

Sanjeev Kumar Vs. State of Jharkhand and ors

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Court : Jharkhand

Decided On : Sep-21-2013

Appellant : Sanjeev Kumar

Respondent : State of Jharkhand and ors

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No.1494 of 2010
Sanjeev Kumar Petitioner Versus The State of Jharkhand & others
Respondents ----- CORAM: HONBLE MR. JUSTICE APARESH KUMAR
SINGH For the Petitioner :M/s J.P. Jha, A. Prakash & S.P. Jha For the
Respondent No.7 : Mr. Rajesh Kumar For the Respondent No.8 : Mr. Suraj Kumar
For the State : Mr. Jalisur Rahman, J.C. to G.P. III 09/21.09.2013 Heard counsel
for the parties. The petitioner has approached this Court with a prayer that he
should be treated as a Para Teacher, as he has been appointed in regular manner
on the basis of resolution of the Gram Sabha of Village Tilwaria, Chorkheda
Panchayat, District Dumka and whose appointment was also approved by the
Block Education committee on 28.12.2002(Annexure-1). His grievance is that he
has not been paid his salary / honorarium for the said post though he has
performed his duties. The petitioner has also stated that he belongs to village
Tilwaria of which he has been appointed as Para Teacher, in support of which he
has annexed Annexure-3, a certificate of residence issued by the Circle Officer,
Jarmundi for the purpose of employment dated 3.10.2002. He claims to be a
Bachelor of Arts and more qualified than private respondent no.7 and 8. He has

alleged that the respondent no. 7 and 8 are being paid honorarium / salary for the post of Para Teacher by the Tilwaria Village Education Centre. He has also alleged that their names have not been approved by the Block Education Committee constituted under Sarva Siksha Abhiyan of Jarmundi Block of Dumka District. Petitioner has also relied upon the report contained at Annexure-2 dated 28.6.2007 prepared by the Sub Divisional Education Officer, Dumka, according to which on an inquiry directed by the Regional Deputy Director of Education, Santhal Pargana Division it was found that petitioner has been duly selected in October 2002 and has also been paid honorarium for the period of 11 months. In the said report the qualification of 2 Respondent no. 7 and 8 has been shown as Intermediate Arts and Intermediate Science respectively. In such background the petitioner has approached this Court as his representation has failed to elicit any response from the respondent- authorities. Learned counsel for the respondent-State in their counter counter affidavit have stated that the inquiry was conducted by the Additional District Programme Officer, Jharkhand Education Project, Dumka and two others of the Jharkhad Education Project, Dumka vide Annexure-G dated 15.4.2010. The same was done in view of the letter of District Superintendent of Education, Dumka to find out the veracity of the claims of the petitioner vis-a-vis private respondents. Some of the villagers who appeared before the inquiry stated that the respondent no. 7 was continuously teaching since 7.11.2002 while the petitioner's village is at a distance of 1 km from the said Tilwaria Village. Some of the villagers have also stated that the private respondent no. 7 has taught for about 11 months. However when the children in question were asked about the name of the petitioner they could not disclose the name of the petitioner. Learned counsel for the respondent- State submits that the respondent no. 8 was selected by the village Education Committee, Tilwaria on 25.10.2004 while the respondent no. 7 was selected on 6.11.2002 and their appointment was approved by the Block Development Officer, Jarmundi after inquiry. However, approval of the Block Education Committee is not on record in the counter affidavit of the respondent-State. Learned counsel for the respondent no. 7 claims to have been selected by Village Education committee meeting dated 6.11.2002 in which petitioner had also participated. However, as per him he was recommended for the said post. On being asked, learned counsel for the respondent no. 7 has not been able to show

