
(2022) 03 JH CK 0084
In the Jharkhand High Court
Case No : Writ Petition (S) No. 653 Of 2020

Satya Prakash

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 10-03-2022

Acts Referred:

Citation : (2022) 03 JH CK 0084

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Vijay Shanker Jha, Pinky Tiwary

Final Decision : Disposed Of

Judgement

Anubha Rawat Choudhary, J

1. Heard Mr. Vijay Shanker Jha, learned counsel appearing on behalf of the petitioner.

2. Heard Ms. Pinky Tiwary, learned counsel appearing on behalf of the respondents.

3. This writ petition has been filed for the following reliefs:

"For issuance of an appropriate writ(s)/order(s)/direction(s) commanding upon the respondents authorities, particularly to the respondent no.- 3 (District Superintendent of Education, East Singhbhum) to approve the appointment of petitioner and release dues as well as current salary and other benefits, in accordance with the Govt. of Jharkhand rule, to the petitioner who has been appointed as an Assistant Teacher, by the respondent no.-5 on 25-09-2008, joined on 01-10-2008, and since then has been working in the school of respondent no.-5."

4. The learned counsel for the petitioner submits that the petitioner had filed a writ petition before this Court being W.P.(S) No. 5091 of 2011 which was

disposed of vide order dated 28.09.2018. In the said writ petition, the letter dated 15.09.2009 [whereby the District Superintendent of Education had cancelled the proposal submitted by the Secretary of Bharat Sewashram Sangha, Pranavananda Vidya Mandir (middle school) regarding approval of appointment of the petitioner] was quashed and a direction was issued to pass appropriate order for confirmation of the appointment of the petitioner within a period of eight weeks from the date of receipt/production of a copy of the said order.

5. The learned counsel for the petitioner further submits that pursuant to the aforesaid order of the High Court, the petitioner filed his representation and an office order dated 27.02.2019 was issued by the District Superintendent of Education calling upon the aforesaid school to produce the records for consideration. He submits that thereafter the final decision has not been taken so far. The learned counsel for the petitioner also submits that vide Annexure- 11 dated 17.05.2019, the necessary records regarding the appointment of the petitioner were forwarded by the Area Education Officer, Jamshedpur to the District Superintendent of Education, East Singhbhum, Jamshedpur, but no final decision has been taken so far. He has also filed a representation dated 17.01.2020 and thereafter, the present writ petition has been filed.

6. The learned counsel appearing on behalf of the respondents has submitted that the petitioner has ultimately filed a representation dated 17.01.2020 before the respondent no. 3 and instead of passing an order in this writ petition, the respondent no. 3 may be directed to pass an appropriate order in the light of the earlier order passed by this Court in W.P.(S) No. 5091 of 2011.

7. After hearing the learned counsel for the parties, it is not in dispute that the petitioner had moved this Court earlier in W.P.(S) No. 5091 of 2011 for quashing of letter dated 15.09.2009 whereby the respondent no. 3 cancelled the proposal submitted by respondent no. 4 regarding approval of appointment of the petitioner. This Court, while disposing the writ petition, inter alia, recorded that from plain reading of the order dated 15.09.2009, it appeared that the impugned order was mainly on the ground of non-compliance of departmental letter/instruction dated 04.03.1993, in particular, absence of representative of the education department who were supposed to guide the committee regarding the departmental rules and regulations for selection of teachers. This court also recorded that apart from the aforesaid deviation, the impugned order did not record any other ground or showed any irregularity in the appointment. It was not in dispute that the petitioner was appointed against sanctioned and vacant post through open public advertisement and was possessing all requisite qualifications.

8. This Court while disposing of the writ petition on 28.09.2018, ultimately held in paragraphs 6 and 7 as under:

"6. From perusal of letter dated 17.12.2007, it is amply clear that the matter of non-appearance of departmental representative in the meeting of school

management committee for appointment of teachers in Government aided minority schools came before the authority and they came to a concrete decision that if the departmental representative would not come for two times in the meeting held for appointment of teachers, the committee shall proceed with the process of appointment and it shall be deemed that departmental representative has given consent. In the case at hand, admittedly for consecutive two times, the departmental representative did not come as such this Court finds no irregularity in the process of appointment adopted by the management of the school in making appointment of the petitioner.

7. For the reasons aforesaid letter dated 15.09.2009 is quashed and set aside and respondents are directed to pass appropriate order for confirmation of the appointment of the petitioner within a period of eight weeks from the date of receipt/production of copy of this order.”

9. It appears that in spite of order dated 28.09.2018 passed in W.P.(S) No. 5091 of 2011, the grievance of the petitioner has not yet been redressed. It further appears that school had also sent the necessary records for consideration by the screening committee and the petitioner has also filed a representation before District Superintendent of Education, East Singhbhum, Jamshedpur for redressal of his grievances.

10. Accordingly, this writ petition is disposed of with a direction upon the respondent no. 3 to take steps so that the matter is placed for consideration by the screening committee and for passing appropriate order in terms of order passed in W.P.(S) No. 5091 of 2011 within a period of two months from the date of receipt of a copy of this order along with a copy of the present writ petition. The reasoned order is directed to be communicated to the petitioner as well as the school through speed post. The petitioner may mention his addresses in the representation itself.

11. Pending interlocutory application, if any, is closed.