

Ashok Kumar Vs. State and ors

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Court : Rajasthan Jodhpur

Decided On : Feb-04-2014

Appellant : Ashok Kumar

Respondent : State and ors

Advocate for Pet/Ap. : Mr. P.R. Mehta

Judgement :

S.B. Civil Writ Petition No.3151/2001 Ashok Kumar Jain Vs. State of Rajasthan & Ors. Order dt:

04. 02/2014 1/9 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B. Civil Writ Petition No.3151/2001 Ashok Kumar Jain Vs. State of Rajasthan & Ors. DATE OF

ORDER

:::

04. h February 2014 PRESENT HON'BLE DR. JUSTICE VINEET KOTHARI
REPORTABLE Appearance: Mr. P.R. Mehta, for the petitioner. None present for
the respondents. -- BY THE COURT:

1. The petitioner having obtained the B. Ed. Degree from S.N. Zareef College of Education, Darbhabga, Bihar in year 1997, which College as per averments made in the writ petition, is said to be affiliated to Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga, Bihar, has approached this Court for seeking relief that his name has been wrongly been struck-off from the panel of the selected candidates for appointment as 'Shiksha-Sahayogi' in the 'Rajeev Gandhi Swarn Jayanti Paathshala Scheme' under the order Annex.3 dated 12.06.2001 on the basis of a communication from the Deputy Legal Remembrancer of the Panchayati Raj Department of the State Government (Annex.6) dated 19.05.2001, wherein on the basis of information received from the Additional Chief Executive S.B. Civil Writ Petition No.3151/2001 Ashok Kumar Jain Vs. State of Rajasthan & Ors. Order dt:

04. 02/2014 2/9 Officer, Zila Parishad, Jhalawar, vide his letter No.1721 dated 23.03.2001, informing that all the degree/s, granted by the specified colleges, allegedly affiliated with Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga, stand cancelled; and accordingly, if any candidate has been selected/appointed as Teacher in the Panchayati Raj Department, his such selection/appointment may be cancelled.

2. The petitioner was under going the training after his selection for the aforesaid post under the 'Rajeev Gandhi Swarn Jayanti Paathshala Scheme' at the relevant point of time and vide Annex.5 order dated 27.06.2001, his training was, accordingly, cancelled on the aforesaid ground. The petitioner filed this writ petition in this Court on 07.08.2001 and while admitting the present writ petition, a coordinate bench of this Court, however, rejected the stay petition filed by the petitioner vide the order dated 07.11.2001.

3. A reply on behalf of respondents, however, has been filed to the present writ petition on 26.07.2002 through Mr. M.R. Singhvi, Advocate, to which a rejoinder has also been filed by the learned counsel for the petitioner, Mr. P.R. Mehta, and along-with which the Character Certificate issued by the said S.N. Zareef College of Education and College Leaving Certificate have been produced.

4. Mr. P.R. Mehta, learned counsel for the petitioner relying upon the decision of a coordinate bench of this Court in the case of Shri Ram Bishnoi & Ors. Vs. State of Rajasthan & Ors. and 86 connected writ petition, (SBCWP No.3750/1999, decided on S.B. Civil Writ Petition No.3151/2001 Ashok Kumar Jain Vs. State of Rajasthan & Ors. Order dt:

04. 02/2014 3/9 30.11.1999) reported in 2000 (2) WLC628 has urged that since the petitioner obtained the degree of B. Ed. vide the photostat copy of the mark-sheet (Annex.1) from Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga, Bihar in the year 1995-96, prior to the cut off date of 15.05.1997, as given in the provisions of National Council for Teacher Education Act, 1993, vide Section 17, therefore, validity of his degree could not be questioned by the respondent Panchayati Raj Department. In the said judgment, relied upon by learned counsel for the petitioner, this Court had held that the degree possessed prior to this cut-off date 15.05.1997, are to be treated as valid and the candidates have to be accordingly considered for respective selection/appointment process. The operative portion of the judgment of this Court in the case of Shri Ram Bishnoi (supra) is quoted below for ready reference: -

