
(2021) 01 JH CK 0110
In the Jharkhand High Court
Case No : Writ Petition(S) No. 5276 Of 2010

Parsuram Singh And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 11-01-2021

Acts Referred:

Citation : (2021) 01 JH CK 0110

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : A. K. Das, Swati Shalini, Karan Sahdeo

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the parties through V.C.

2. The instant application has been preferred by the petitioners for following reliefs:-

(i) To issue appropriate writ, order or direction for quashing the letter no.2319 dated 31.07.2010, issued by respondent no.4 whereby and whereunder

he has directed the Principal/Secretary to the School of the petitioners not to pay the salary to such teachers, whose number is in excess of the student

teachers ratio of 1:40.

(ii) To issue appropriate further writ, order or direction directing the respondents to immediately forthwith pay the arrears of salary as well as current

salary to the present petitioners, who have not received their salary since March, 2009.

3. Mr. Amit Kumar Das, learned counsel for the petitioners assisted by Ms. Swati Shalini submits that the grievance of the petitioners is that Sidgora

Primary School, Jamshedpur is a Government aided minority school and five post

of teachers are sanctioned by the State Government but the salary is not being paid to all of them on the ground that number of student is only 150 and the ratio in which teachers are appointed should be one teacher against every 40 students. He further contended that at the time of appointment there was no such condition that the petitioners will be entitled for salary only if there is a ratio of 1:40. He further submits that since the date of appointment, petitioners are regularly discharging their duty and are getting their salary from the State Government. He further submits that after re-organization of the State and creation of the State of Jharkhand, there was some dispute with respect to the payment of arrears of salary for the period from October, 1998 to November, 2000. The salary of this period was not paid by the then State of Bihar on the pretext of non availability of fund.

4. A supplementary counter affidavit has been filed on behalf of State wherein it has been stated that pursuant to the Notification No.3-204/81 dated 31.12.1982, which elaborates the Rules for appointment of teachers in Non-Government Schools; in Sl.No.2(iv), it is stipulated that the appointment of teachers in such non-government middle schools shall be made with a teacher pupil ratio of 1:40.

5. A rejoinder has also been filed in this case wherein at paragraph no.11 it has been stated as under:-

â??That it is stated that the petitioner no.1 has already superannuated and has received all the post-retiral benefits and also receiving his pension, however has not received salary from March, 2009, on the basis of direction given in the impugned letter no.2319 dated 31.07.2010 whereby respondent no.4 directed the Principal/Secretary to the School of the petitioners not to pay the salary to such teachers, whose number is in excess of the student teacher ration of 1:40. It is not out of place to mention that petitioner Nos.2, 3 and 4 has already received their entire salary for the aforementioned period during the pendency of the instant writ application but the respondent arbitrarily has not disbursed the salary of petitioner no.1 for the aforementioned period in the garb of the impugned letter and unnecessarily harassing the petitioner no.1 and victimizing him for no fault on his part.â??

6. Learned counsel for the petitioners apart from other grounds submits that though the petitioner no.1 has been superannuated, however he has not

received salary from March, 2009 on the basis of direction given in the impugned letter no.2319 dated 31.07.2010; whereas, during pendency of this

case; petitioner nos. 2, 3 and 4 has already received their entire salary for the aforesaid period. In view of the aforesaid development, learned counsel

for the petitioner seeks direction upon the respondents to consider the case of petitioner no.1 to extend the same and similar benefit as his case is on

same and similar footing with those of petitioner nos. 2, 3 and 4. He concluded his argument by submitting that the respondent-State had taken pick

and choose method in not extending the benefit of salary to petitioner no.1.

7. Mr. Karan Sahdeo, learned counsel for the respondent-State reiterated its stand made in the counter affidavit and submits that the concerned school

is not a government school but aided school receiving aids from the Government to meet whole and part for its expenses. He further submits that the

petitioners were appointed by School Management and the role of State in an aided school is limited to the grant of aid. However he fairly submits that

the case of the petitioner no.1 shall be verified and if his case is found to be same and similar with the petitioner no.2 to 4; similar benefits will be

extended to him.

8. In view of the aforesaid facts and circumstances of the case the instant writ application is disposed of with a liberty to the petitioner to file a

detailed representation before the respondent no.4 within a period of three months from today. If any such representation is filed; the same shall be

considered in the light of the fact as stated in the rejoinder that the salary for the concerned period has been paid to other petitionersâ?? i.e.

Petitioner nos.2 to 4; as such, the respondent no.3 shall pass a reasoned order as to why the same and similar benefit cannot be given to the petitioner

no.1 when his case is similar to the other petitioners.

9. It is made clear that since the petitioner has already retired, the entire exercise shall be completed within a period of four months after giving

opportunity to the petitioner and pass a reasoned order and if any amount is found payable towards the salary during the concerned period; the same

shall be paid to the petitioner no.1.

10. It goes without saying that the respondent no.3 shall pass the reasoned order without any prejudice to the impugned letter no.2319 dated

31.07.2010 and will also be at liberty to ask for records from the school

management in order to verify and pass the order.

11. With the aforesaid observation and direction this application stands disposed of.