

(2007) 06 JH CK 0030
In the Jharkhand High Court
Case No : W.P (PIL) No. 5513 of 2005

Jharkhand Bangabhashi Samiti

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 21-06-2007

Acts Referred:

Citation : (2008) 56 BLJR 333 : (2007) 4 JCR 340

Hon'ble Judges : M. Karpaga Vinayagam, C.J; Narendra Nath Tiwari, J

Bench : Division Bench

Advocate : M.K. Laik, S.C-I, for the Appellant; R.M. Singh, for the Respondent

Final Decision : Dismissed

Judgement

Narendra Nath Tiwari, J.—In this writ petition, the petitioner has sought a direction on the respondents to appoint the teachers in primary, middle and high schools who are able to teach different subjects, namely, Physics, Chemistry, Biology etc in Bangla medium and also to direct the State authorities to implement the directives/guidelines issued by the Chief Secretary, Government of Jharkhand dated 21.6.04. The petitioner claims to be a society registered under the Societies Registration Act. It has been stated that in the State of Jharkhand there are about 42% Bangla speaking population and a number of primary, middle and high schools impart education in Bangla medium. A meeting of Chief Ministers of the State and the Central Ministers was held in the year 1961 which was presided over by the Prime Minister. In the said meeting the right of linguistic minorities and its different aspects were discussed in the light of the provisions of Articles 29, 30, 350A and 350B of the Constitution. The right of linguistic minorities to have instructions in their Mother Tongue in the primary stage of education was reaffirmed. Such right flows from Article 350A of the Constitution and the President of India has been empowered to issue necessary direction to any State as he considers necessary for securing the provisions of the said Article. It has been claimed that in the Districts of East Singhbhum, West Singhbhum and Kharsawan, majority of the schools are Bangla medium and

about 75% students are Bangla speaking and are desirous of getting instruction in Bangla medium. Prior to reorganization of the State of Jharkhand, the Bangla medium schools were having requisite number of teachers who were able to teach other subjects in Bangla medium, but after creation of the State of Jharkhand those teachers have been transferred to other schools. As a result of which students are deprived of getting instruction in Bangla medium. The erstwhile Government of Bihar had given freedom to the minority linguistic schools to have instruction in their own language in the light of the Govt. resolution dated 11.10.61 issued by notification dated 13.3.67 (Annexure-1) and the Bangla medium schools were provided teachers who were able to teach the subjects other than Hindi in Bangla medium. The books were also published in Bangla medium for the said purpose. But after creation of the State of Jharkhand, the authorities of the Human Resources Development Department of this State have not taken proper steps for publishing the books in the Bangla medium and to post/appoint for posting/appoint the teachers to teach in Bangla medium in such schools. The petitioners filed representation before the concerned Minister to that regard and in response thereof the Chief Secretary, Government of Jharkhand by letter dated 21.6.04 had directed the respondent Nos. 3 & 4 to ensure supply of books in the Bangla medium and to appoint teachers to teach the students in Bangla medium in such schools. Pursuant to the said direction of the Chief Secretary, the Director, Secondary Education, Government of Jharkhand in turn by his letter dated 1.7.04 had directed all the Regional Deputy Directors and District Education Offices to report compliance of the said directive. The respondent No. 5 had also sought report about the number of the students who are interested to get instruction in Bangla, Urdu and Oriya languages. The respondent No. 5 by his letter dated 17.7.04 had also directed all the Deputy Directors of Education and the District Education Officers to make available the number of schools in which previously teaching was provided in Bangla and Oriya languages and now the same is not provided. The Commissioner-cum-Secretary, Human Resources Development Department, Government of Jharkhand by its letter dated 29.7.04 had directed all the Commissioners, Deputy Commissioners and Officers of the Education Department to take all the possible steps to enable the people to receive instruction in Bangla medium. The authorities had also wanted to know from the concerned schools about the language in which they are willing to Impart instruction i.e. Bangla/Oriya/Urdu. The Head Master of the Bangla School submitted the details of such students. The Human Resources Development Department, Government of Jharkhand requested the Vice Chancellor, Ranchi University to get the books published by the NCERT for class I to IX students translated in Bangla by the Head of the Department of Bangla. It has been stated that although the books were translated, no step has been taken by the respondents for posting/appointment of the teachers who are able to teach the subjects in Bangla medium and the entire purpose of publishing the books in Bangla medium was frustrated.

