
(2009) 01 GAU CK 0019
In the Gauhati High Court

Motrangthem Nabachandra Singh and Others	APPELLANT
Vs	
State of Manipur and Others	RESPONDENT

Date of Decision : 07-01-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 19(1), 31, 311, 45

Citation : (2009) 4 GLR 460 : (2009) 2 GLT 820

Hon'ble Judges : Maibam Binoy Kumar Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Maibam Binoy Kumar Singh, J.—These two writ petitions being WP(C) No. 315 of 2002 and WP(C) No. 756 of 2007, wherein common and related questions of law and facts are involved, are heard and proceeded jointly.

2. I have heard the parties in both the cases through their respective Counsel. Undisputed facts leading to the filing of these two cases are as follows:

2.1 The State Government issued Order No. 4/14/99-SE(S) dated 26.4.1999 allotting one graduate Hindi Teacher each to 100 Grant-in-aid High Schools shown in Annexure-"A" of the said order and one Matriculate Hindi Teacher each to 92 Grant-in-aid Junior High Schools/Primary Schools shown in Annexure-"B" of the said order purportedly in compliance with the order of this Court passed in civil rule No. 1047/1995 and other cases.

2.2 The said Civil Rule No. 1047/1995 was filed by All Manipur Aided Elementary Schools Unapproved Teachers' Association in the form of Public Interest Litigation bringing the grievances of the Unapproved Teachers of Government Aided Primary and Middle Schools in the State of Manipur due to non-payment of grant-in-aid in respect of them and playing for redressing the grievances then existing in 523 elementary schools in the State. After due hearing of the parties in the case, a Division Bench of this Court disposed of the said civil rule No. 1047/1995 on 3.9.1996 directing, inter-alia, for constitution of a State Level

Committee with the. Secretary of Education as Chairman within one month from the date of receipt of the order to ascertain, in effect, genuineness of the concerned schools, the number of students actually studying in the said schools and about the additional posts of approved teachers required in the concerned schools and to recommend the additional posts required in the said schools on need basis in a phase manner starting from the financial year 1996-97. In the same order, this Court directed that unapproved teachers having the requisite qualifications might be made approved teachers through the said Selection Committee under the relevant rules against the additional posts created on the recommendation of the State Level Committee and that the selection should be done on the basis of merit-cum-seniority of the eligible candidates. While disposing of the said Civil Rule No. 1047/1995 in the manner stated above, this Court considered the constitutional obligation of the state to provide free education of the students up to the age of 14 years as mandated by Article 45 of the Constitution of India and also the decision of the hon"ble Apex Court in Unni Krishnan, J.P. and others Vs. State of Andhra Pradesh and others etc. etc., There cannot be any doubt that the direction of this Court in civil rule No. 1047/1995 was in respect of 523 elementary schools.

2.3 The above position was reiterated by a Division Bench of this Court in civil rule No. 87 of 1998 on 10.2.1998. It was held to the effect that the direction in civil rule No. 1047/1995 was to consider by the Committee about genuineness, etc. of all 523 elementary schools in the State of Manipur and after considering the genuineness, etc., of the schools and after acceptance or rejection of the claim for additional posts school wise, the Committee was to submit its report recommending school wise additional posts required on the basis of need in a phase manner starting from the financial year 1996-97. This Court further held to the effect that the State Level Committee was to examine the cases of all 523 Elementary Schools uninfluenced by any other consideration and that no interference from the petitioners" association was to be allowed.

2.4 The State Level Committee submitted its recommendation regarding additional posts not only in respect of the elementary schools but also in respect of High Schools and Junior High Schools on or about 29.7.1998. Annexure-A/5 of the WP(C) No. 315/2002 is the letter of the Director of Education(S), Government of Manipur dated 29.7.1998 forwarding the report of the State Level Committee to the Secretary, Education(S), Government of Manipur.

