

(2006) 11 JH CK 0051
In the Jharkhand High Court

State of Jharkhand and Others

APPELLANT

Vs

Sarbani Bose and Another

RESPONDENT

Date of Decision : 24-11-2006

Acts Referred:

Citation : (2007) 1 JCR 578

Hon'ble Judges : M. Karpaga Vinayagam, C.J;Narendra Nath Tiwari, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Challenging the cancellation of the provisional approval, the respondent filed a writ petition before this Court. The learned single Judge after hearing the counsel for the parties allowed the writ petition, quashing the cancellation order of the provisional approval. Hence this Letters Patent Appeal by the State.

2. The main point urged by the counsel for the appellants is that decision of this Court rendered on 30.3.2005 in the case of Dilip Kumar Gupta and Others Vs. State of Jharkhand and Others, clearly indicates that the finding has been given in the said decision that Institution from which the petitioner-respondent obtained a Teacher's training certificate in the year 1992 was not existing one and as such certificate is fake. On the basis of which the appellants were constrained to pass an order, cancelling the provisional approval. It is further submitted that as a matter of fact the provisional approval has been given on 23.7.1994 with effect from 3.1.1994 only on the condition "subject to confirmation" and as such order passed by the department canceling the provisional approval, is perfectly justified and the finding of the learned single Judge is not correct.

3. We have heard counsel for the respondent on this aspect. At the outset, we shall mention that the learned single Judge, who was a party to the Division Bench, has clearly held that the doubts raised in the said decision Dilip Kumar Gupta's case (supra) would not be a ground to hold that the order of such

cancellation of provisional approvals is valid. It has been clearly held by the learned single Judge in the impugned order that the judgment rendered on 30.3.2005 in the case of Dilip Kumar Gupta (supra) would not apply to the appointment of the respondent-petitioner in the year 1993 on the basis of certificate issued by Dr. B.C. Roy College of Education, Calcutta in the year 1992 after passing examination. Further, it is noticed, as correctly pointed out by Mrs. I. Sen Choudhary, learned Counsel appearing for the appellants, National Council, for Teachers Education Act came to be introduced on 1st July, 1995. It is true, as strenuously contended by Mrs. Sen Choudhary, counsel for the appellants, that the Division Bench made an observation entertaining doubts with regard to the genuineness of the Institution granting teachers' training certificate. But, however, it is correctly pointed out by the learned Counsel of the respondent that that portion has been expunged by the Supreme Court vide order dated 3.3.2006, holding that the Division Bench could not have entertained those doubts in the absence of any material to show that the other parties were heard on the relevant question. As such those observations can not be made use of by the authorities for passing the order impugned in the writ petition. So, in our view, the direction given by the learned single Judge, directing the authority to pay the salary of the petitioner/respondent, is perfectly valid and justified.

4. Therefore, we do not find any merit in the appeal. The Letters Patent Appeal is, accordingly, dismissed.