11. Accordingly, the writ petitions are allowed. The following directions are issued to the State: - (i) It is hereby directed that all certificate, degree or diploma claimed to be equivalent to B.S.T.C. and acquired prior to 15.5.1997 are liable to be considered for grant of appointment to the post of Teacher Grade III in accordance with the advertisement issued in June, 1998. (ii) The respondents are directed to reconsider the entire recruitment process after giving consideration to the persons not considered for the above reasons and prepare a fresh list of merit and if they so desire issue fresh appointments in accordance with the list so prepared. S.B. Civil Writ Petition No.3151/2001 Ashok Kumar Jain Vs. State of Rajasthan & Ors. Order dt:

04. 02/2014 4/9 (iii) All the notices terminating the services of such Teachers for holding such certificate, diploma or degree from such institutions covered by Section 17 (4) of the Act or whose certificate, diploma or degree could not be verified by the State are hereby quashed. It is further directed that the State shall

always have the right to investigate into each and individual certificate, diploma or degree so tendered for consideration and it have the right to terminate the services of such individuals whose degrees, diploma or certificates are found to be either fraudulent or not in conformity with the direction at one above and terminate the services for such reasons. If in pursuance to the notices hereinbefore quashed, consequential terminations have been factually effected, the same are also hereby quashed and the persons so terminated are directed to be reinstated. There will be no order as to costs.. 5. Though no counsel is appearing on behalf of the State Government, however, the averments made in the reply already filed by the respondents through Mr. M.R. Singhvi, as stated above, is useful and relevant para/s 2 and 3 are quoted herein below for ready referenced: -

2. That the writ petition is wholly misconceived and is untenable. The orders dated 8.5.01 and 10.5.01 have been issued after correspondence with the concerned University and thereafter it was rightly decided that the degrees granted by the Institutions like B.N. Mandal Vishav Vidhyalaya, Lalunagar, S.B. Civil Writ Petition No.3151/2001 Ashok Kumar Jain Vs. State of Rajasthan & Ors. Order dt:

04. 02/2014 5/9 Madhepura and Lalit Narayan Mithila Vishav Vidhyalaya, Kameshwar Nagar, Darbhanga have been treated as cancelled and as the degrees have been cancelled by the University itself and not by the State Govt., and the State has acted as per the information made available to it by the concerned University, therefore, the action of the State Govt. in issuing letters dated 08.5.01 and 10.5.01 is perfectly legal and correct one, and does not suffer from any infirmity, vice or illegality. It appears that the petitioner has not correct read Annex.6 and since the degrees have been cancelled by the University itself, and there is no reason for the petitioner to feel aggrieved of the same and if at all he is aggrieved, he cannot be permitted to challenge these orders without impleading the University as respondent.

3. That the petitioner has obtained forged degree, therefore, he has got no legal right to obtain employment and to continue in service. The valuable task of education cannot be entrusted to such persons who are guilty of producing forged degrees. Thus, the petitioner has not been denied any of his legal and/or

fundamental rights, therefore, he is not entitled to maintain the writ petition.. 6. Having heard the learned counsel for the petitioner at length, and upon perusal of the judgment cited at the Bar, this Court is of the considered opinion that the present writ petition has become infructuous by sheer lapse of time. No substantial relief can be given to the petitioner at this stage like restoring him back on the panel of S.B. Civil Writ Petition No.3151/2001 Ashok Kumar Jain Vs. State of Rajasthan & Ors. Order dt:

04. 02/2014 6/9 the selected candidates for the post of 'Shiksha-Sahayogi' on which he was selected in the said 'Rajeev Gandhi Swarn Jayanti Paathshala Scheme' way back in the year 2001; or directing the respondent- State to consider him for appointment on the basis of said B.Ed. degree obtained by him, the authenticity of which is in serious doubt. The case also obviously involves questions of facts, which are required to be established with the help of evidence before a civil court in a properly instituted suit and not under the writ jurisdiction under Article 226 of the Constitution of India. There is no reason with this Court to disbelieve the contents of Annex.6 communication, as contended by the learned counsel for the petitioner, to the effect that on the basis of information of the Additional Chief Executive Officer, Zila Parishad, Jhalawar, the B.Ed. degree granted by the specified college/s, which indisputably includes the S.N. Zareef College of Education, from whereby the petitioner had obtained the B. Ed. degree from Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga, Bihar. in the year 1997 vide Annex.1 a photostat copy of the mark sheet placed on record. The relevant portion of the communication (Annex.6) including the names of six colleges is quoted herein below for ready reference: - . , ! ! # :

