
(2017) 02 JH CK 0022

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 1448 of 2015. I.A. No. 3153 of 2015 & I.A. No. 3276 of 2016

Ranjit Kumar Jaiswal

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 09-02-2017

Acts Referred:

Constitution of India, 1950 — Article 226, Article 227

Citation : (2017) 2 JBCJ 349

Hon'ble Judges : Mr. D.N. Patel and Mr. Ratnaker Bhengra, JJ.

Bench : Division Bench

Advocate : Mr. Mahesh Tiwari, Mr. Pankaj Kr. Mishra, Advocates, for the Petitioner; Mr. Ranjeet Kushwaha, Advocate, for the Respondents No. 6 and 7; J.C to G.A, for the State

Final Decision : Disposed Off

Judgement

D.N. Patel, J.(Oral) - This Public Interest Litigation has been preferred with the following prayers:

"(i) That by this writ application under Article 226 of the constitution on India the petitioner prays in public interest for issuance of an appropriate writ/order/direction commending upon the respondents to provide the followings in all the schools from class-I to V and class-VI to VIII i.e. Primary/Middle Schools in all 24 district of Jharkhand to provide toilets, taped drinking water, electricity, play grounds, boundary walls, libraries, computers in all the primary and middle schools run by the State of Jharkhand under Human Resources Development Department (HRD) situated in the state of Jharkhand within the jurisdiction of all 24 districts.

(ii) Further by this writ application by way of Public Interest, by way of Interest of Children of Jharkhand who study in Jharkhand Govt. Schools from Class -I to Class-V and class-VI to Class-VIII para Teachers are appointed engaged by the respective District Authorities i.e. Deputy Commissioners of all 24 Districts of

Jharkhand and these para teachers are duly appointed/engaged for teaching in the schools of Jharkhand from Block to District level schools and they have duly passed the Teachers Eligibility Test Examination Conducted by Jharkhand Academic Council and they have passed the TET Examination and they are working since about last 5-15 years. Their services be regularised as per their seniority by the State of Jharkhand/Deputy Commissioner concerned considering 1,50,000 (One Lakh Fifty Thousand) vacancy of Teachers in different schools of Jharkhand from Primary level to Middle level in all 24 districts.

(iii) Further it is prayed the salary of Para Teachers may kindly be paid regularly month to month so that they may not put in financial hardship.

(iv) Further respondent state may kindly be directed to pay the salary of the Para Teachers equivalent to salary paid to other teachers, other allowances in which these para teachers are working in the schools where they are working as para teachers in the same capacity, holding the same qualification, and they passed the Teacher Eligibility Test Examination working as a Para Teacher conducted by Jharkhand Academic Council, Ranchi.

(v) Further it is prayed that the Rule framed vide notification No. 1632 dated 05.09.2012 is ultra virus and against the constitutional provision of Article 14,16,21 of the constitution of India and against the Principle of Natural Justice depriving the Para Teachers who are working since last 5 to 15 years, they are fully qualified and they have passed the Teacher Eligibility Test Examination and no provision has been made for regularisation of their services as per their seniority the post of Assistant Teachers to Para Teachers of all the 24 district of Jharkhand.

(vi) Further respondent state of Jharkhand through the Chief Secretary, Govt. of Jharkhand/Secretary HRD Govt. of Jharkhand may kindly be directed to call for the Rule/regulation framed by the State of U.P. M.P. Chattisgarh, Orissa, Madras, Jammu & Kashmir, Assam and other State Govt. regarding regularisation from the post of para teacher on the vacant post of Assistant Teacher in the Primary/ Middle Schools on the basis of seniority and passing the Teacher Eligibility Test Examination the service of para teachers working since 5 to 15 years also be regularised in vacant post of Assistant Teachers from para teacher as per their seniority on the basis of Rules/Regulation framed by the respondent state Govt. in the interest of children of the Govt. run Primary/ Middle Schools Class-I to V and Class-VI to VIII".

2. Counsel for the petitioner has vehemently submitted that teachers, like this petitioner, have also preferred writ petitions for their regularization because they are working with the Respondents' State Government Schools since last 5 to 15 years. It is submitted by counsel for the petitioner that in all the 24 districts of the State of Jharkhand, in government schools, government should provide toilets, taped drinking water, electricity, play grounds, boundary walls, libraries and computers. It is also submitted by the counsel for the petitioner that there

are approximately 41,000 schools.

3. Having heard counsel for both the sides and looking to the facts and circumstances of the case, it appears that mainly this petition has been preferred for regularization of services of para-teachers. Petitioner is a Para Teacher, working since last approximately 12 years and he is seeking regularization. It ought to be kept in mind that no public interest litigation can be filed for any individual interest, especially, for regularization of the services. Regularization of the services are being guided by the several numbers of the decisions of the Hon"ble Supreme Court and the policies enunciated by the Respondent-State of Jharkhand from time to time. Regularization is not a matter of course. Policy decision is to be taken by the Respondent-State. Sometimes employment is being given by way of "back door entries" i.e. without any public advertisement and without there being any interview, written test etc. Public at large were not given opportunity to compete for the post in question. Sometimes such type of "back door entrants" are not capable to compete with others and by hook and crook, they are getting employment. They are more influential than intelligent. Such type of persons are in search of regularization. We cannot do regularization and no writ of mandamus can be issued to the Government, in this so-called Public Interest Litigation.

4. So far as providing toilets, potable drinking water, electricity, play grounds, boundary walls, libraries and computers are concerned, all the 41000 schools are the functioning of the government and it is vehemently submitted by the counsel for the State of Jharkhand that these facilities are already available with the government schools, but, it may happen that few of the electricity bulbs may not be working, there may be some, wear and tear, here and there like, in the computers etc., for which, whole Government Department is working with full hierarchy of the officers. Even in district and taluka levels, if any case is highlighted by the petitioner, immediate steps will be taken by the respondent State; otherwise, libraries, electricity, water and other such facilities, which have been narrated by the petitioner, are already available with schools in the State of Jharkhand. All these facilities may not be as fantastic as this petitioner is contemplating, by his fanciful ideas.

5. In view of the submission of the counsel for the Respondent-State, we see no reason to go for further direction to the Respondent-State. Nonetheless, it is expected from the Government that basic facilities like toilets, taped drinking water, electricity, play grounds, boundary walls, libraries and computers will be provided by the State. In fact, monitoring system should be evolved by the Respondent-State authority. At the end of every six month, data in a prescribed format, should reach from the smallest village to the Secretary of the Department in the State of Jharkhand, so that, proper monitoring can be done and the deficiencies may be identified and they can be removed by the State. This exercise will be done by the Respondent-State and there shall be proper monitoring to provide such facilities in the schools of the State of Jharkhand.

6. With these observations, this Public Interest Litigation is disposed of.

7. In view of the final disposal of this Public Interest Litigation, I.A.No. 3153 of 2015 & I.A.No. 3276 of 2016 also stand disposed of.