

(2014) 07 JH CK 0121
In the Jharkhand High Court
Case No : WP(S) No. 3203 of 2013

Omkar Ram

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 16-07-2014

Acts Referred:

Citation : (2014) 4 JLJR 143

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : M.M. Pan and Krishna Nand Sahay, Advocate for the Appellant

Judgement

Aparesh Kumar Singh, J.

I.A. No. 3340/2014:

1. Heard counsel for the petitioners and the State as well as respondent No. 4. In the present writ application, petitioners were seeking direction upon the respondents specially District Superintendent of Education, Ranchi (Respondent No. 3) to make payment of their salary with effect from 1st April, 2011 on their claim that their appointment have already been approved by order dated 9th May, 2012 issued by the respondent No. 3 himself. However, during the pendency of the writ petition, the respondent No. 3 chose to revoke the order of approval of the petitioner's appointment vide letter No. 1905 dated 31st May, 2013, on the ground that the petitioners have not passed the TET exam, which is the mandatory requirement under the Right of Children to Free and Compulsory Education Act, 2009 and the regulation framed by the N.C.T.E. through notification dated 23rd August, 2010. The said order was challenged by way of interlocutory application which was allowed and has been incorporated in the amended writ petition. These petitioners are said to have been appointed on 1st April, 2011 by the Managing Committee of the School, which is an aided minority school, upon compliance of the procedure prescribed.

2. Learned counsel for the petitioners submitted that the order of revocation of

the approval of the petitioners" appointment should be declared non est in view of the judgment rendered by the Constitution Bench of the Hon"ble Supreme Court in the case of Pramati Educational and Cultural Trust (r) and Others Vs. Union of India (UOI) and Others, . Learned counsel also drawn attention of the Court to the letter dated 22nd May, 2014 issued pursuant to the decision of the Apex Court which has been brought on record by way of the instant I.A., seeking disposal of the writ application in view of the aforesaid judgment and the stand taken by the respondents through the said letter.

3. Respondent State was earlier granted time to file counter affidavit, but even after nine months of the said order, no counter affidavit has been filed till date. On the other hand, the Managing Committee of the School has appeared on notice and filed their counter affidavit also taking a stand that since the appointment of the petitioners was made on 1st April, 2011 prior to the notification dated 5th September 2012 issued by the Human Resources Development Department, Government of Jharkhand, cancellation of approval of their appointment is not sustainable.

4. Be that as it may, from the stand taken by the respondents themselves, as reflected in the letter dated 22nd May, 2014 and the judgment rendered by the Apex Court in the case of Pramati Educational & Cultural Trust & Others (supra), it is evident that the matters require reconsideration at the level of the respondents as the respondent No. 2-Director, Primary Education, Human Resources Development Department, Government of Jharkhand in the said letter dated 22nd May, 2014 has directed the District Superintendent of Education of the respective districts to forward the proposal regarding approval of preposition statement of teachers of aided/unaided minority elementary schools for consideration of their cases. In that view of the matter, the matter is remanded to the respondent No. 2-Director, Primary Education, Human Resources Development Department, Government of Jharkhand to reconsider the issue in the light of the judgment of the Apex Court in the case of Pramati Educational & Cultural Trust & Others (supra) and their own stand reflected in the letter dated 22nd May, 2014. The order dated 31st May, 2013 issued by the respondent No. 3-District Superintendent of Education, Ranchi rejecting approval of their appointment granted earlier, shall not be come into the way of the respondents to take a fresh decision in the matter, in accordance with law. Let such decision be taken after due compliance of the procedure prescribed and on receipt of preposition statement from the concerned District Superintendent of Education, within a period of twelve weeks from the date of receipt of a copy of this order.

The writ petition stands disposed of. I.A. also stands disposed of.