

Chinta Devi Vs. State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Jul-19-2017

Appellant : Chinta Devi

Respondent : State of Jharkhand and Ors

Advocate for Def. : Mrs. Nilam Tiwari

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S). No. 4685 of 2016
Chinta Devi, W/o Late Murlidhar Mahto, R/o Shampur, Haripur Garbanna, Godda
Petitioner Versus

1. The State of Jharkhand
2. The Deputy Commissioner, Godda
3. The District Superintendent of Education-cum-District Program Office, Jharkhand Education Project, Godda
4. The Block Development Officer, Godda Block, Godda
5. The Block Education Extension Officer, Godda
6. The President, Gram Shiksha Samitee, Raitola for Upgraded School, Mal Bhadrain, Godda

6. The Secretary-cum-Head Master, Gram Shiksha Samitee Raitola for Upgraded School, Mal Bhadrain, Godda. ... Respondents.

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For Petitioners : Mrs. Abha Verma, Advocate For Respondents : Mrs. Nilam Tiwari, Advocate

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CORAM: HON'BLE MR. JUSTICE DR. S. N. PATHAK05 19.07.2017 Heard learned counsel for the petitioners and learned counsel for the respondents. The petitioner has approached this Court with a prayer for quashing the Memo No. 566 dated 07.06.2016, whereby the case of the petitioner for appointment on the post of Para Teacher has been rejected. Further prayer has been made for reconsideration of the case of the petitioner for her appointment as she was duly selected by the Village Aam Shabha and appointed on the said post. Factual Matrix:- It is the case of the petitioner that for selection of Para Teacher for Upgraded Primary School, Mal Bharain, Raitola, Godda, an Aamsabha was organized by the Villagers in presence of Gram Shiksha Samitee of the School on 13.02.2017. In the meeting, the petitioner, who is I.A. Pass, was selected as Para Teacher for the School. In presence of the President of Gram Shiksha Samitee, Shiv Prasad Mahto, the said meeting was held. It is the further case of the petitioner that after selection of the petitioner, the selection list for seeking approval was also sent to the Block Development Officer, Godda by the Block Extension Officer vide letter No. 51 dated 20.06.2007 and thus, the selection of the petitioner was approved by the Respondents on 25.06.2008. Vide letter No. 51 dated 20.06.2007 entire file of the petitioner and other similarly situated persons have been submitted before the Block Development Officer, Godda. Thereafter, the entire file of the petitioner and others have been placed before the Block Level Shiksha Samitee on 05.12.2007 for giving his approval. After approval on 25.06.2008, it was sent to District Superintendent of Education, Godda-cum-District Program Officer, Godda for releasing the honorarium. Thereafter, the respondent No. 3 released the honorarium for the period of 25.06.2008 to March, 2009 amounting Rs. 22,998/- in the name of the petitioner vide honorarium format dated 29.03.2009. Thereafter, the petitioner represented on 15.04.2013 before respondent No. 3 to release her honorarium, which is due since April, 2009 In

response to the request letter / representation of the petitioner, the Block Education Extension Officer, Godda enquired the matter regarding non-payment of honorarium to the petitioner since April, 2009. Thereafter, when nothing was paid to the petitioner, then she approached this Court in W.P.(S) No. 3694 of 2013, praying therein for releasing of due honorarium and current honorarium as she was working continuously since 13.02.2007. Counter-affidavit was filed in that case by which, the initial appointment of the petitioner itself was disputed by the respondents-authorities. This Court vide order dated 05.11.2015 disposed of W.P.(S) No. 3694 of 2013 with an observation that to direct the respondent No. 3 to conduct the aforesaid exercise to arrive at an informed decision, in accordance with law. Depending upon such decision, if the claim of the petitioner is found to be genuine, any admissible honorarium be released thereafter in her favour without any unreasonable delay. Thereafter, after passing of aforesaid order by this Court, the petitioner represented before the respondents for releasing her salary but the said honorarium was never released to the petitioner and vide order dated 07.06.2016, the appointment of the petitioner was also cancelled. Hence, the present writ petition has been filed, challenging the said order of cancellation. Mrs. Abha Verma, learned counsel appearing for the petitioner submits that the petitioner was duly appointed, following the procedures of law. Her name recommended by the Aam Sabha, which was duly approved by the higher authorities and on that basis even honorarium was paid to her and she was working on the post of Para Teacher. It is also submitted that when the due honorarium was not paid to her, she approached before this Court for payment of said honorarium. It is only after order of this Hon'ble Court, the respondents-authorities, out of the vengeance, have passed the impugned order just to frustrate the order, which is illegal and arbitrary. Learned counsel also argues that without any notice and without hearing the petitioner, the respondents passed the order dated 07.06.2016, which is arbitrary and illegal, the same may be quashed and set aside. Mrs. Nilam Tiwari, learned counsel for the respondents opposes the contention advanced by the learned counsel for the petitioner and submits that the petitioner was duly noticed and even an information was given to her on mobile but she failed to appear and satisfy the authorities. Learned counsel further submits that a decision has been taken regarding her appointment, when it was

found that appointment of the petitioner was itself fake and had been obtained on forged and fabricated documents. On perusal of the report of the Village Aam Sabha it is evident that she did not present herself neither there was any signature of the petitioner and as such, the report of the Aam Sabha was itself fake and fabricated and as such there was no question to reconsider the case of the petitioner and justifying the impugned order, learned counsel further submits that rightly, the impugned order has been passed and appointment of the petitioner has been cancelled. Be that as it may, having gone through the rival submissions of the parties, this Court is of the considered view that there is no infirmity in the impugned order. No error has been committed by the respondents in cancelling the appointment of the petitioner. When Aam Sabha itself based on forged and fabricated document on which the petitioner relying, no interference is required by this Court. Forged documents cannot be interfered and any entry in the list of appointment in any Department by way of back door should also be turned down, In case of State of U.P. v. U.P. State Law Officers Assn. 28 this Court while dealing with the back-door entries in public appointment observed as under: (SCC pp. 217-18, para 19)

19. The method of appointment is indeed not calculated to ensure that the meritorious alone will always be appointed or that the appointments made will not be on considerations other than merit. In the absence of guidelines, the appointments may be made purely on personal or political considerations, and be arbitrary. This being so those who come to be appointed by such arbitrary procedure can hardly complain if the termination of their appointment is equally arbitrary. Those who come by the back door have to go by the same door. From the inception some engagements and contracts may be the product of the operation of the spoils system. There need be no legal anxiety to save them. (emphasis supplied) Even notice is not required, if the appointment is itself forged and based on fabricated documents. In view of the aforesaid observations, rules, guidelines and judicial pronouncement, this writ petition does not warrant any interference resultantly, merits dismissal. (Dr. S.N. Pathak, J.) punit