2. The State-respondents have filed their counter affidavit though the Deputy Secretary, Human Resources Development Department stating, inter alia, that the State of Jharkhand after its reorganization and creation has framed a new rule for the purpose of appointment of teachers in elementary schools, namely, Jharkhand Elementary Teachers' Appointment Rule, 2002. In the said rule, there is no provision for appointment of any linguistic teacher to teach non-linguistic subjects like Mathematics, Social Science and other subjects rather the Government of Jharkhand has created a Scheme under "Sarva Shiksha Abhiyan" and has taken initiatives and steps to promote education in the local Mother Tongue including Bangla. As per the letter issued by the concerned department by Memo No. 2263 dated 31.8.05, all the Divisional Commissioners and Deputy Commissioners of the State have been directed to post a teacher of particular language in such schools where it seems necessary. The said letter also provides for appointment of local people as para teachers in the required ratio of students/teachers. Such local para teachers are helpful in promoting the education in the Mother Tongue in the respective areas including Bangla speaking areas. The provisions have also been made to transfer and posting of the teachers within their home blocks. In the year 2004-05 thousands of books each of seventeen titles of NCERT books were translated into Bangla and distributed among the students of Bangla speaking areas free of cost to promote the Bangla language. Similarly, the books were translated and printed in Oriya language for distributing the same in Oriya speaking areas. The said books were from Class I to VIII. The books were also distributed in the respective areas in 2005-06. For the year 2007-08. The Government has already taken decision to get the NCERT books translated and printed in Bangla, Oriya and Urdu languages so that the books could be made available for distribution well within time. It has been stated that in the most of the Government Primary Schools there are only two sanctioned posts of teachers and it is not possible to identify or reserve a particular post for the linguistic teachers. If the post is reserved for a particular linguistic minority, the people speaking other languages including the Hindi speaking have to suffer. The State Government has taken a policy decision to enforce the CBSE curriculum, as provided by the National Council of Educational Research & Training, in the Government schools throughout the State. By enforcing such syllabus, the object of the Government is to make the students able to compete with the students of other parts of the nation and not to restrict them to a particular regional language which would help the students to bring them in main stream of the society. However, the State Government through the Principal Secretary, Human Resources Development Department, Government of Jharkhand, Ranchi by letter No. 1738 dated 29.7.04 has directed all the Commissioners, Deputy Commissioners, Regional Deputy Directors of Education and District Education Officers to make available the Bangla teachers for teaching Bangla medium students in Secondary Schools. The curriculum for class IX and X has been published by the Directorate of Secondary Education in the year 2003-04 wherein the medium of instruction of all the subjects is stipulated in Hindi except English subject and In all the recognized Secondary Schools, Bangla

language has been prescribed as a subject and certain text books have been prescribed and approved for the said subject. As many as 105 posts of teachers of Bangla language have been sanctioned and earmarked for imparting education in Bangla language in the schools taken over by the Government. However, requisition for appointing 60 Bangla teachers on the vacant posts has been sent to the Jharkhand Public Service Commission, Ranchi by its letter No. 2833 dated 23.11.04 and letter No. 475 dated 16.3.05. Direction has been given to the Secretary, Jharkhand Academic Council for evaluation of the answer books of the students of Bangla medium by Bangla knowing examiners. 5% of the total seats of each Government College have been earmarked for the candidates of Bangla/Oriya/Urdu/Sanskrit/Arbi/Farsi/HO/Mundari/Santhali/Oriya and other regional languages by the Government Resolution No. 2102 dated 28.7.04. On the said premises, it has been contended that no further direction is required by this Court and this writ application is liable to be dismissed.

3. Learned Counsel appearing for the patties made their submissions, repeating and reiterating the facts pleaded by them in their respective affidavits.

4. On careful consideration of the facts, materials on record and the submissions made by learned Counsel for the parties, we find that the statements made in the counter affidavit regarding the steps taken by the Government for appointment of the teachers for providing instruction in Bangla language at different levels by publishing and providing books in Bangla language and other steps taken to that regard by the Government, have not been denied or disputed by the petitioner. The statements made in the counter affidavit are based on the documents which are enclosed as Annexures to the counter affidavit. It is evident from the material placed on record that the State-respondents have taken steps for providing teachers at different levels for imparting education in Bangla language and have also taken steps for translation, publication and distribution of the books in Bangla language for the students who are interested in taking instruction in Bangla language. On the other hand, the statements made in the writ petition are vague and unspecific and the prayer has been made for a direction in a general and sweeping nature. The vagueness of the allegations and the nature of reliefs prayed for fail to convince us to issue the direction, as sought for. Though the petitioner has prayed for an order to appoint and post the teachers in the primary/middle/high schools to teach Physics, Chemistry and Biology in Bangla medium, they have not furnished the particulars of the schools, the number of the students desirous of getting instruction in Bangla language or the number of teachers required to impart instruction in Bangla language in different schools. The petitioner has stated that the students willing to get instruction in Bangla medium are suffering due to non-availability of the required number of teachers in Bangla medium schools. It has been alleged that no steps have been taken for posting/appointment of the teachers to teach in Bangla medium. But the same has been contradicted by the respondents by giving specific statement about the several steps taken to promote education in Bangla language. Circulars have been issued by the Government for posting the

teachers of the language in the schools as and where it is required and the local teachers have been appointed for teaching in Bangla medium in the concerned schools. The provision has been made to transfer the teachers in their respective home-blocks so that they can teach the students in the local language. Thousands of books of NCERT each of seventeen titles have been translated, printed and distributed among the students of Bangla speaking areas free of cost to promote the Bangla language. Stress has also been given to make the students of the State able to compete with the students of main stream at national level. Directives have been issued by the Human Resources Development Department to make available Bangla teachers for teaching all the Bangla medium students by letter No. 1738 dated 29.7.04 as and where it is necessary. Bangla language has been prescribed as a subject and its text books have been prescribed and approved. As many as 105 posts of teachers have been sanctioned and earmarked for imparting education in Bangla language in Secondary Schools. Requisition has been made to the Jharkhand Public Service Commission, Ranchi by letter No. 2833 dated 23.11.04 and letter No. 475 dated 16.3.05 for appointment of 60 more Bangla teachers on the vacant posts. The arrangements have been made for evaluation of the answer books of the students appearing through Bengali medium and 5% of total seats of each Government college have been earmarked for linguistic minority students. The details furnished by the respondents have not been disputed/denied by the petitioner.

5. In view of the said steps taken by the Government, the petitioner's grievance raised in this writ petition is wholly without any basis. We find no surviving public cause in this writ petition warranting interference and issuance of any direction by this Court. This writ petition is, accordingly, dismissed.