2.5 Legality of the above said State Government"s order dated 26.4.1999 was challenged by the petitioner of Civil Rule No. 1047/1995, i.e., All Manipur Aided Elementary Schools unapproved Teachers" Association by filing WP(C) No. 760/1999. A Division Bench of this Court vide, the common order passed on 7.6.2000 disposed of the said WP(C) No. 760 of 1999 and connected Civil Misc. Cases Nos. 647/99, 134/2000 and 554/1999 along with Contempt Case Nos. 221/99, 90/99, 58/99, 132/99, 181/98, 180/98 which had arisen out of the direction issued in civil rule No. 1047/1995 on 3.9.1996. The Division Bench,

after noting the direction of the court made on 3.9.1996 in civil rule No. 1047/1995, the facts of disposal of Original Contempt Case No. 2/97 and Original Contempt Case No, 8/99 on 18.11.1997 and 6.8.1998 respectively, the disposal of Misc. application No. 342/98 on 9.4.1999, the filing of another Civil Rule No. 936/1996 by All Manipur Aided Secondary Schools Association (Teaching and Non-Teaching Staff) leading to its disposal by a Single Judge on 16.4.1997 giving directions contrary to the directions issued by the Division Bench of the court in Civil Rule No. 1047/1995 and also the fact of passing the Government's order dated 26.4.1999 due to confusion created by various directions of the court, held on 7.6.2000 to the effect that the portion of the Government's order dated 26.4.1999 allotting 100 graduate teachers to 100 Government Aided High Schools was contrary to the direction of the court in civil rule No. 1047/1995 and that the said portion (Annexure-"A") of the Government's order dated 26.4.1999 was quashed and as such the WP(C) No. 760/1999 was allowed. In the opinion of the Division Bench, the direction of the learned Single Judge contrary to the direction of the Division Bench was bad and it should be kept suspended till the directions of the Division Bench were implemented. Further, in the opinion of the Division Bench, in order to avoid further complications and considering huge financial involvement, creation of posts in respect of schools other than primary and middle schools should be taken separately after implementation of the court's order in respect of the primary and middle schools.

2.6 On 22.8.2001, the State Government issued order No. 12(HC)/268/99-SE(S) in supersession of its earlier order No. 4/14/99-SE(S) dated 26.4.1999 and thereby allotting one post of graduate Hindi teacher to each 100 grant-in-aid high schools shown in the Annexure thereto within 392 posts of Hindi graduate teachers created vide Government Order No. 4/14/99-SECS) dated 10.4.1999 in public interest.

2.7 on 18.12.2201, the State Government accorded sanction for payment of pay and allowances under CSS, inter alia, in respect of 99 Graduate Hindi Teachers of 99 Aided Secondary Schools for the year 2000-01.

2.8 On 7.2.2002, the State Government issued order No. 12(HC)216/2001-SE(S) withdrawing its earlier order No. 12(HC)268/99-SE(S), dated 26.4.1999 and abolishing all the 100 posts of Graduate Hindi Teachers allocated to the 100 grant-in-aid high school mentioned in the Annexure of the said earlier order dated 26.4.1999 with immediate effect. The above said order dated 7.2.2002 was purportedly issued in compliance with the order of the Division Bench of this Court in the cases mentioned in the order itself and also on realizing that its earlier order dated 26.4.1999 had been issued due to oversight and without full facts having been brought on file. The State Government's order dated 7.2.2002 is reproduced below for better appreciation of the facts and circumstances under which it was issued:

ORDERS BY THE GOVERNOR : MANIPUR

Imphal, the 7th February, 2002

No. 12(HC)216/2001-SE(S): Whereas orders were issued allocating 100 posts of Graduate Hindi Teachers to 100 Grant-in-aid High Schools out of the 392 posts of Hindi Graduate Teachers created vide No. 12(HC)268/99-SE(S) dated 22.8.2001 in public interest and,

Whereas a Division Bench of the hon"ble Gauhati High Court passed an order on 7.6.2000 in Contempt Case (C) No. 221/1999, 90/1999, 58/1999, 132/1999, 181/1998, 2/1997 (D/C), 8/1998 (D/C), WP(C) No. 760/1999, C. Misc. No. 647/1999, 134/2000 and C. Misc. No. 554/1999 holding that direction given by the hon"ble Court in C.R. No. 1047/1995 shall be confined only to 523 primary and Middle Schools and any High School was clearly outside the direction issued by the hon"ble court.

