

(2023) 10 CHH CK 0018
In the Chhattisgarh High Court
Case No : Writ Appeal No.431 Of 2020

Yog Mani Agnihotri

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 12-10-2023

Acts Referred:

Citation : (2023) 10 CHH CK 0018

Hon'ble Judges : Ramesh Sinha, CJ;N. K. Chandravanshi , J

Bench : Division Bench

Advocate : Kishore Bhaduri, Sabyasachi Bhaduri, H.S. Ahluwalia, Vinod Deshmukh

Final Decision : Dismissed

Judgement

1. Heard Mr. Kishore Bhaduri, learned Senior Advocate assisted by Mr. Sabyasachi Bhaduri, learned counsel for the appellant. Also heard Mr. H.S. Ahluwalia, learned Deputy Advocate General appearing for respondents No.1, 4 & 6 and Mr. Vinod Deshmukh, learned counsel appearing for respondents No. 2 & 3.

2. The appellants have filed this writ appeal against the order dated 09.06.2020 passed by the learned Single Judge in WPS No.3665 of 2017, by which the learned Single Judge has dismissed the writ petition filed by the writ petitioners/appellants herein.

3. Briefs facts necessary for disposal of this writ appeal are that the appellants are working as teachers/staff in various schools run by a society called Singhi Collieries Education Society, Jhagrakhand Colliery, Hasdeo Area, Korea since about 23 years before the filing of this petition in the year 2017. The Singhi Colliery Education Society was registered in the year 1963 and started receiving grant-in-aid from the government. In the year 1973, all the coal mines were nationalized and the assets of Jhagrakhand Colliery Private Limited were also taken over by Coal Mines Authority Limited, which is at present Coal India Limited. These schools were originally established by Jhagrakhand Private

Limited. The Managing Director of the Company and various collieries had been as official member of the Education Society also opened new schools subsequently. Subsequent to nationalization of the collieries in the year 1973 by Coal Mines Authority Limited which is now Coal India Limited, the circumstances changed in the South Eastern Coalfields Limited states sponsoring the central schools.

4. The appellants came to know that they were not equally paid compared to the teachers and staff in Central School. The society filed W.P.(S) No. 3536 of 1993 praying for release of salary withheld for several months in the intervening period. The Court admitted the petition and passed an interim order on 13.9.1993, directing the SECL and the Education Society to release the salary of the appellants. The SLP filed by the respondents in that case before the Supreme Court was dismissed. Subsequently, W.P.(S) No. 3536 of 1993 was withdrawn after a settlement of the appellants with the respondents. The memorandum of settlement was drawn on 6.12.1994. It is alleged that the SECL was not complying with the terms of settlement. The appellants then approached the Regional Labour Commissioner, Jabalpur and then an order dated 4.6.1996 was passed against the respondent No.2/ SECL directing to deposit the amount in terms of the settlement.

5. Respondent No.2 – South Eastern Coalfields Limited then approached the High Court in W.P. No. 349 of 1997 and the High Court passed an order on 2.5.1997, directing to conduct a fact finding enquiry whether there exists employee-employer relationship between the teachers of the Society and the SECL. Regional Labour Commissioner (RLC) conducted the enquiry and submitted its report on 8.1.1998, in which the enquiring authority had concluded, that the Education Society was under the control of management of SECL, Hasdeo Area, therefore, there exists a relation of master and servant between the SECL and the petitioners. Subsequent to which, the Madhya Pradesh High Court has passed an order in favour of the appellants. The order in writ petition was finalized as it was not challenged any further. The respondents even then did not comply with the order and the RLC was compelled to issue RRC against the respondents which was challenged by the respondents' side in W.P. No. 3409 of 2000, in which the order was passed in favour of the respondents, which was challenged in the Supreme Court by the appellants and then by virtue of the order granting interim relief passed by the Supreme Court in favour of the petitioners in SLP No. 19994 of 2000 vide order 19.2.2001, these appellants started getting their salaries. In the meanwhile, State of Chhattisgarh and the Chhattisgarh High Court came into existence and W.P. No. 3409 of 2000 has been decided on 22.11.2000, by which the order of Regional Labour Commissioner dated 29.3.2000 in RRC dated 10.5.2000 was quashed. The issue regarding on the point of master and servant relationship was not decided in that order. In the meanwhile, another W.P. No. 2667 of 2006 (Bharat Singh Baghel and Others vs. SECL and Others) was filed by the employees of the schools run by Jhagrakhand Colliery which was disposed off by the order dated 13.7.2010 by a Single Bench,

directing the petitioners to file a representation before the respondents in accordance with the settlement dated 6.12.1994 and the MOU dated 29.3.1995 with a direction to the respondents to decide the same within a time frame.

6. Writ Appeal No. 33 of 2011 was filed by the appellants concerned, in which the Division Bench of this High Court declined to interfere in the order of Single Bench. The representations filed by the appellants have not been decided in their favour by the respondents' side. Thereafter the appellants have filed writ petition being WPS No.3665/2017, which came to be dismissed by the learned Single Judge by the impugned order.

