

Kafil Ahmad Vs. the State of Bihar Through the Secretary, Secondary Education, Human Resources Development Department, Govt. of Bihar and ors.

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Court : Jharkhand

Decided On : Jun-27-2007

Reported in : [2007(4)JCR208(Jhr)]

Judge : R.K. Merathia, J.

Appellant : Kafil Ahmad

Respondent : The State of Bihar Through the Secretary, Secondary Education, Human Resources Development Departmen

Advocate for Pet/Ap. : Mr. Anwar

Judgement :

R.K. Merathia, J.

1. Heard.

2. Petitioner has challenged the order dated 4.7.2002, passed by the Deputy Director, Secondary Education, Bihar, Patna, terminating his service on the ground that his appointment was illegal.

3. Mr. Anwar, appearing for the petitioner, submitted that in view of the judgment of Arvind Vijay Bilung v. State of Bihar 2001 (3) Jhr. C.R. 155 (Jhr.), the State of Bihar could not have passed the said order after bifurcation of States and at best it could send the records of the petitioner to the State of Jharkhand for taking a decision in the matter. He further submitted that petitioner's appointment was not illegal.

4. On 4.9.2002, the following interim order was passed.

Counsels for the State of Bihar & Jharkhand are allowed four week's time to obtain instructions and file counter affidavit.

Place the case for admission in usual course.

The Jharkhand State authorities will not act on the letter dated- 4th July, 2002, if not yet acted upon but may pass independent order in accordance with the law.

5. Counsel for the State of Jharkhand, with reference to paragraph 11 of the counter affidavit, submitted that the Director, Secondary Education, Jharkhand, Ranchi has constituted a Committee to enquire into the illegality of the appointment of the petitioner. Counsel for the petitioner submitted that he has appeared before the Committee.

6. In the circumstances following the said judgment of Arvind Vijay Bilung (Supra), the order dated 4.7.2002 is set aside. If the records have not been sent, it must be sent by the Director, Secondary Education, Bihar to his counter part in Jharkhand immediately. Petitioner will file his show cause within four weeks from today along with supporting documents, if any. The Committee will take a decision after hearing the petitioner within six weeks from the date of receipt of such show cause, if any and submit its report to the Director, Secondary Education, H.R.D., Jharkhand, Ranchi with a copy to the petitioner. If the enquiry report goes against him, petitioner may file his show cause against it before the Director within two weeks from the receipt thereof. The Director will pass speaking order, in accordance with law within four weeks thereafter.

7. With these observations and directions, this writ petition is disposed of.

Let a copy of the order be given to the counsels for the State of Bihar and Jharkhand, as prayed.

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