Whereas, the Division Bench of the Hon"ble Gauhati High Court has observed that if the respondents failed to implement the court's order within the stipulated time, the court shall take up Contempt Case suo-motu and it was also further observed that various directions issued by the hon"ble court have created confusion and allotment of 100 teachers to High Schools purportedly in compliance of the order passed in C.R. No. 760/99 is not only outside the purview of the direction of the hon"ble Court but it is also contrary to the direction of the Hon"ble Court in C.R. No. 1047 of 1995 and to that extent all directions given in WP(C) No. 936/96 and 760/99 shall be kept suspended and accordingly Annexure-A of the Government order dated 26.4.1999 was quashed.

The hon"ble court ordered this in the context of the fact that the court in C.R. No. 1047/95 that the judgment of the court for allotting 523 posts to Primary and Middle Schools first, was to be first implemented in full and in a phased manner, keeping the financial problems of the State in view and further directed that "if the need so arises with regard to High Schools and other Schools, that could have been taken separately after " the court's order has been implemented", and

Whereas, the court's order in respect of C.R. No. 1047 of 1995 has not been fully implemented.

Now, therefore, in compliance of the orders of the Division Bench of Gauhati High Court in aforementioned cases, Order No. 12(HC)/268/99-SE(S) dated 22.8.2001 issued due to oversight and full facts not having been brought on file, stands withdrawn and posts allocated to the High Schools as per the appended list thereto stand abolished with immediate effect.

2.9 100 Hindi graduate teachers, who are said to have been affected by the said order of the State Government passed on 7.2.2002 abolishing 100 posts of graduate Hindi teachers allotted to the said 100 grant in-aid high schools filed one of the present writ petitions being WP(C) No. 315 of 2002 challenging the said government order dated 7.2.2002 and praying mainly for quashing it.

According to the petitioners, the impugned order dated 7.2.2002 was passed illegally, arbitrarily and without fully understanding the directions of the High Court made on 3.9.1996 in civil rule No. 1047/95, on 10.2.1998 in civil rule No. 87/98, on 7.6.2000 in WP(C) No. 760/1999, Contempt Case (C) No. 221/99 and others as well as the Centrally Sponsored Scheme for 484 post of Hindi teachers for High/Junior High Schools. It is the case of the petitioners that the allocation of 400 Hindi Graduate Teachers out of 484 posts of Hindi teachers under Centrally Sponsored Scheme for High/Junior High Schools is not related with the directions of the High Court in respect of 523 elementary schools. Further, according to the said petitioners, though they were legally appointed against the said 100 posts of Hindi Graduate Teachers out of 392 Hindi Graduate Teachers posts created under the Centrally Sponsored Scheme, they have been deprived of their rights and interest in the said 100 posts of Hindi Graduate Teachers by the impugned order dated 7.2.2002 without giving any opportunity of being heard. Moreover, according to the petitioners, the impugned order dated 7.2.2002 has the effect of terminating the appointments of the writ petitioners to the said 100 posts of Hindi Graduate Teachers without following the accepted procedure under the service jurisprudence.

3. The above said Writ Petition (C) No. 315 of 2002 is contested by the government respondents by filing a counter-affidavit. According to the Government respondents, after withdrawal of the allotment of 100 posts of Hindi Graduate Teachers to 100 Grant-in-Aid High Schools and abolition of the said posts, the petitioners were having no right to continue in the said posts and the writ petition deserves to be dismissed.

4. On the basis of additional documents filed by the said petitioners of WP(C) No. 315 of 2002, through Misc. Civil Case No. 128/07 and also from the pleadings of the Government respondents in their counter-affidavit, it is ascertained that the petitioners of the WP(C) No. 315 of 2002 filed a Civil Review Application being No. 4/2003 for reviewing the common order dated 7.6.2000 passed by the Division Bench disposing of the Contempt Case No. 221/99 and others connected cases including WP(C)No. 760/99. The said Civil Review Appl. No. 4/2003 was disposed of on 31.3.2003 after noting the grievances of the review applicants but without interfering with the common order dated 7.6.2000. The Review court noted the submissions made on behalf of the review applicants that the order dated 7.6.2000 was passed in a proceeding where they were not parties and as such, without hearing them and that the allotment of posts of Hindi Graduate Teachers to 100 Grant-in-Aid High Schools was on the basis of a Centrally Sponsored Scheme and not in compliance with the directions issued by the court in civil rule No. 1047 of 1995. The review court was of the view that the observations and/or directions contained in the common order dated 7.6.2000 in so far as the implementation of the directions in C.R. No. 1047/95 were concerned, did not merit any reconsideration and as such, the said authorities were therefore, required to comply with the same. The review court held at para 13 of its judgment dated 31.3.2003 as follows:

