

(2010) 08 SC CK 0078

In the Supreme Court Of India

Case No : Civil Appeal No. 6744 of 2010 (Arising out of SLP (C) No. 19557 of 2009)

State of Madhya Pradesh

APPELLANT

Vs

Pramod Kumar Shukla and Another

RESPONDENT

Date of Decision : 18-08-2010

Acts Referred:

Citation : AIR 2010 SC 3632 : (2010) AIRSCW 5540 : (2011) 4 ALD 1 : (2011) 111 CLT 490 : (2010) 127 FLR 10 : (2010) 9 JT 76 : (2011) 1 OLR 113 : (2010) 9 SCC 44 : (2011) 1 SLR 312 : (2010) 7 Supreme 727

Hon'ble Judges : R. M. Lodha, J;Aftab Alam, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

Aftab Alam, J.—Leave granted.

2. One single individual, a compounder in an autonomous government Ayurved college went to the High Court, complaining about his aborted transfer to another autonomous Ayurved college. The High Court while dismissing his writ petition/appeal made certain blanket prohibitory directions against the State Government. Aggrieved by those directions, the State Government is in appeal before this Court.

3. One Pramod Kumar Shukla worked as a compounder in an autonomous government Ayurved college in Ujjain. He made a representation to the Government for his transfer to the autonomous Ayurved College, Rewa. His representation was allowed and he was transferred to the college where he desired to go but two months later his transfer order was cancelled and he was sent back to the Ujjain College for the reason that employees of autonomous government Ayurved Colleges were not under government control and the government had no authority or power to transfer them from one autonomous college to another autonomous college.

4. The aforesaid Shukla moved the High Court in a writ petition against the cancellation of his transfer order as a result of which he was sent back to the Ujjain College. A single judge of the High Court dismissed the writ petition. He preferred an intra-court appeal. The division bench noticed the stand of the government that the autonomous colleges/institutions were governed by specific rules framed/adopted by those colleges/institutions. Further, at the time of appointment of the employees of the autonomous colleges/institutions the government had no role to play and the salaries/wages of the employees of those colleges were not being paid by the government and the government was not the disciplinary authority of the employees of the autonomous colleges and hence, the employees of the autonomous colleges could not be held as employees of the government. Having noted the stand of the government, the division bench of the High Court dismissed the appeal filed by the aggrieved employee.

5. That should have been the end of the matter. But the High Court went on to elaborate upon the government stand and in the end made the following directions in paragraphs 18 and 19 of the judgment which are reproduced below:

18. To avoid any future complication, while dismissing the writ appeal, we hereby direct that the State Government henceforth shall not transfer any employee of any Autonomous College/Institution to another Autonomous College/Institution nor would issue any order of appointment/absorption of some person from one College into another College or a fresh appointment because the Autonomous Colleges/Institutions are governed by the specific rules framed/adopted by such Colleges/Institutions.

19. On the merits, we dismiss the writ appeal, but however, with a specific direction to the State Government to adhere to the observations made by this Court with a further caution that if they commit any breach of any observation then they would be exposing themselves to serious risk. We however permit the appellant to make an application to the College at Rewa for his fresh appointment. It is, however made clear that this liberty extended in favour of the appellant would not amount to a direction of this Court to the College. The interim relief granted on earlier occasion is vacated.

6. We are unable to appreciate the general and blanket prohibitory directions issued to the government. The division bench of the High Court had before it the case of an individual employee and the adjudication should have concluded with the decision on the merits of his claim. The division bench evidently forgot that restraint is the hallmark of judicial process and getting carried away is a luxury that the court can ill afford. In the facts and circumstances of the case we see no occasion or justification for the general directions as reproduced above.

7. We are, accordingly, constrained to interfere in the matter and set aside the impugned directions.

8. In the result, the appeal is allowed but with no order as to costs.