
(2010) 05 JH CK 0078
In the Jharkhand High Court

Shambhu Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 22-05-2010

Acts Referred:

Citation : (2010) 05 JH CK 0078

Hon'ble Judges : M.Y. Eqbal, Acting C.J.;Dhirubhai Naranbhai Patel, J

Bench : Division Bench

Judgement

1. This writ petition by way of public interest litigation has been filed by the petitioner for issuance of a direction upon the respondents to immediately start Kendriya Vidyalaya at Bhurkunda, which was suddenly closed down by the concerned respondent although the said school was functional since 1973.

2. It is alleged by the petitioner that because of opening of another private school, namely, DAV, the authorities of the Kendriya Vidyalaya Sangathan (in short KVS) in connivance with the authorities of that DAV school have taken the aforesaid decision to close the school. This Court took up the matter and first by the order dated 25.6.2008 directed Union of India through the Secretary, Human Resources Development Department to be impleaded as party respondent. At the first hearing on 23.9.2008, a plea was taken by the KVS that the building where the school was running was in dilapidated condition and there were other schools functioning in the vicinity, as a result the number of students in the school had decreased. Hearing time submission made by the Counsel appearing for KVS, the Chairman-cum-Managing Director, Central Coalfields Ltd., was directed to file an affidavit. In compliance thereof, the Chairman-cum-Managing Director, Central Coalfields Ltd., filed the affidavit indicating that they are willing to provide the building for running the school wherein the school was earlier running. Considering the affidavit, this Court on 25.11.2008 directed the Chairman, KVS, New Delhi, to indicate by way of an additional affidavit regarding the manner in which the school would be provided the facilities and infrastructures which they were already enjoying prior to its closure. The Court further directed the

respondent No. 2, the Chairman, KVS, to permit the school authorities to reopen the school forthwith. The aforesaid direction was not complied with by the authorities of KVS. The Court gave further indulgence to the authorities to comply the directions. Ultimately the Assistant Commissioner, KVS, appeared in person on 16.1.2009 and informed this Court about the dilapidated condition of the building which compelled the authorities to close the school. The Assistant Commissioner further sought one month time to examine the feasibility of reopening the school. It appears from the record that since then several directions were issued by the Court to the Union of India and the Chairman and other authorities of KVS for compliance of the order and to reopen the school which was closed down for no reason but till date the order has not been complied with. Instead KVS moved before the Supreme Court in SLP No. 17115-17116/2009, which has ultimately been disposed of with the observation that High Court is in seisin of the matter.

3. Md. Khan, learned Assistant Solicitor General appearing for the Union of India, produced before us the instructions received from the Ministry of Human Resource Development Department under the signature of the Director. For better appreciation, the letter produced before us is reproduced below:

No. F.4-5/2010-UT.2 Government of India Ministry of Human Resources Development Department of School Education & Literacy UT-2 Section

Ground Floor, "B" Wing Shastri Bhavan, New Delhi-110001

New Delhi/the 3rd May 2010

To

Md. Mokhtar Khan Assistant Solicitor General of India Jharkhand High Court Room No. 1, Ground Floor, Ranchi - 2

Sub.: WP (PIL) No. 2602 of 2008 (Shambhu Singh v. State of Jharkhand and Ors.) pending in the High Court of Jharkhand

Sir,

I am directed to refer to your letter No. 19/2010 dated 26.04.2010 on the subject mentioned above and to say that the case is being examined in consultation with Department of Legal Affairs (Ministry of Law & Justice). Since, it will take some time to finalize the case, you are requested to seek extension of two months time from the Hon"ble High Court.

2. You are also requested to intimate the progress of the case from time to time.

Yours faithfully, Sd/- (V. Jayachandran) Director (UT)

4. The conduct of the Officer of the Ministry of Human Resource Development Department is evident from the aforesaid letter as to how they are taking the

matter so lightly. Mr. Khan, on the one hand, has submitted that the Union of India has no concern with the opening of the Kendriya Vidyalaya and on the other, the letter speaks about some decision to be taken by the Ministry of Human Resource Development Department.

5. After taking notice of the order passed from time to time by this Court and the conduct of the authorities, it is evidently clear that there is total disregard, disrespect and violation of the orders passed from time to time by this Court. We, therefore, before passing further order, direct the Chairman, KVS, New Delhi, the Secretary, Ministry of Human Resources Development Department, Government Of India, and the Chairman-cum-Managing Director, Central Coalfields Ltd., to appear in person before this Court on 25th May, 2010, at 10.30 a.m. and file affidavit making categorical statements as to whether they are ready to comply the directions and reopen the school, which was functional since 1973.

6. Put up again on 25.5.2010.

7. Let a copy of this order be given to the Counsel for the parties.