
(2003) 07 RAJ CK 0110
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3516 of 2003

Sanjay Maud.

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 29-07-2003

Acts Referred:

Constitution of India, 1950 — Article 215, 226

Citation : (2004) 1 RLW 217 : (2003) 4 WLC 693

Hon'ble Judges : H.R. Panwar, J

Bench : Single Bench

Advocate : N.K. Rastogi, for the Appellant;

Final Decision : Dismissed

Judgement

H.R. Panwar, J.—By the instant writ petition, petitioner seeks directions to the respondents to comply with the order passed by this Court on 30-11-99 in SBCW.P No. 3750/1999 and 86 connected writ petition.

2. The facts and circumstances giving rise to this case are that the petitioner has to his credit the Degrees of B.Ed. from Barkatulla University, Bhopal (M.P.). in pursuance to the advertisement issued by respondents No. 2 and 3 for recruitment and appointment on the post of-Teachers Grade III, the petitioner submitted his application. His name was shown in the provisional select list but ultimately his name was deleted from the final merit list on the ground that he had passed the B.Ed, examination through correspondence course from the aforesaid university. He approached this Court by way of filing SBCVVP No. 3446/1999 seeking direction for his appointment on the post in question. The learned Single Judge allowed the said writ petition alongwith 86 other petitions, vide Order dated 30-9-1999 (Annx. 1). The respondents neither filed appeal challenging the order passed by this Court, nor have they complied with the said order, therefore, petitioner has, now, preferred this writ petition for execution of the order Annx. 1.

3. I have heard learned counsel for the petitioner and perused the record. Mainly, the instant writ petition has been filed by the petitioner seeking direction to the respondents to give him appointment on the post of Teacher Grade III and allow him the seniority from the date of passing of the judgment in the earlier writ petition with all consequential reliefs. The relief sought in the instant writ petition is almost identical to that of the relief sought and granted in the earlier writ petition No. 3750/1999 and 86 identical writ petitions decided on 30-11-1999.

4. This Court, vide order dated 30-11-1999 (Annx. 1), allowed batch of writ petitions, including the writ petition earlier filed by the petitioner with the following directions:-

"Accordingly, the writ petitions are allowed. The following directions are issued to the State:-

(i) It is hereby directed that all certificate, degree or diploma claimed to be equivalent to BSTC and acquired prior to 15-5-1997 are liable to be considered for grant of appointment to the post of Teacher Grade III in accordance with the advertisement issued in June, 1998.

(ii) The respondents are directed to reconsider the entire recruitment process after giving consideration to the persons not considered for the above reasons and prepare a fresh list of merit and if they so desire issue fresh appointment in accordance with the list so prepared.

(iii) All the notices terminating the services of such Teachers for holding such certificate, diploma or degree from such institutions covered by Section 17(4) of the Act or whose certificate, diploma or degree could not be verified by the State are hereby quashed. It is further directed that the State shall always have the right to investigate into each and individual certificate, diploma or degree so tendered for consideration and it have the right to terminate the services of such individuals whose degrees, diploma or certificates are found to be either fraudulent or not in conformity with the direction at one above and terminate the services for such reasons. If in pursuance to the notices hereinbefore quashed, consequential terminations have been factually effected, the same are also hereby quashed and the persons so terminated are directed to be reinstated. There will be no order as to costs."

5. Evidently, the instant writ petition" is grossly delayed and, therefore, the petitioner has taken shelter Of Article 215 of the Constitution of India as well. However, the clinching question is whether a subsequent writ petition may be filed for enforcement of the order passed in an earlier writ petition.

6. In Anwar Khan v. State of Rajasthan and Ors. CO, this Court has held that writ petition cannot be the appropriate and effective remedy to be entertained for enforcement of the judgment. For enforcement of judgment within limitation period, the remedy lies in the provisions of Contempt of Courts Act and after that, within reasonable time, under the provisions of Article 215 of the

Constitution of India.

7. The legislature, in its wisdom, has created a special forum for it and the petitioner ought to have resorted to it within limitation under the provisions of Contempt of Courts Act and if it had expired, under the provisions of Article 215 of the Constitution of India within reasonable period thereafter. In exercise of the contempt jurisdiction, the Court not only has the power to punish the contemnor but also to enforce the order passed by it.

8. The petitioner ought to have been vigilant and cautious enough to safeguard his own interests. The law does not permit liberty to weak up after long slumber and stake a claim on the basis of relief granted by this Court to him way back in 1999. If the respondents did not file appeal nor did they comply with the order of this Court, it was incumbent upon the petitioner himself that he should have exerted for compliance of the orders of this Court in time. Once a party wilfully or negligently waives to exert for clinching the relief granted to it within reasonable time as per law, the Court cannot be expected to reopen the debate time and again. Article 215 of the Constitution empowers this Court to enforce compliance of its orders but laches cannot be condoned by invoking Article 215 of the Constitution of India. The petitioner has nowhere indicated as to what steps he took seeking compliance of the order passed in the writ petition earlier filed by him and in what manner he pursued the respondents for the same. The inaction and apathy on his part in not taking appropriate steps within reasonable time disentitles him to seek the relief claimed. Once this Court has issued a writ under Article 226 of the Constitution, setting at rest the controversy agitated before it, subsequent petition under Article 226 of the Constitution seeking compliance of its order means re-issuing the same writ, which is not only hit by the principle of *re judicata* but also contravenes the very basis of the principle enshrined in Article 215 of the Constitution by virtue whereof, this Court, being a Court of Record, can punish for contempt of its orders.

9. In view of the above, I am of the considered opinion that the petition is grossly hit by delay and laches. The same is hereby dismissed.