

(2024) 05 JH CK 0008

In the Jharkhand High Court

Case No : Writ Petition (C) No. 532 Of 2018

Jharkhand Christian Minority Educational Institutions

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 02-05-2024

Acts Referred:

Constitution Of India, 1950 — Article 30(1), 226

Citation : (2024) 05 JH CK 0008

Hon'ble Judges : Anil Kumar Choudhary, J

Bench : Single Bench

Advocate : Amit Kr. Das, Shubham Mishra, Amit Kumar

Final Decision : Disposed Of

Judgement

Anil Kumar Choudhary, J

1. Heard the parties.

2. This Writ Petition has been filed under Article 226 of the Constitution of India with a prayer to issue of appropriate writ(s), order(s), direction(s) to quash the serial no.18 of the check list of the notification bearing no.125 dated 22.04.2016, a copy of which has been kept at Annexure-3, the relevant page in the annexure of this writ petition is at page no.71 and also to quash the letter no.1656 dated 30.11.2017 (annexure-5) issued by the Director, Primary Education, Government of Jharkhand whereby and where under, the reservation policy has been made applicable to the Government Aided Minority Schools and they have been required to follow the reservation roster for making appointment against the sanctioned posts.

3. The brief fact of the case is that the writ petitioner is an association of Aided and Unaided Christian Minority Educational Institutions throughout the State of Jharkhand and 370 primary aided minority educational institutions and 253 middle aided minority educational institutions are members of the writ petitioner which is a society registered under the Societies Registration Act.

4. It is submitted by the learned counsel for the petitioner that the Hon'ble Supreme Court of India in the case of Sindhi Education Society vs. Chief Secretary, Government of NCT, Delhi reported in (2010) 8 SCC 49 has held that state imposed reservation for SC/ST teachers in Minority school (aided or unaided) is impermissible and the said settled principle of law has been relied upon by a coordinate Bench of this Court in the case of Naveen Praveen Kindo vs. The State of Jharkhand & Ors. in W.P. (S) No.5807 of 2016; wherein the coordinate bench observed that minority schools have right to appoint persons compatible with their institution or culture so that right to conserve their socio economic cultural character is not violated and LPA No. 81 of 2018 preferred against the said Judgment of coordinate Bench in W.P. (S) No.5807 of 2016 has been dismissed as withdrawn.

5. It is next submitted by the learned counsel for the petitioner that a Division Bench of this Court in the case of Fr. Sushil Kujur vs. State of Jharkhand & Ors. reported in 2019 SCC OnLine Jhar 2766 has also followed the said judgment of Hon'ble Supreme Court of India in the case of Sindhi Education Society vs. Chief Secretary, Government of NCT, Delhi (supra) and has also taken note of the fact that the Government of Jharkhand vide letter dated 06.12.2018 bearing no. 1918 advised all the Deputy Commissioners, Regional Deputy Directors of Education, District Education Officers and District Superintendents of Education in the State that earlier circulars in regard to application of reservation policy in the aided or unaided minority school no longer holds force, since the institutions are protected under Article 30 (1) of the Constitution of India. Hence, it is submitted that the prayer as made in this writ petition be allowed.

6. Learned counsel for the State is not in a position to dispute the position of law as rendered by the Hon'ble Supreme Court of India in the case of Sindhi Education Society vs. Chief Secretary, Government of NCT, Delhi (supra) or the advice given in the said letter dated 06.12.2018 bearing no.1918.

7. Having heard the rival submissions made at the bar and considering the aforesaid position of law and the facts as discussed above, this Court is of the considered view that the item no.18 of the check list of the notification bearing no.125 dated 22.04.2016 so far as it relates to verification as to whether the reservation rule has been followed in the appointment as well as the letter no.1656 dated 30.11.2017, a copy of which has been kept at Annexure-5, issued by the Director, Primary Education, Government of Jharkhand whereby and where under, the reservation policy has been made applicable to the Government Aided Minority Schools and they have been required to follow the reservation roster for making appointment against the sanctioned posts are not sustainable in law. Accordingly, the same are quashed and set aside.

8. This writ petition is disposed of accordingly.