13. ...The essence of the observations and or directions contained in the order dated 7.6.2000 is that the directions in CR No. 1047 of 95 should first be implemented and thereafter the cases of the High Schools may be taken up by the State Government as it may deem fit and proper. We find no sufficient and cogent reason to differ therefrom. We may, however, add that after the directions issued in the CR No. 1047 of 95 are implemented, it would be open and permissible for the State respondents to consider the claim of the review applicants for allotment . of posts of Graduate Hindi Teachers in High Schools in the State of Manipur and their appointments thereto, having regard to their contention that the allotment of the posts to which they were appointed earlier was pursuant to a Centrally Sponsored Scheme Or otherwise. We, however, make it clear that the State respondents in embarking upon that exercise would ensure that in granting any relief to the review applicants thereby, they would not in any manner deprive the members of the respondent No. 1 Association of the benefits of the reliefs extendable of them in compliance of the directions of this Court in CR No. 1047/95.

5. The following facts, which have not been denied by the Government respondents are ascertained from the documents and also from further pleadings of the petitioners of the WP(C) No. 315/95:

5.1 Despite the issuance of the impugned order dated 7.2.2002 by which the said 100 posts of Hindi Graduate Teachers were abolished, the sanctioned periods of the said 100 posts of Hindi Graduate Teachers were extended with concurrence of the Finance Department for the period from 1.3.2000 to 28.2.2003, vide order No. 11/I/2003-SE(S) dated 17.7.2003, for the period from 1.3.2003 to 29.2.2004 vide Order No. 11/I/2003-SE(S), dated 17.7.2003 and for the period from 1.3.2005 to 28.2.2006, vide Order No. 11.1.2003-SE(S) dated 21.5.2003.

5.2 Apparently, on realizing about issuance of the above said extension orders in respect of the said 100 posts of Hindi Graduate Teachers beyond 7.2,2002 after the said posts had already been abolished, vide order dated 7.2.2002, the State Government reviewed the said extension orders and issued the order dated 4.8.2007 with the concurrence of the Finance Department cancelling the said extension orders.

5.3 The same 100 Hindi Graduate Teachers affected by the above said order dated 4.8.2007 passed by the State Government challenged the said order by filing their second writ petition, being WP(C) No. 756/07, and praying mainly for quashing the said order dated 4.8.2007. The petitioner in WP(C) No. 756/07, are also praying for directing the State respondents to release fund for payment of the petitioners' salary w.e.f. 7.2.2002.

5.4 In the facts and circumstances, in my opinion, for the purpose of enabling to make a just decision in respect of these two writ petitions, it is required to determine the legality or otherwise of the impugned abolition order dated

7.2.2002.

6. It is well settled that power to abolish a post, which may result in the holder thereof ceasing to be a government servant, is inherent in every sovereign government and such abolition will not entail any right on the person holding the abolished posts the right of re-employment or hold the same post. In this connection/one may refer to the decision of the Constitution Bench of the hon''ble Apex Court in M. Ramanatha Pillai Vs. The State of Kerala and Another, In the opinion of the hon''ble Apex Court, the power to create or abolish a post is a matter of governmental policy. Every sovereign government has this power in the interest and necessity of internal administration. The creation, continuation and abolition of posts are to be decided by the Government in the interest of administration of general public.

7. In the State of Haryana and Others Vs. Navneet Verma, the hon''ble Apex Court, after referring to its earlier decisions in M. Ramanatha Pillai Vs. The State of Kerala and Another, Shri Kedar Nath Bahl Vs. The State of Punjab and Others, , State of Haryana Vs. Shri Des Raj Sangar and Another, , Dr. N.C. Singhal Vs. Union of India (UOI) and Others, and Avas Vikas Sansthan and Another Vs. Avas Vikas Sansthan Engineers Assn. and Others, summarized the power of the Government in abolishing a post and role of the court for interference at para 17 as follows:

17. We summarize the power of the Government in abolishing a post and role of the court for interference:

- (a) the power to create or abolish a post rests with the Government;
- (b) whether a particular post is necessary is a matter depending upon the exigencies of the situation and administrative necessity;
- (c) creation and abolition of posts is a matter of government policy and every sovereign, government has this power in the interest and necessity of internal administration;
- (d) creation, continuance and abolition of posts are all decided by the Government in the interest of administration and general public;
- (e) the court would be the least competent in the face of scanty material to decide whether the Government acted honestly in creating a post or refusing to create a post or its decision suffers from mala fides, legal or factual;
- (f) as long as the decision to abolish the post is taken in good faith in the absence of material, interference by the court is not warranted.

