

(2010) 04 JH CK 0084
In the Jharkhand High Court

State of Bihar (Now, Jharkhand)	Vs	APPELLANT
Sunil Kumar Singh and Others		RESPONDENT

Date of Decision : 16-04-2010

Acts Referred:

Citation : (2010) 04 JH CK 0084

Hon'ble Judges : Gyan Sudha Mishra, C.J.; Rakesh Ranjan Prasad, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal has been preferred by the appellant-State of Jharkhand against the order dated 11.12.2009 passed by the learned Single Judge in C.W.J.C. No. 2038 of 2000 (R), by which a direction had been issued to the respondent-State/appellant-herein to take appropriate steps to arrange and release the funds as per the requisition received from the concerned university for enabling it to pay the due arrears, which have not been paid to the teaching and non-teaching staff of the S.S.J.S.N. College, Garhwa.

2. The background of the matter under which this appeal arises is that the dispute had earlier arisen between the teaching and non-teaching staff of the colleges in the State of Jharkhand, which travelled up to the Supreme Court, and the Supreme Court finally appointed a committee of a retired Judge of the Supreme Court, Hon'ble Justice S.C. Agarwal to examine the eligibility of the teachers who were claiming absorption and also receive the payment since the appellant-State is liable to make payment to the teaching and non-teaching staff.

3. However, the appellant-State did not make the payment to the teachers, which prompted some of the affected teachers like the respondents-herein to file a writ petition before the learned Single Judge bearing C.W.J.C. No. 2038 of 2000(R) out of which this appeal arises, and the learned Single Judge merely directed that the payment be released in pursuance to the requisition made by the university. However, this was by virtue of an interim order passed in the

aforementioned writ petition vide I.A. No. 3316 of 2009 passed by the learned Single Judge on 11.12.2009, but the writ petition is still pending.

4. We fail to understand the purpose of this appeal as the question regarding the eligibility for receiving the payment to the teaching and non-teaching staff of colleges including the S.S.J.S.N. College, Garhwa has already been settled and hence their eligibility is not in doubt in view of the order passed by the Committee of Justice S.C. Agarwal. However, the Sr. Standing Counsel -II, Mr. A. Allam, representing the respondent-State submitted that the eligibility of the teaching and non-teaching staff of the constituent colleges, requires a fresh consideration, and unless this is done, the learned Single Judge ought not to have directed to release the payment on requisition by the university.

5. We are not prepared to accept this submission since the question regarding eligibility of the teaching and non-teaching staff of the constituent colleges had already been resolved by the committee of Hon''ble Justice S.C. Agarwal, who had examined the matter in pursuance to the order passed by the Apex Court, and therefore, it does not lie within the discretion and domain of the State Government to re-open the controversy all over again; if at all, the appellant-State has reason to re-open the issue afresh, it will have to approach the Supreme Court by way of a review/recall or modification of the order passed in SLP (Civil) No. 18168 of 2002 in order to contend that the report of Hon''ble Justice S.C. Agarwal Committee should not be accepted and the whole matter should be thrashed out or re-opened again. This submission cannot be entertained by the High Court as the controversy has been set at rest vide the report of the Committee which had been constituted by order of the Supreme Court passed in the SLP referred to hereinbefore. In any case, the impugned order under challenge is interim in nature, by which the only direction which has been issued by the learned Single Judge is to accept the requisition and release the funds, in which we find no infirmity for the reason stated hereinbefore. The respondent-State obviously is trying to circumvent the order of the Supreme Court by raising pleas which are clearly in the nature of challenge to the order passed by the Supreme Court in the aforementioned S.L.P.

6. This appeal, under the circumstance, is dismissed.