
(2016) 05 MAN CK 0008
In the Manipur High Court
Case No : Writ Petition No. 623 of 2010

Shri Huirem Ibomcha Singh

APPELLANT

Vs

The State of Manipur

RESPONDENT

Date of Decision : 03-05-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 GauLT 509

Hon'ble Judges : Mr. S. Serto, J.

Bench : Single Bench

Advocate : Mr. Tarangkhomba, Advocate, for the Petitioner; Mr. K. Jagat, Government Advocate, for the Respondents

Final Decision : Disposed Off

Judgement

Mr. S. Serto, J.— Heard Mr. Tarangkhomba, learned counsel appearing for the petitioner and Mr. K. Jagat, learned G.A. appearing for the respondents.

2. In this writ petition, the petitioner's prayer is for issuance of a writ in the nature of mandamus directing the respondents to implement the order dated 07.08.1996 passed in Civil Rule No. 438 of 1994 by the erstwhile Imphal Bench of the Gauhati High Court. The order sought to be implemented is as follows :

"The petitioner has not acquired any enforceable right inasmuch as the land of the petitioner was taken by the Government and on that land the school building has been constructed. It is submitted that the petitioner is eligible for appointment as Assistant Teacher or otherwise as Clerk. The case of the petitioner may be considered favourably by the respondents No. 1 to 5 within a period of 3 (three) months from the date of receipt of this order subject to condition that he being eligible for appointment by holding necessary D.P.C. by following the due process of law.

Heard Mr. HNK Singh, learned counsel for the petitioner and Smt. Noutuneswari, learned Government Advocate appearing for the respondents.

This disposes of this writ application."

3. The facts and circumstances leading to the writ petition as stated in the writ petition and as submitted by learned counsel appearing for the petitioner are as follows :

That, the petitioner and his brother, now no more, donated a piece of homestead land measuring 0.23 acres in the year 1954 for establishment of one Lower Primary (L.P.) School at Kumbi Khuga Wangma Mamang Leikai in Bishnupur District with a condition that one of his sons will be given appointment to the post of Assistant Teacher or Clerk in the said school. After establishment of the school, the petitioner approached the respondents/authorities concerned for giving appointment to his son namely, Shri Huiem Rajbihari Singh to a post, but, no positive response came forth from the authority. So, the petitioner submitted a representation dated 22.01.1993 to the then Hon"ble Minister of Education, Manipur; a copy of which was furnished to the Director of Education (S), Government of Manipur and Inspector of Education (S), Zone - IV, Bishnupur, Manipur requesting for appointment of his son. Since no positive response came forth, the petitioner filed a writ petition before the erstwhile Imphal Bench of Hon"ble Gauhati High Court praying for a direction to the respondents to appoint his son, whose name is mentioned above to a suitable post. The petition was registered as Civil Rule No. 438 of 1994.

The Court disposed of the said writ petition with a direction to the respondents to consider the prayer of the petitioner favourably within a period of 3 (three) months. The said order was duly communicated to the respondents and approached the authorities who promised that his son's appointment will be considered as and when vacancy arises. The same promise was constantly given whenever the petitioner met the authorities concerned. However, the direction given by the Hon"ble Gauhati High Court, Imphal Bench in the Civil Rule No. 438 of 1994 have not been implemented till today.

Since the order dated 07.08.1996 passed in Civil Rule No. 438 of 1994 was not implemented, a petition for drawing a proceeding under contempt of Court could have been instituted but, due to the lapse of time, the petitioner has preferred this petition seeking for a direction to implement the same.

4. Learned counsel appearing for the respondents opposed the petition stating that the petitioner donated the land before the school was taken over by the Government. Therefore, as per the Government policy, liabilities of the school before it was taken over cannot be imposed on the Government. Learned counsel further submitted that there was no specific guideline or instruction of the Government in place at the time the petitioner donated the land, for considering appointment of land donor(s) to Government service. It was only on 29.06.1983 that the Government issued a memorandum for giving appointment to such land donor(s) to Grade - IV post in Government services. Therefore, the petitioner cannot enjoy the benefit of the memorandum.

5. Since the petition is filed for issuance of a writ in the nature of mandamus, direction or appropriate order for implementation of the order dated 07.08.1996 passed in Civil Rule No. 438 of 1994 by the erstwhile Imphal Bench of the Gauhati High Court, the need to go into merit of the claim of the petitioner does not arise. The only issue to be decided in the case is, therefore, whether a writ in the nature of mandamus or appropriate direction/order as sought for can be issued by this Court for implementation of the order dated 07.08.1996 of the erstwhile Imphal Bench of the Gauhati High Court.

6. It is submitted by learned counsel appearing for the respondents that since the petitioner did not file contempt petition during the time permissible he has no means available for implementation of the order 07.08.1996 of the erstwhile Imphal Bench of the Gauhati High Court. Therefore, the writ petition is a misconceived one and no purpose can be served with it.

To this, learned counsel appearing for the petitioner submits that having not filed a contempt petition does not bar the petitioner from seeking remedies through other appropriate means such as the writ petition. This Court has ample jurisdiction to exercise power to issue such writ direction or appropriate order as sought for.

7. It appears from the pleadings of the parties that such an order of the erstwhile Imphal Bench of the Gauhati High Court was passed and not implemented by the respondents for reasons best known to them. It must be kept in mind that the Court's order is passed not just to be served aside or ignored or to be thrown to the dustbin. Admittedly, there is no file available with the respondents concerning steps taken for implementation of the order dated 07.08.1996 of the erstwhile Imphal Bench of the Gauhati High Court. This itself shows that the grievance of the petitioner has not been considered rather it has been taken casually in spite of the order of Hon'ble High Court. It must not be forgotten that in whatever system or form of Government where Court's orders have not been honoured and obeyed it has led to loss of faith of the people in the system. The consequence is anarchy, more so where democratic form of Government exists.

8. Those who are in position must remember that in most cases, orders are passed by the Courts when people come and knock the door of justice as a last resort. In the present case too, it appears from the facts and circumstances that the petitioner has been seeking for justice since the time, his land was stated to have been donated i.e. 1954. It was only when his voice for justice was ignored, he came to the High Court in 1994 and the order sought to be implemented was passed. It would be travesty of justice if the respondents were to be allowed to take shelter under the plea that since contempt petition has not been filed, the petitioner has no more means available for having the order dated 07.08.1996 passed by the erstwhile Imphal Bench of the Gauhati High Court implemented, specially when, they are duty bound to implement the same, irrespective of whether contempt petition was filed or not.

9. In view of the above, the respondents are directed to consider the case of the petitioner favourably as directed in the order dated 07.08.1996 by the erstwhile Imphal Bench of the Gauhati High Court in Civil Rule No. 438 of 1994 (quoted above) within a period of 3 (three) months from the date of receipt of this order.

With this, this writ petition is disposed of. No order as to cost.