7.1 Keeping the above said principles, the question regarding legality or otherwise of the impugned abolition order dated 7.2.2002 is to be examined.

8. The impugned abolition order dated 7.2.2002 was purportedly issued by the competent authority in compliance with the order of the Division Bench of this

Court dated 7.6.2002 which had been passed in Contempt Case (C) No. 221/99 and others including the WP(C) No. 760/99 mentioned in the impugned order, after having realized the mistake of the issuance of the order No. 12(HC)268/99-SE(S) dated 22.8.2001 due to oversight and without bringing full facts on file. It is already noted above that the petitioners are mainly challenging the impugned abolition order as illegal and arbitrary on the grounds that it was passed without appreciating that the allocations of 100 Hindi Graduate Teachers out of 484 posts of Hindi Teachers created under Centrally Sponsored Scheme for High and Junior High Schools was not related with the directions of the High Court made on 3.9.1996 in C.R. No. 1047/95 in respect of 523 Elementary aided Schools and that though they were legally appointed against 100 posts of Hindi Graduate Teachers out of 392 posts of Hindi Graduate Teachers created under the Centrally Sponsored Scheme, they have been deprived of their rights and interest in the said 100 posts of Hindi Graduate Teachers without giving any opportunity of being heard and that the impugned order has the effect of terminating the appointment of the writ petitioners to the said 100 posts of Hindi Graduate Teachers without following the accepted procedure under the service jurisprudence.

9. There is no sufficient basis for thinking that the impugned abolition order was passed due to failure on the part of the government to appreciate about the non-existence of any connection in between the allocation of 100 Hindi Graduate Teachers to 100 Grant-in-Aid High Schools out of 484 posts of Hindi Teachers created under the Centrally Sponsored Scheme and the directions of the High Court made on 3.9.1996 in C.R. No. 1047/95 in respect of 523 Elementary aided Schools. On perusal of the judgment and order 3.9.1996 of the Division Bench of this Court, it can be ascertained that after hearing the submissions of the parties as well as after consideration of the decisions of the hon'ble Apex Court in Unni Krishnan, J.P. and others Vs. State of Andhra Pradesh and others etc. etc., and State of H.P. Vs. H.P. State Recognised and Aided Schools Managing Committees and Others, the opinion of the Division Bench of this Court was to the effect that obligation of the State under Article 45 of the Constitution of India to provide education to children till they complete the age of 14 years must be made a reality. However, after noting the submissions of the learned Advocate General of the State regarding involvement of a huge amount in case of providing adequate Grant-in-Aid to all the schools thereby making very difficult for the State to implement the scheme at a time and also regarding the likelihood of many schools not having requisite number of students as per specifications of Grant-in-Aid rules making demand for additional posts so as to accommodate unwanted teachers, the Division Bench of this Court having regards to a broad consensus arrived at the time of hearing, directed to constitute a State Level Committee to ascertain the genuineness of the schools, the number of students attending classes in each institutions and the urgent need depending on the number of students in each institutions, etc. The said C.R No. 1047/95 was disposed of by making various directions mentioned in the judgment and order dated 3.9.1996.

