, till date, he is well aware of the difficulties and problems of his people, that the notification, if given effect to, will have the effect

of distancing the people of the Constituency from the Divisional Office of HP, PWD, Division Nirmand to such a considerable extent causing grave difficulties, inconvenience and in justice the same should be set aside. It is also stated that there was no necessity or public interest involved in passing such an order and that the same has been passed without taking into consideration the topography of the area and the difficulties that may have to be encountered by the citizens of this locality involved in placing the said Division which was hitherto said to have been under the control of 11th Circle of HP, PWD at Rampur Under the Administrative/Technical control of 6th Circle of HP, PWD, at Kullu.

3. Mr. Inder Singh learned Counsel appearing for the Petitioner with his usual persuasiveness, while reiterating the stand taken in the petition filed, strenuously contended that public interest has not been taken into consideration, at all, in passing the order under challenge and that the order appears to have been passed without proper or due application of mind and without any justifying the reasons being also assigned therefor, and consequently the impugned order is liable to be set aside by this Court. Argued the learned Counsel further that every action of the Government is to be subject to Article 14 of the Constitution of India and must also stand the test of reasonableness and the order under challenge cannot be said to be an one satisfying such requirements. The learned Counsel strongly placed reliance upon some of the decisions to which reference will be made here-in-after. The decision reported in *Basudeo Tiwary Vs. Sido Kanhu University and Others*, was rendered in the context of termination of the services of the Petitioner therein on the ground that his appointment was made by an incompetent authority, and, therefore, was invalid and the controversy also centered around, the exercise of statutory powers u/s 35(3) of the Bihar State Universities Act. The decision in *State of Uttar Pradesh Vs. Uttar Pradesh University Colleges Pensioners' Association*, is one rendered in the context of liberalised pension policy and the impact of the same on pensioners. The decision in *State of Punjab and Others Vs. Ram Lubhaya Bagga Etc. Etc.*, was in the context of the change and revision in the policy pertaining to reimbursement of medical expenses of Government employees and pensioners. The observations made by their Lordships of the Apex Court in the context of such claims asserted by the respective Petitioners in those cases which involved rights and privileges secured cannot be taken out of their context in appreciating or adjudging the grievance of the Petitioner in the present case.

4. We have carefully considered submissions of the learned Counsel for the Petitioner. The matter under consideration is purely one within the purview of the State Government depending upon the exigencies of its administration and has nothing to do with any substantial or legally protected rights of any one including that of the writ Petitioner who claims to be a Member of the Legislative Assembly. The question as to under whose control a Divisional Office of the Public Works Department has to be, for the time being, is a purely an internal administrative matter over which Courts exercising jurisdiction under Article 226 of the Constitution of India should not attempt or even endeavour to dictate to

the Government. Being a pure and simpliciter administrative matter pertaining to the day to day internal administration of the Governmental affairs not involving any violation of fundamental rights or any legally protected rights of any citizen, it is futile for the Petitioner to expect the Government to disclose in its order the reasons for their decision (in this case a notification) as if in the case of exercise the quasi-judicial powers or even administrative powers involving or affecting substantial or legally protected rights of a citizen. Hence, the grievance of the alleged non-application of mind or absence of reasons cannot weigh with us to entertain this writ petition. In our view, matters which call for a decision or settlement purely at the level of the authorities in the administrative hierarchy or which at times, may call for a political decision cannot be undertaken for adjudication by Courts exercising jurisdiction under Article 226 of the Constitution of India, since it is not the wisdom alone of such administrative action that falls within the purview of our consideration in a writ petition.

5. For all the reasons stated above, we see no merit in the writ petition nor is there any justification for us to entertain this writ petition. Hence, the writ petition shall stand dismissed.

6. It is stated in the petition, particularly in paragraph 4 that the notification is still on the Government file and it has not been given effect to and the Division is still working at Nirmand as usual and that the Panchayat Samiti concerned at Nirmand has passed Resolution also opposing the same. If that be the position, it is for the Petitioner to approach and pursue his course of action before the Government at all or any level. The dismissal of the writ petition shall not be construed as indicating any opinion on the merits of the claims as such made by the Petitioner.

CMP No. 370/99 : Infructuous.