any document by which his appointment has been approved by the Block Education Committee which is mandatory. Learned counsel for the respondent no. 7 has also contended 3 that petitioner has not challenged his appointment as Para Teacher. Respondent no. 8 submitted that he has been regularly teaching as Para Teacher in village Tilwaria Centre after his selection and has been paid honorarium as such regularly. It is further contended on his behalf that he was appointed by the Village Education Committee by a resolution dated 25.10.2004. He has also discharged his duties of Para Teacher since then and getting monthly honorarium @ Rs. 5500/- as would appear from the certificate granted by the Block Education Extension Officer, Jarmundi. He has also passed the Senior Secondary Examination in 2002 and graduated from Indira Gandhi National Open University. However, in the counter affidavit of Respondent no. 8, certificate of Secondary School Examination of the year 1999 have been annexed along with the mark sheet but no certificate of Graduation from IGNOU has been annexed. I have heard counsel for the parties at some length and gone through the relevant materials on record. According to the learned counsel for the parties, there are two posts for Para Teacher in the said Tilwaria Village Education Centre. Petitioner claims to have been selected by the Village Education Committee and his appointment has also been approved by the Block Education Committee as per Annexure-1 in which his name is shown against Village Tilwaria. The date of Aam Sabha is noted as 6.11.2002 and 18.11.2002. Petitioner stakes his claim on the basis of the inquiry report(Annexure-2) conducted by the Sub Divisional Education Officer, Dumka showing that the petitioner has been duly selected by the village Education Committee in October, 2002 and paid 11 months salary as such by the Village Education Committee. The said report also refers to the qualifications of the respective candidates i.e. petitioner being graduate and private respondent nos.7 and 8 being Intermediate in Arts and Intermediate in Science respectively. However, the Official respondents have stated that the basis for preparing this report i.e. letter dated 2.5.2005 under memo no. 349 was not issued by the Regional Deputy Director of Education, Dumka. 4 On the other hand perusal of the report(Annexure-4) prepared by the office of District Programme Officer and two others of the Jharkhand Education Project, Dumka, it shows that the report has been prepared in a summary manner. It does not appear that proper notice has

been given to the respective candidates like the petitioner and the two other respondents . It does not appear that the report has been prepared in presence of the villagers of the said village Tilwaria as no such signature of the villagers is annexed to the said report. Further, the affidavits filed by the respondent no. 7 shows that he was recommended on 6.11.2002 by the Village Education Committee of the said village but no approval of such selection by the Block Education Committee has been brought on record by the respondent no.

7. Respondent no. 8 has also been shown to be selected by the Village Education Committee unanimously on 25.10.2004 by the said village Tilwaria but no such approval of his appointment by the Block Education Committee, which appears to be mandatory is also brought on record . According to the learned counsel for the respondent- State statement have been made in the counter affidavit that their appointment were approved. The details of the respective arguments of the petitioner, State and the private respondents as have been discussed herein above goes to show that the adjudication of the matter rests upon certain disputed questions of fact which does not appear to have been properly inquired into by the Competent Authority. In such circumstances, it would be appropriate to direct the respondent no.3, Deputy Commissioner cum Chairman, Jharkhand Education Project, Dumka to get the matter inquired after giving due opportunity to the petitioner, private respondents as also the officials of the District Education Project, Dumka in presence of Village Education Committee. The respondent no. 3, Deputy Commissioner cum Chairman, Jharkhand Education Project, Dumka shall get the relevant records duly inspected and verified to ascertain the veracity of the claim of the parties by giving at least one opportunity of hearing to the affected parties before arriving on any informed decision in the matter in accordance with law. Let the said exercise be conducted within a period 16 weeks from the date of receipt of copy of this order. Needless to say that depending upon the result of the said inquiry, the respondent no.3, Deputy Commissioner, cum Chairman, Jharkhand Education Project, Dumka shall pass necessary order in respect of claim of appointment of either parties i.e. petitioner or the private respondents as also in respect of claim for payment of salary for the post of Para Teacher made by the petitioner for the respective period, if he is found to be working on the said post. The writ petition is disposed of in the aforesaid terms. However the

observations made herein above shall not be considered as comment upon the merit of the case of either of the parties. (Aparesh Kumar Singh, J.) A. Mohanty

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