
(2019) 05 RAJ CK 0113
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3231 Of 2015

Salma Arora

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 14-05-2019

Acts Referred:

Rajasthan Non-Government Educational Institutions Act, 1989 — Section 7(1)

Citation : (2019) 05 RAJ CK 0113

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Nupur Bhati, K.K. Bissa, Ashok Chhangani

Final Decision : Allowed

Judgement

This writ petition has been filed by the petitioner seeking the following reliefs:-

"A. By an appropriate writ order or direction, the respondents may kindly be directed to continue the aid of the petitioner in the same way as before according to the Act of 1989 and Rules of 1993.

B. By an appropriate writ order or direction, the respondents may kindly be directed to pay her in accordance with the last pay drawn (Rs. 37541/- monthly) just before the Rules of 2010 came into existence w.e.f. October, 2013 onwards.

C. By an appropriate writ order or direction, the respondents may kindly be directed to pay the arrears @ 18% p.a. and a cost of Rs. 10 lacs for delaying the Right to livelihood of the petitioner.

D. Any other appropriate writ, order or direction which this Hon'ble Court may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioner.

E. Writ petition filed by the petitioner may kindly be allowed with costs."

It is, inter alia, indicated in the writ petition that petitioner has been working as

Teacher Gr.-III with the respondent No. 6 - Institution where she was appointed on 11.07.1987. Subsequently the petitioner was promoted on the post of Principal of the School.

The Rajasthan Voluntary Rural Education Service Rules, 2010 ('Rules of 2010') were promulgated by the State and as per the provisions an option for appointment was given to the Teachers of respondent No. 6 - Institution including the petitioner, however, though 9 out of 10 teachers accepted the same the petitioner did not opt for joining pursuant to the Rules of 2010 and continued to served with respondent No. 6 - Institution.

It is submitted that the petitioner is entitled for her salary, which she was receiving before the promulgation of Rules of 2010, however, the State by its communication dated 07.12.2013 (Annexure-5) addressed to respondent No. 6 - Institution has indicated that 100% aid, which was being given to the Institution as it was running a School for visually handicapped children/candidates, was being stopped w.e.f. 30.07.2013 and thereafter the petitioner has not been paid the salary to which she was entitled.

Learned counsel for the petitioner made submissions that identical issue as raised in the writ petition has been decided by the Division Bench in Dr. Arti Mathur & Anr. v. State of Rajasthan & Ors. : D.B. Civil Writ Petition No. 829/2012, decided on 16.04.2013, whereby, though the validity of provisions of Section 7(1) of the Rajasthan Non-Government Educational Institutions Act, 1989 ('Act of 1989') and Rules of 2010 were upheld, the action of the respondents in withdrawing the aid qua the Teachers, who did not join pursuant to the Rules of 2010 has been interfered with and, therefore, the petitioner is entitled to a similar relief.

Further submissions have been made that special leave petition against the said order, filed by the Institution, has been rejected by Hon'ble Supreme Court.

Learned counsel appearing for the State made submissions similar to what has been made in the case of Dr. Arti Mathur (supra), inter alia, indicating that after promulgation of the Rules of 2010 for the Teachers, who did not join pursuant to the Rules of 2010, the Institutions are not entitled for any grant in aid and, therefor, the petitioner is not entitled to any relief.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

The Division Bench in the case of Dr. Arti Mathur (supra) after thoroughly considering the issue pertaining to Teachers, who did not join pursuant to the Rules of 2010 and continued to serve with the aided institutions and the State decided to withdraw the aid as a whole, held and directed as under:-

"In the backdrop of the above, the impugned amendment to Section 7(1) of the Act, 1989 and the Rules, 2010 is, therefore, negated.

However, the action of the Government in withdrawing the grant, so far as it relates to the posts in which the teaching and non-teaching staff of the Non-Government aided educational institutions are still continuing, is adjudged to be illegal and ultravires of the Act, 1989. The impugned communications dt. 13.12.2011, 27.12.2011, 28.12.2011 and those of the institutions dt. 3.1.2012 and 4.1.2012, stand interfered with to this extent. The State respondents are hereby directed to undertake an exercise in association with the management of the concerned non-Government Educational Institutions hitherto receiving the grant under the Act, 1989 to work out the category and extent of grant in aid, as would be essential to secure the service conditions of such existing teaching and non-teaching staff as contemplated by the enactment and release the same. It is made clear that this direction would be strictly confined to the existing teaching and non-teaching staff of such institutions as on date and the benefit thereof would not be extended to those, who have meanwhile opted for the Government service under the Rules, 2010 and also to the posts so abandoned, and to which, if in the meantime, any induction has been made on the terms and conditions ascribed by the management of the concerned institutions.

The petitions are allowed only to the extent indicated hereinabove. All other pleas are answered accordingly."

The issues projected by the petitioner in the present writ petition are squarely covered by the judgment in the case of Dr. Arti Mathur (supra).

In view thereof, the writ petition filed by the petitioner is allowed with similar relief as granted in the case of Dr. Arti Mathur (supra). Needful be done by the respondents within a period of four weeks from today.