
(2009) 09 RAJ CK 0036
In the Rajasthan High Court

Koyal Bhati

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 11-09-2009

Acts Referred:

Constitution of India, 1950 — Article 226(3)

Citation : (2010) 1 WLN 55

Hon'ble Judges : Prakash Tatia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prakash Tatia, J.—Learned Counsel for the petitioner fairly admitted that there is alternate remedy available to the petitioner in response to the application filed by the respondent under Article 226(3) of the Constitution of India, but he prays that since this Court has passed the interim order on 15.05.2009, and at the relevant time, the tribunal was not functioning due to process of election, therefore, the petitioner may be permitted to avail the alternative remedy in shortest possible time and till then the petitioner's right may be protected by continuation of the interim order. Learned Counsel for the petitioner relied upon the judgment of this Court passed in SBCWP No. 3010/1997 Smt. Vijay Laxmi Sharma v. State of Rajasthan and Ors. decided on 09.03.2000 wherein while dismissing the writ petition on the ground of alternative remedy itself this Court passed order of continuation of the interim order passed in the writ petition so that petitioner may approach the proper forum for redressal of his grievance.

2. Learned Counsel for the respondent submits that Hon'ble Apex Court in the case delivered in Burn Standard Co. Ltd. and Others Vs. Dinabandhu Majumdar and Another, held that in such matters like where the petitioner is denied continuation of service, the interim relief cannot be granted so as to continue the petitioner on job because of the reason that in that situation even if petitioner will fail in the petition, the respondent will not in position to get any relief of contesting the matter and petitioner may get relief for which he was not entitled

to.

3. Since this Court passed the interim order and when respondents approached this Court by moving application under Article 226(3) of the Constitution of India forthwith and petitioner is fair enough to admit that he has alternative remedy, therefore, in the matter of grant of interim relief and taking into consideration the fact situation if the petitioner approached the appropriate forum by 22.09.2009 then stay to continue till 24.09.2009. Hence, the writ petition of the petitioner is dismissed accordingly.