
(2010) 12 RAJ CK 0054

In the Rajasthan High Court

Case No : Civil Writ Petition No. 15798 of 2010

Mukesh Kumar Sharma

APPELLANT

Vs

State of Raj. and Others

RESPONDENT

Date of Decision : 07-12-2010

Acts Referred:

Panchayati Raj Act, 1994 — Section 89(8A)

Citation : (2010) 12 RAJ CK 0054

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Judgement

Ajay Rastogi, J.—Counsel submits that Petitioner is holding the post of Teacher Grade-3rd and is a member of Panchayati Raj Rules,1996. Counsel submits that without compliance of Section 89 (8-A) of Panchayati Raj Act,1994 he has been transferred from one Panchayat Samiti to other vide order dt.26.09.2010 which is wholly without jurisdiction. Counsel further submits that the appeal was preferred before the Tribunal only on the solitary ground that the order impugned is without jurisdiction and learned Tribunal recorded a finding that District Education Officer holds authority to transfer the Petitioner and taking note thereof, while admitting the appeal and issuing notices to the Respondent is nothing but an empty formality and in fact the submission which he made for consideration has already been negated by the Tribunal.

2. This Court also finds substance that the submission made has already been examined and negated by the Tribunal and no purpose is going to serve.

3. Matters come up before this Court day to day that the learned Tribunal taking note of the submissions made by the Appellant and after recording finding negated/rejected the submissions made by counsel for Appellant but still admitting the appeal and issuing notice of stay application. Such practice adopted cannot be appreciated for the reason that once the finding has been recorded negating/ rejecting the contentions advanced, issuance of notice thereafter and calling upon the Respondent is virtually not going to serve any

purpose and remains empty formality.

4. Issue notice of writ & stay petition along with a copy of this order to the Respondents as to why the petition may not be finally disposed of at the stage of admission, returnable by six weeks. Notices may be given "dasti", if desired. PF & notices be filed within seven days, failing which stay order shall stand vacated without reference to this Court.

5. In the meanwhile, operation of order dt.26.09.2010 pertaining to transfer of petitioner shall remain stayed and the respondents are directed to allow him continue in the same Panchayat Samiti in which he was working prior to passing of the order impugned, till further orders.

6. A copy of this order may also be sent to the Tribunal.