

(2006) 03 JH CK 0010

In the Jharkhand High Court

Case No : Writ Petition (S) No. 6430 of 2005

Jharkhand Cristian Minority Educational Institutions
Association

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 22-03-2006

Acts Referred:

Citation : (2006) 2 JCR 378

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : A.K. Das, for the Appellant; M.K. Laik, for the Respondent

Judgement

M.Y. Eqbal, J.—Heard the parties.

2. In this writ petition the petitioner, who is Christian Minority Educational Institution prayed for quashing of the order contained in letter dated 26.7.2005 issued by Joint Secretary, Human Resources Development Department, Government of Jharkhand whereby the concerned authority while sanctioning the arrears of salary due to the teaching and non-teaching employees of Minority Secondary Schools have imposed a ban on appointment on Minority Schools. It appears that a similar condition was imposed by the respondents, vide order dated 21.9.2004. The petitioner challenged the said order by filing W.P.(C) No. 252 of 2005. The writ petition was disposed of on 17.5.2005 by passing the following order.

Heard the parties.

Reference may be made to the order dated 12.5.2005, which reads as under:

This Court by order dated 31.1.2005 directed the State counsel to seek instruction and file counter affidavit but till date no counter affidavit has been filed. The petitioner is pressing its application for interim relief.

The Director, Secondary Education, Human Resources Development Department,

Govt. of Jharkhand, Ranchi and the District Education Officer, Ranchi are directed to appear in person on 17.5.2005 before this Court and file show cause as to why a proceeding for contempt of this Court be not initiated against them and also they shall explain why it shall not be presumed that they are conniving with the petitioner so that the petitioner could be able to get interim order from this Court.

Let a copy of this order be handed over to the learned Counsel appearing for the State.

Pursuant to the said order, the Director, Secondary Education, Human Resources Development Department, Govt. of Jharkhand, Ranchi appeared in person and with the consent of the parties, the following order is passed:

(1) Respondents shall give formal approval to the petitioner for appointment of teachers on the sanctioned vacant post. The formal approval letter shall be issued within ten days from today.

(2) After appointment, the respondents shall make scrutiny and if it is found that the appointment is not accordance with law and if any irregularity is found, then such appointment shall be cancelled.

With the aforesaid reasons, this writ application is disposed of.

3. When the aforesaid direction was not complied with petitioner filed a contempt petition being Contempt ? No. 459 of 2005. The writ petition was disposed of on 2.7.2005 by passing the following order.

Heard the parties.

This proceeding for contempt has been initiated for non-compliance of the order 17.5.2005 passed in WPC No. 252 of 2005. The said order was passed in presence and with the consent of the parties, directing the Director, Secondary Education, Human Resources Development Department, Govt. of Jharkhand to issue formal approval to the petitioner for appointment of teachers on the sanctioned vacant posts with certain conditions. It was further directed that formal approval letter shall be issued within ten days from that date but till date the said order has not been complied with.

In order to avoid any delay I once again direct the respondents-opposite parties to issue formal approval letter within seven days from today failing which this Court shall pass appropriate order or impose exemplary cost besides passing appropriate order of punishment. Let a copy of this order be handed over to the State counsel.

4. Thereafter the letter was issued on 12.7.2005 by the Director (Secondary Education), Jharkhand, Ranchi. Surprisingly, after compliance of the order a similar ban was imposed by issuing another letter dated 26.7.2005 under the signature of Joint Secretary, Human Resource Development Department in utter violation and disregard of this Court's order. The said order has been withdrawn in this writ petition.

5. This Court on the first day of hearing on admission on 9.3.2006 directed the Joint Secretary and other respondents to file counter affidavit and while the condition has been imposed on the said letter in the matter of appointment described by clear cut direction of this Court in the earlier writ petition.

6. The respondents filed three pages counter affidavit and stated in paragraph 3 of the counter affidavit that the Government has re-examined the impugned order and deleted the relevant portion of the said order by which ban on the appointment in the Minority School was imposed. It is, therefore, stated that the writ petition has become infructuous. Paragraphs 3 and 4 of the counter affidavit read as under:

That I say and submit that Human Resources Development Department, Government of Jharkhand, had re-examined the Government orders No. 52 dated 26.7.2005, 35 dated 27.6.2005 and 77 dated 1.8.2005 and deleted the relevant portion of the said Government orders by which ban on the appointment in the minority school was imposed. The said order has been passed through letter No. 715 dated 18.3.2006.

A copy of letter No. 715 dated 18.3.2006 is filed herewith as Annexure "A" to this affidavit.

That in that view of the matter the writ application has become infructuous and no relief can be awarded to the petitioner against the present Respondent.

7. Although not necessary, but I have narrated this fact in order to show that how the different departments, particularly Human Resources Development Department, Government of Jharkhand, take the order of this Court so lightly and how they unnecessary harass the citizen. In the counter affidavit respondents have not even shown courtesy to tender apology and have not stated that due to inadvertence such ban was again imposed despite the order of this Court. This is a very serious matter and if the bureaucrats will not follow the direction of the High Court then no rule of law will prevail in the State. This Court, therefore, warn the respondents to be very careful in future and not to repeat such things and not to take courts order so lightly.

8. Since the condition put in the impugned order has been withdrawn, no further direction will be issued.

9. Let a copy of this order be sent to the Secretary, Human Resources Development Department and the Chief Secretary, Government of Jharkand for needful.