

**(2010) 07 CHH CK 0012**

**In the Chhattisgarh High Court**

**Case No : Writ Petition No. 3848 of 2004**

Nagrik Shikshan Samiti and Another

APPELLANT

Vs

State of C.G. and Others

RESPONDENT

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**Date of Decision : 05-07-2010**

**Acts Referred:**

**Citation : (2011) 1 MPJR 130**

**Hon'ble Judges : Satish K. Agnihotri, J**

**Bench : Division Bench**

**Final Decision : Dismissed**

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## **Judgement**

S.K. Agnihotri, J.

By this petition, the petitioners seek for quashment of the proceedings initiated by the Tehsildar, Dondilohara. Durg, and further dissolved the enquiry committee appointed by the respondent authorities and direct the concerned persons to cooperate in the enquiry proceedings of the Enquiry committee as appointed by the Vice Chancellor of the Pt. Ravishankar Shukla University (for short "the University") by order dated 12/08/2004.

The indisputable facts, in nutshell, as projected by the petitioners, are that the petitioner No. 1 is a duly registered society under the Societies Registration Act, 1973. The petitioner No., 1/Society is running an educational institution in the name and style of Sant Rajaram Shadani Nagrik College (Petitioner No. 2). The petitioner No. 2/college is affiliated to the University and Department of Higher Education, the, then, State of Madhya Pradesh. Petitioner No. 2/college is non-Government aided college and it runs through the donations by the public and the members of the petitioner No. 1/Society. The teaching staff of the petitioner No. 2/college, by way of representation addressed to the Principal, raised their demand for providing benefit under the provisions of law and requested for fixing their pay scale in between Rs. 3,0007- to Rs. 6,0007-, Which is given to the similarly placed teachers of the Government aided colleges. In the

representation, it has also been stated that if their demand is not fulfilled, they may go on strike, Since the teachers were on probation period, they were terminated from their respective services on account of their aforesaid conduct, as is evident from Annexure P/5 dated 28/02/2004.

Against the order termination, the teachers preferred an appeal before the University. The same was allowed by the University by order dated 24/ 03/2004 (Annexure P/6) and the delinquents were warned to perform their duties honestly and sincerely In compliance of the aforesaid order of the University, the teachers were reinstated in their respective services. According to the petitioners, in spite of "warning" given by the University, the teacher created nuisance in the petitioner No. 2-college. Therefore, the teachers were suspended vide order dated 06/04/2004 (Annexure P/7) and show cause notice dated 22/04/2004 (Annexure P/8) was also issued.

Being aggrieved by the suspension order, the teachers again preferred an appeal before the University. The University revoked the suspension order by order dated 08/04/2004 (Annexure P/9). Even after the said incident, the teachers of the petitioner No. 2/College were creating nuisance.

Looking to the aforesaid activities of the teachers, the president of the petitioner No. 1/Society requested the Vice Chancellor of the University to conduct an enquiry with regard to the dispute raised by the teachers of the petitioner No. 2/ college. Pursuant to the request made by the president of petitioner No. 1 institute, the Vice Chancellor of the University constituted a committee consisting of three members by order dated 12/08/2004 (Annexure P/13). Thereafter, the petitioner- No. 2/college requested the teachers to call off the strike till completion of enquiry. The committee constituted by the Vice chancellor of the University held its meeting and decided to take alternative steps for the purpose of education. In view of the said decision, four teachers namely Shir B.L. Sahasi, H.K. Shri Hirwani, Shri V.K. Pandey and Shri C.L. Sahu were terminated form their respective service by order dated 23/08/2004 (Annexure P/19) and thereafter, seven new teachers were appointed in the petitioner No. 2/College for its smooth functioning.