1721. # 23.3.2001 ' :- (1) *!+ . / , * , ! (2) . . 3 / ! / # ! ## * 6 . ; < ' :- () ! ! # B! , ! C S.B. Civil Writ Petition No.3151/2001 Ashok Kumar Jain Vs. State of Rajasthan & Ors. Order dt:

04. 02/2014 7/9 () ! , # () . . ! ! , # () . J ! , # () . . C. . . ! , ! , ! () . . . C. . . ! , . , " 7. Whether the recognition of the said B.Ed. degree can be said to have been restored ipso-facto in view of the operative portion of the aforesaid judgment of the coordinate bench of this Court which dealt-with the selection process of Teachers

for the year 1998 of Panchayati Raj Department, which besides the Senior Secondary School Examination qualification, one was to hold BSTC qualification also; and with reference to the provisions of National Teachers Education Act, 1993, the Court observed that those degrees granted before 15.05.1997, the cut off date before which these institutions were expected to apply and obtain recognition from the National Council for Teachers, shall be treated as recognized even if they have failed to obtain such recognition from the State Government. The contents of Annex.6 communication dated 08.05.2001 of the Deputy Legal Remembrancer of the Panchayati Raj Department, Govt. of Rajasthan, are clear to the effect that the degrees in question granted by these six colleges of Darbhanga, Bihar, including the S.N. Zareef College of Education, Darbhanga, Bihar, in the case before this Court, stand de-recognized and cancelled by the respective University itself.

8. This Court cannot go into the background of this communication to the concerned District Education Officers for S.B. Civil Writ Petition No.3151/2001 Ashok Kumar Jain Vs. State of Rajasthan & Ors. Order dt:

04. 02/2014 8/9 necessary compliance on the basis of said information as to on what basis, the said communication was sent by the Deputy Legal Remembrancer of the Panchayati Raj Department to the concerned District Education Officers of the various districts as there is no such material on record.

9. The questions of facts are required to be established on the basis of evidence as to whether the particular degree of B. Ed. has to be treated as recognized by the State Government or not and there is no document on record before this Court of the State of Rajasthan having recognized these degree/s or colleges for imparting education of B. Ed. Course and that it will be treated as sufficient and eligible of the said selection process of teachers for the aforesaid 'Rajeev Gandhi Swarn Jayanti Paathshala Scheme'. Therefore, the questions of de-recognition before or after the cut-off date i.e. 15.5.1997, does not arise. It was and is for the petitioner to rebut the contents of Annex.6, communication, to the effect that the degree granted by these six colleges, stood cancelled by the said University with the appropriate proof of the said Lalit Narayan Mithila University itself. Be that as it

may, no such document is admittedly placed on record.

10. This Court cannot agree with the contentions of learned counsel for the petitioner that on the basis of aforesaid judgment of this Court, which dealt with different selection process and different course altogether, should be treated as the basis for recognizing his B. Ed. Degree from the said College despite Annex.6 communication S.B. Civil Writ Petition No.3151/2001 Ashok Kumar Jain Vs. State of Rajasthan & Ors. Order dt:

04. 02/2014 9/9 on record. Moreover, this Court is of the opinion that the selection process of the year 2001, where the petitioner's name from the selected panel of the candidates was sent for training for the said post, having been cancelled, and there being no interim order granted by this Court at that stage with the dismissal of the stay petition by a coordinate bench of this Court specifically on 07.11.2001 after 12 years now the petitioner deserves to be granted any relief of that nature, putting him back on that select panel, and directing the respondents to consider his case for appointment as 'Shiksha- Sahayogi' on that basis at this stage when said selection process is over long back, specially when the Court does not find sufficient foundational basis for doing so.

11. Accordingly, in view of above discussion, the present writ petition is found to be bereft of any merit and the same deserves dismissal. The writ petition is, accordingly, dismissed. No costs. A copy of this order be sent to the concerned parties forthwith. (Dr. VINEET KOTHARI), J.

DJ/- 11

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