In the facts and circumstances, there cannot be any doubt that the said directions were made only in respect of Elementary aided Schools. As noted earlier, this position was clarified by another Division Bench of this Court in C.R. No. 87/98, vide judgment dated 10.2.1998, by holding that the directions contained in the judgment in CR No. 1047/95 was to consider the genuineness of all 523 Elementary Schools in the State of Manipur. It was also clarified that after accepting or rejecting the case of school wise, the Committee was directed in Direction No. (h) to submit the report recommending/rejecting school wise the additional posts required on the basis of the need in a phase manner the first phase of which would start from the financial year 1996-97. While disposing of Contempt Case (C) No. 221/99 and other connected cases including WP(C) No. 760/99, the concerned Division Bench of the court, vide the common order dated 7.6.2000, quashed the portion of the Government's order dated 26.4.1999 which was found to have been passed contrary to the directions made by the Division Bench of this Court on 3.9.1996 in C.R. No. 1047/95. Further, the said common order dated 7.6.2000 held that the direction made on 16.4.1997 by a learned Single Judge in respect of the aided secondary schools and High Schools and which were found to be contrary to the direction of the Division Bench in CR No. 1047/95 made on 3.9.1996 should be suspended. In the said common order dated 7.6.2000, the Division Bench held that in view of the financial crunch faced by the Government, even the direction for creation of posts with regard to primary and middle schools was ordered to be carried out in a phase manner starting from 96-97 and that if the need so arose with regard to the High Schools and other schools, that could be taken separately after the implementation of the court's order in respect of the primary and middle schools.

10. There was a clear indication in the said common order dated 7.6.2000 for giving priority in satisfying the need of elementary aided schools of the State and to deal with the needs of aided high and secondary schools only after satisfying the need of the said elementary aided schools. Since there was the above said clear indication in the common order of the Division Bench dated 7.6.2000 for giving priority as stated above, despite due appreciation on the part of the State Government about the non-existence of any connection in between the allocation of 100 Hindi Graduate Teachers to 100 Grant-in-Aid High Schools out of 484 posts of Hindi Teachers created under the Centrally Sponsored Scheme and the directions of the High Court made on 3.9.1996 in CR No. 1047/95, there is a reasonable possibility that the State Government honestly felt the need of passing the impugned abolition order dated 7.2.2002 for the purpose of complying with the common order of the High Court passed on 7.6.2000 in the cases mentioned in the impugned order itself in connection with the implementation of the court's order dated 3.9.1996 passed in CR No. 1047/95 in letter and spirit. The impugned order itself shows to the effect that the above said need was felt after having issued the order No. 12(HC)268/99-SE(S) dated 22.8.2001 about allocation of 1 post of Hindi Graduate Teachers to each of the 100 Grant-in-Aid High Schools out of the 392 post of Hindi Graduate Teachers

created under the Centrally Sponsored Scheme through oversight and without bringing the full facts on file.

11. In the facts and circumstances, the case of the petitioners that the impugned abolition order dated 7.2.2002 was issued without due appreciation of the absence of any connection in between the creation of posts under the Centrally Sponsored Scheme and directions of the High Court made on 3.9.1996 in CR No. 1047/95 is not acceptable. In my considered opinion/despite having the knowledge about the above said absence of any connection, the state honestly felt the need for issuance of the impugned abolition order dated 7.2.2002 for the purpose of complying with the said order of the High Court passed in CR No. 1047/95 and which was clarified by the said common order of High Court passed on 7.6.2000.

12. The fact that the Division Bench of the High Court intended to give priority in satisfying the need of elementary aided schools can also be seen from the order of the court passed on 31.3.2003 in Civil Review Appl. No. 4/2003, which was filed by the said 100 Hindi Graduate Teachers seeking review of the said common order dated 7.6.2000 after the latter had been complied with by issuing the impugned abolition order dated 7.2.2002. Even though submission was made on the part of the review applicant to the facts that allotment of posts of Hindi Graduate Teachers to 100 Grant-in-Aid High Schools were on the basis post of the Centrally Sponsored Scheme, the Division Bench of this Court, vide order dated 31.3.2003, refused to interfere with the common order dated 7.6.2000, and held that the State authorities were required to comply with the said common order dated 7.6.2000 regarding implementation of the order made in CR No. 1047/95 dated 3.9.1996. In the opinion of the Division Bench of the High Court, essence of the observations and or directions contained in the common order dated 7.6.2000 is that the directions in CR No. 1047 of 95 are first to be implemented and thereafter the cases of the High Schools may be taken up by the State Government as it may deem fit and proper. The Division Bench held at para 13 of the judgment dated 31.3 .2003 as follows:

We may, however, add that after the directions issued in the CR No. 1047 of 95 are implemented, it would be open and permissible for the State respondents to consider the claim of the review applicants for allotment of posts of Graduate Hindi Teachers in High Schools in the State of Manipur and their appointments thereto, having regard to their contention that the allotment of the posts to which they were appointed earlier was pursuant to a Centrally Sponsored Scheme or otherwise.

