
(2003) 05 JH CK 0020
In the Jharkhand High Court
Case No : C.M.P. No. 183 of 2003

Sunil Kumar Sinha

APPELLANT

Vs

Chancellor of Universities and Others

RESPONDENT

Date of Decision : 02-05-2003

Acts Referred:

Bihar State Universities Act, 1976 — Section 9(7)
Constitution of India, 1950 — Article 226

Citation : (2003) 3 JCR 472

Hon'ble Judges : P.K. Balasubramanyan, C.J;R.K. Merathia, J

Bench : Division Bench

Advocate : Anoop Kumar Mehta, for the Appellant; S.B. Godadia, for the Respondent

Final Decision : Allowed

Judgement

1. Heard both sides.

2. This is a petition filed by the respondents in the appeal praying for modification or clarification of the judgment passed by this Court in the appeal on 29.1.2003. The modification or clarification sought for is to the extent of deleting the observations regarding the scope of Section 9(7)(ii) of the Bihar, Universities Act, now adopted by the State of Jharkhand.

3. The factual background leading to this petition is as follows :--

The writ petitioner was working as a computer operator in Ranchi University. He was dismissed from service. His dismissal was based on a direction issued by the Vice-chancellor to remove him from service on the ground that his appointment was irregular. Thereupon the Vice-chancellor even without giving any notice to the writ petitioner, dismissed him from service. The petitioner thereupon approached this Court with the writ petition CWJC No. 822 of 2000, seeking the quashing of the order of dismissal inter alia, on the ground that the order was violative of the principles of natural justice as the writ petitioner was not given

even an opportunity of being heard before the issuance of the order of dismissal. The learned Single Judge dismissed the writ petition on the basis that Vice-chancellor was bound to comply with the direction of the Chancellor issued in that behalf. The writ petitioner filed the appeal, challenging the dismissal of the writ petition. It was contended on behalf of the writ petitioner-appellant that the Chancellor had no authority to issue such a direction. The Chancellor or the Vice-chancellor cannot dismiss an employee like the appellant without adhering to the principles of natural justice which is the basis of our legal system. The Division Bench accepted the contention of the appellant holding that the dismissal was void being violative of natural justice. The Division Bench further held that the Chancellor had no power u/s 9(7) (ii) of the Act to issue a direction like the present in question. Thus, the appeal was allowed and the appellant, writ petitioner was directed to be re-instated.

4. It is not disputed that the appellant-writ petitioner had been re-instated pursuant to the direction of this Court and the finding that the termination by the Vice-chancellor was bad for want of compliance with principles of natural justice. What is pleaded is that in the light of the finding that the order of dismissal was liable to be set aside on the ground of violation of natural justice, it was necessary for this Court to have pronounced on the scope of Section 9(7)(ii) of the Universities Act. According to the petitioner in this petition, (the respondent in the appeal), the interpretation placed by this Court would hamper or unnecessarily restrict the power of the Chancellor and for the purpose of the case on hand it was not necessary to have pronounced on the scope of that provision. It is also submitted that the view taken by this Court is not sustainable. Learned counsel for the writ petitioner-appellant submitted that as far as he is concerned, he was only concerned with the dismissal being struck down as in violation of natural justice and that the writ petitioner does not insist on an interpretation of Section 9(7) (ii) of the Act for the purpose of this case. It was, therefore, submitted that the scope of Section 9(7)(ii) of the Act may be left open for being decided in another appropriate case. The writ petitioner-appellant has no objection as such to the clarification sought for. But he was only concerned with the finding that his dismissal was bad for violation of natural justice.

5. This Court having found that the dismissal of the writ petitioner-appellant was illegal since it was violative of natural justice and was liable to be set aside, it was not necessary to proceed further and decide the question of the scope of Section 9(7)(ii) of the Act. On a reading of Section 9(7)(ii) of the Act, it can be seen that the power of the Chancellor was wide, but even if there was a direction by the Chancellor, it was for the concerned Vice-chancellors or the authority concerned to comply with rules of natural justice while seeking to implement the direction. Therefore, the act of the Vice-chancellor in terminating the services of the writ petitioner-appellant without notice was bad in law and it had nothing to with his obligation to carry out the direction of the Chancellor. The Chancellor had not directed that the writ petitioner be dismissed without complying with rules of natural justice. Therefore, for the purpose of granting complete relief to

the writ petitioner- appellant the only finding that was necessary was that the actual dismissal by the Vice-Chancellor was violative of natural justice. It was not necessary for this Court to have pronounced on the scope of Section 9(7) (ii) of the Act to grant effective relief to the writ petitioner-appellant. In that situation, considering the nature of the question involved while approaching Section 9(7)(ii) of the University Act, we are satisfied that a pronouncement on the scope of that provision was not necessary for the purposes of this case. We are, therefore, inclined to allow the prayer in this petition and to delete the finding on the scope and object of Section 9(7)(ii) of the University Act. We leave open that question.

6. This application" is allowed to the above extent.