
(2009) 02 JH CK 0005
In the Jharkhand High Court

Nistar Minz

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 11-02-2009

Acts Referred:

Citation : (2009) 2 JCR 376

Hon'ble Judges : M.Y. Eqbal, J;Jaya Roy, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—This appeal is directed against that part of the impugned judgment dated 20.11.2007 passed in W.P. (S) No. 1638 of 2007 whereby the learned Single Judge while disposing of the writ petition, directed the respondents-State to consider the claim of the petitioner for regular appointment on the post of Director, Agriculture, Jharkhand.

2. The writ petitioner, who is respondent No. 3 here, filed the aforementioned writ petition for quashing the notification dated 10.3.2007 issued by the Agriculture and Sugarcane Development Department, whereby the present appellant (respondent No. 3 in the writ petition), alleged to be much junior to the writ petitioner, was given additional charge of Director of Agriculture ignoring the seniority and claim of the writ petitioner who is alleged to be on the top of the seniority list. It was alleged by the writ petitioner that undue favour was shown by giving additional charge of Director, Agriculture to the appellant.

3. The stand of the State before the writ Court was that respondent No. 3 is the senior-most officer in the Department and, therefore, he has been given additional charge of Director till regular Director is appointed. Learned Single Judge, on the basis of the averments made by the parties, disposed of the writ petition directing respondent-State to take immediate step for appointment/posting of regular Director of Agriculture and complete the process of selection within a period of three months from the date of receipt of a copy of that order.

The learned Single Judge further directed that the writ petitioner as well as the respondent (appellant) and other persons may also prefer their claim and take part in the process as may be permissible for regular appointment.

4. Learned Counsel appearing for the appellant submitted that no direction could have been given for considering the claim of the writ petitioner at the time of regular appointment of Director of Agriculture, inasmuch as the writ petitioner has already been allocated Bihar cadre.

5. During pendency of the appeal, one interlocutory application was filed by the appellant being LA. No. 95 of 2009 where in it is stated that during pendency of the case, the Departmental Promotion Committee recommended for grant of provisional promotion to the writ petitioner and in the event, impugned order is not stayed, the appeal will become infructuous.

6. After having heard the learned Counsels appearing for the parties, I do not find any reason to enter into the legality and validity of the action taken by the respondent-State. The appeal is only confined to that part of the direction whereby the learned Single Judge directed that in the matter of regular appointment, the claim of all the persons shall be considered. If by reason of subsequent action or decision of the respondent-State, anyone is aggrieved, he/she shall have a fresh cause of action for challenging the said decision. So far the impugned order is concerned, I do not find any error of law or error of fact.

For the reasons aforesaid, this appeal has got no merit and is, accordingly, dismissed.