7. Mr.Kishore Bhaduri, learned Senior Advocate assisted by Mr.Sabyasachi Bhaduri, learned counsel for the appellants submits that the learned Single Judge failed to acknowledge the primary concern raised by the writ petitioners that the MOU itself provides for "payment of salary and other allowances admissible under the relevant circular of the State Government from time to time". This very fact was also acknowledged by the Division Bench of this Hon'ble Court while deliberating upon Contempt Case No.401/2015. He further submits that as regard the order passed by this Court, the moot question involved was concerning the pegging of an outer limit. The learned Single Judge failed to deliberate upon this basic moot question and simply dismissed the writ petition of the writ petitioners basing upon the series of earlier orders passed and further relied upon principles of res-judicata. He also submits that the learned Single Judge erred in not deliberating upon the terms of settlement and its implementation in true spirit. The MOU itself carries the clauses, which inherently requires due approval of the Management Committee comprising Chief General Manager of SECL i.e. respondent No.3. Thus, leaves no iota of doubt as to existence of master-servant relationship between the appellants and the respondents. Learned Senior Advocate contended that the respondents rejected the representation preferred by the appellants claiming revision of understanding as per clause 4 & 6 of the MOU dated 29.03.1995. The appellants further challenged such rejection by way of Writ Petition bearing No.3665/2017. The learned Single Judge without acknowledging the terms of MOU and its impact thereupon, simply rejected the claim based upon the earlier orders passed in present litigation. He further contended that before entering into settlement dated 06.12.1994, liability of salary as per State Scale was calculated for 39 employees (out of 65 who opted for MOU). Further, as per terms of, additional employees may opt for MOU and later on out of remaining 27, 11 more opted for MOU. To this till date no extra amount was paid and the figure of Rs.13.70 lakhs were being paid on 50 employees on yearly basis since 1994. The per capita income in this division would come to around 2283/-per month only. $(1370000/12 \text{ months} = 114167/50 \text{ teachers} = 2283/-)$. The aforesaid amount is nothing more than peanuts for the teachers who have been duly serving the institution for past around 30 years and have hardly been able to cope up with their livelihoods. As such, the writ appeal deserves to be allowed and the impugned order passed by the learned Single Judge deserves to be set aside by

allowing the writ petition filed by the writ petitioners. He relied upon the judgment of the Madhya Pradesh High Court in the matter of Smt.Rajni Pratibha Lawarence v. General Manager, S.E.C.L. & Ors. (Misc. Petition No.286 of 1991), decided on 11.01.1999.

8. On the other hand, learned counsel for respondents No.2 & 3/SECL supports the impugned order passed by the learned Single Judge and submits that the entire issue involved in this case has already been adjudicated by the Division Bench of this Court in the matter of Bharat Singh Baghel and others v. The South Eastern Coal Fields Limited and others (Writ Appeal No.33 of 2011), decided on 26.08.2014, whereby the Division Bench of this Court has held in para 22 that only by giving financial assistance by respondents No.1 and 2 not sufficient to establish employer-employee relationship between the parties and subsequently also, the learned Single Bench of this Court in the matter of Jayant Kumar Shrivastava v. South Eastern Coalfields Limited and others (WPS No.6298/2010), decided on 15.01.2019 relying upon the judgment of this Court in Bharat Singh Baghel (supra) held in para 8 that the school in question is not under the command, control as well the limb of the Respondent-SECL, the liability of any kind which is being claimed by the Petitioner will be that of the management of the school, which is a registered society and not that of the SECL, as is being claimed in the present writ application. He would further submits that the same proposition has also been laid down by this Court in paras 5 and 6 of the order passed in Ram Suresh Singh v. South Eastern Coalfields Limited and others (WP No.685/2006), decided on 31.01.2019. He further submits that the judgment dated 11.01.1999 of the Madhya Pradesh High Court passed in Smt.Rajni Pratibha Lawarance (supra) relied upon by the learned counsel for the appellants is distinguishable to the facts of the present case. As such, the writ appeal deserves to be dismissed.

9. From perusal of the records, it transpires that the learned Single Judge has held that in view of the clear principle laid down by the Supreme Court in the judicial authority, this Court is not in a position to dictate the respondent to revise the MOU dated 29.3.1995, as it is a policy matter and also decision can be taken only by the governing body of respondent No.2. As per the pronouncements of the Courts so far, it is very clearly held that the role of respondent No.2 is limited in providing grant-in-aid to Singhi Collieries Education Society. Thus, it being the fact of relation between the petitioners and respondent No.2, the prayer made by the petitioners cannot be entertained.

10. Considering the submissions advanced by the learned counsel appearing for the parties, perusing the impugned order and also considering the law laid down by this Court in Bharat Singh Baghel (supra), Jayant Kumar Shrivastava (supra) and Ram Suresh Singh (supra) and the finding recorded by the learned Single Judge we are of the considered opinion that the learned Single Judge after considering all the aspects of the matter and the law laid down by the Supreme Court and this Court in various judgments has dismissed the writ petition filed by

the writ petitioners, in which we do not find any illegality, infirmity or jurisdiction error warranting interference by this Court.

11. Accordingly, the writ appeal being devoid of merit is liable to be and is hereby dismissed. No cost(s).