On 29/08/2004, a representation made by the teachers to the Home Minister of the State of Chhattisgarh requesting him to grant regular appointment with fixation of pay as per the Adhiniyam 1973. In the said representation, the teachers stated that if their demands are not fulfilled, they would commit suicide by setting them ablaze. On receipt of the representation, the Home Minister directed the Collector, Durg to take initiative regarding the demands made by the teachers. On the basis of the said direction, the Collector directed the Tehsildar for conducting the enquiry and registering the case against the petitioners. Thus, this petition.

Shri Dadariya, learned counsel appearing for the petitioners, would submit that the petitioner No. 2/college is a non-aided college and it runs through the

donations by the public and the members of the petitioner No. 1/ society. The staff of the petitioner No. 2/college are not entitled to the pay scales at par with the teachers working in the Government aided colleges. Shri Dadariya would further submit that in spite of the best efforts made by the petitioners to settle the dispute amicably, the teachers are creating nuisance by boycotting the classes etc. As a result of it, the studies of the children have been affected badly. The teachers were on probation period, therefore, their services can be terminated at any time without affording an opportunity of hearing and without issuing notice. Shri Dadariya would next submit that on the basis of direction of the Home Minister, the Collector asked the Tehsildar to enquire the matter in spite of the facts that the Vice Chancellor of the University has already constituted a committee to look into the grievances of the teachers of the petitioner No. 2/college. Even though, the enquiry conducted by the Tehsildar is not just and proper, as the petitioner No. 2/college is a non-aided institute.

Per contra, Shri Roy, learned Panel Lawyer appearing for the State, would submit that the University is a necessary party but the petitioners have not impleaded the University as party-respondent. The respondent authorities initiated the enquiry proceeding impartially and concluded the enquiry on 08/10/2004 (Annexure R/5) much before filing of this petition. In fact, the respondent authorities have not taken any action on the basis of enquiry report submitted by the Tehsildar, the same has been simply forwarded to the Vice Chancellor of the University, who alone is competent to take appropriate steps. Shri Roy would next submit that since no action has been taken on the basis of enquiry report submitted by the Tehsildar, the same is not at all maintainable and the petition deserves to be dismissed.

I have heard learned counsel appearing for the parties, perused the pleadings and the documents appended thereto. It is evident that firstly, the petitioners seek relief to quash the proceedings initiated by the Tahsildar against the petitioners, and secondly, the enquiry report may not be taken into consideration, as the Vice Chancellor of the University is a competent authority and has already initiated enquiry proceedings by order dated 12/ 08/2004 (Annexure - P/13). It appears that pursuant to the interim order dated 4/11/2004, no action has been taken on the basis of enquiry report submitted by the Tahsildar.

Indisputably, the enquiry report has been submitted to the Vice Chancellor of the University and the Vice Chancellor has also constituted an enquiry committee as aforestated. The petitioner has chosen not to implead the Vice Chancellor of the University as a party respondent. Thus, no relief can be granted. No action has been taken on the basis of enquiry report submitted by the Tahsildar to the Vice Chancellor and further on the report of committee constituted by the Vice Chancellor. Even the facts cannot be verified for want of impleadment of the University as a party respondent. Thus, the petitioners are not entitled to any relief or writ in absence of the University as a party respondent.

On the other ground also the petitioner deserves to be dismissed, as it appears that no order has been passed on the basis of report submitted either by committee constituted by the Vice Chancellor of the University or by the Tahsildar.

It is well settled principle of law that the reports are recommendatory, not binding. On submission of report, the University has to apply its mind before passing any order. Nothing has happened in this case till date. Thus, the petition is also premature. Looking from all angles, the petition is devoid of merit.

It is not necessary to go into the question as to whether the State Government can direct the Tahsildar to examine the facts situation and submit a report when it is not clear as to whether there was any law and order problem on account alleged strike by the teachers of the petitioner No. 2/college and further their threatening statement to committee suicide by setting them ablaze. In that event the State Government has every jurisdiction to examine the law and order problem and take appropriate steps.

For the reasons mentioned herein above, the writ petition fails and is hereby dismissed.

Costs easy.