We, however, make it clear that the State respondents in embarking upon that exercise would ensure that in granting any relief to the review applicants thereby, they would not in any milliner deprive the members of the respondent No. 1 Association of the benefits of the reliefs extendable to them in compliance of the directions of this Court in CR No. 1047/95.

In the light of the above decision of the Division Bench in Civil Review Appl. No. 4/2003, there is no basis for thinking that the State Government could have implemented the directions made in CR No. 1047/95 without issuing the impugned abolition order dated 7.2.2002 in respect of the said 100 post of Hindi Graduate Teachers. In view of the specific direction made in the common order dated 7.6.2000 for giving priority to the implementation of the directions made in CR No. 1047/95, the State Government was bound in effect to issue the impugned abolition order dated 7.2.2002. The action of the State Government was also in fact justified by the said decision of the Division Bench made in Civil Review Appl. No. 4/2003 on 31.3.2003.

13. The impugned abolition order dated 7.2.2002 was clearly issued in compliance with the directions made in the common order dated 7.6.2000 for the purpose of proper implementation of the directions made in CR No. 1047/95 in letter and spirit. In the facts and circumstances, the impugned abolition order was issued in good faith and on the basis of materials available before the court, one cannot reasonably conclude that it was issued arbitrarily, mala fide or as a device to terminate the services of the petitioners. Article 14 of the Constitution of India will not be attracted on the facts of the present two cases. The petitioners cannot complain of discrimination as they have not shown that other employees similarly situated with them had been allowed to remain in service. There was no legal requirement on the part of the State Government to give opportunity of being heard to the petitioners before issuing the impugned abolition order. The Constitution Bench of the hon''ble Apex Court in M. Ramatha Pillai (supra) held at para 36 of the judgment as follows:

The abolition of posts may have the consequence of termination of service of government servant. Such termination is not dismissal or removal within the meaning of Article 311 of the Constitution. The opportunity of showing cause against the proposed penalty of dismissal or removal does not therefore arise in the case of abolition of post. The abolition of post is not a personal penalty against the government servant. The abolition of post is an executive policy decision. Whether after abolition of the post the Government servant who was holding the post would be offered any employment under the State would therefore be a matter of policy decision of the Government because the abolition of post does not confer on the person holding the abolished post any right to hold the post.

The hon''ble Apex Court was of the opinion that right to hold a post comes to an end on the abolition of the post which a government servant holds and as such, a Government servant cannot also complain of a violation of Article 19(1)(f) and Article 31 of the Constitution when the post is abolished.

14. In the light of the above discussion and for the reasons given, no interference is called for in respect of the impugned abolition order dated 7.2.2002. The first writ petition being WP(C) No. 315 of 2002 is hereby dismissed as having no merit.

15. In respect of the said second writ petition being WP(C) No. 756 of 2007, having regards to the findings already made regarding the legal validity of the impugned abolition order dated 7.2.2002 warranting no interference in respect of it, I am of the opinion that the petitioners would not be entitled to the relief sought in the second writ petition. The State Government could not have issued any extension order for any period in respect of the said 100 Hindi Graduate Teachers post which had already been abolished earlier. When the said posts had already been abolished vide order dated 7.2.2002, there could not have been any order for extension of the said posts before revocation of the said abolition order. By issuing the extension orders on various dates for extension of the said posts for different periods, apparently quite oblivious of the fact of such posts having already been abolished, the State Government committed illegality. In the facts and circumstances, by issuing the impugned order dated 4.8.2007 reviewing the said extension order and canceling them, the State Government corrected the illegality. In my considered opinion, no interference is called for in respect of the said impugned order dated 4.8.2007 also. In the result, the second writ petition is also dismissed as having no merit. The said illegal extension orders could not have created any right in favour of the petitioners. I am not expressing any opinion regarding the question if the directions of the Division Bench made in CR No. 1047/95 have been complied with fully or not in as much as the concerned petitioner of the said CR No. 1047/95 is not before this Court in the present proceeding. The question if the State Government has to recreate the said 100 posts of Hindi Graduate Teachers for Grant-in-Aid High Schools at this stage is left to be decided by the State Government in the interest of administration, general public and exigencies of the circumstances and also having regards to the relevant decisions of this Court noted above.

16. With this, both the writ petitions are dismissed. No order as to costs.