

Ramakant Sant Vs. Welfare

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Court : Jharkhand

Decided On : Mar-30-2016

Appellant : Ramakant Sant

Respondent : Welfare

Advocate for Pet/Ap. : Mr. Bhanu Kumar

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S). No. 1042 of 2016
Ramakant Sant, son of late Shiv Nath Ram, presently residing at S.T. Residential School Inderbani, Sikaripara, Dumka. P.O. Pattarbari, P.S. Sikaripara, District Dumka. Petitioner. Versus 1. The State of Jharkhand 2. Principal Secretary, Welfare Deepartment, Govt. of Jharkhand, Project Buillding, P.O. Dhurwa,P.S. Jagarnathpur, District Ranchi.

3. Special Secretary, Welfare Department, Govt. of Jharkhand, Project Buillding, P.O. Dhurwa,P.S. Jagarnathpur, District Ranchi.

4. Deputy Director, Welfare, Santhal Paragana Division, Dumka, P.O. & P.S. Dumka, DistrictDumka.

5. District Welfare Officer, Dumka, P.O. & P.S. Dumka, District Dumka
...Respondents. ----- CORAM : HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY, ----- For the Petitioner : Mr. Bhanu Kumar, Advocate. For the Respodnents : Mr. Manoj Kumar No.3, S.C. (Mines). ----- 04 / 30.03.2016: Heard

Mr. Bhanu Kumar, learned counsel for the petitioner and Mr. Manoj Kumar No.3, S.C. (Mines) for the respondents. In this writ application, the petitioner has prayed for quashing paragraph 3 of the letter no. 2981 dated 23.09.2015 issued by the Special Secretary, Welfare Department, Government of Jharkhand, in which a direction has been given to authorize senior most teacher of ten plus two residential Schools on the basis of provisional gradation list issued vide letter no. 1130 dated 7.5.2008 for discharging the duties of the Incharge Principal/ Head Master. Challenge has also been made to the office order contained in Memo No. 222 dated 22.12.2015 issued by the Deputy Director, Welfare as well as to the order as contained in Memo No. 81 dated 27.01.2016 issued by the District Welfare Officer, Dumka, by which as an interim arrangement charge has been given to another teacher, which is contrary to the settled principle that an Ad-hoc arrangement cannot be substituted by another Ad-hoc arrangement. Further a prayer has been made in the writ petition that till any permanent/ regular arrangement for appointment of a regular Principal is made in the said school, the respondents be directed to allow the petitioner to continue as the Incharge Principal of the Ten Plus Two Schedule Tribe Residential High School, Inderbani, Dumka. -2- Briefly stated the facts as would appear from the statements made in the writ application is that the petitioner was appointed as an Assistant Teacher in graduate trained scale on 11.11.1994 and just prior to the bifurcation of the State of Jharkhand, the petitioner has been transferred to Schedule Tribe High School, Gopi Kandar, Dumka, where he joined as an Assistant Teacher. Pursuant to the Memo No. 793 dated 24.07.2012, the petitioner was made Incharge Headmaster of Ten Plus Two Schedule Tribe Residential High School, Inderbani, Dumka, upon transfer of the regular Head Master of that School. The petitioner was sent to Inderbani High School on deputation in terms of the order as contained in office order no. 2157 dated 27.09.2011. The petitioner is aggrieved by the office order as contained in Memo No. 222 dated 22.12.2015 issued by the Deputy Director, Welfare, Santhal Pargana Division, Dumka as well as the office order as contained in Memo No. 81 dated 27.01.2016 issued by the District Welfare Officer, Dumka, wherein in compliance of the letter dated 23.09.2015 issued by Special Secretary, Welfare Department, Government of Jharkhand, the petitioner has been directed to handover the charge to another teacher, who has been directed to function as

Incharge Headmaster. It has been submitted by Mr. Bhanu Kumar, learned counsel for the petitioner that in absence of provisional gradation list the petitioner could not have been disturbed from his place of posting as Incharge Principal of Ten Plus Two Schedule Tribe Residential High School, Inderbani, Dumka. It has been submitted that the petitioner has been replaced as Incharge Headmaster by one Smt. Rekha Mishra whose status is also that of Incharge Principal, which is contrary to law and deserves to be struck down. Learned counsel has referred to the judgment passed by this Court in W.P.(S) No. 3262 of 2014 and has submitted that the impugned order as contained in Memo No. 222 dated 22.12.2015 be quashed and the petitioner be permitted to continue as Incharge Headmaster of the said School till any further arrangement is made for appointment of regular Headmaster. He has relied upon the judgment of the Hon'ble Supreme Court in the case of State of Haryana and others Versus Piara Singh and others reported in (1992) 4 Supreme Court Cases 118. Mr. Manoj Kumar No.3, learned S.C. (Mines) appearing for the State has submitted that the petitioner was on deputation from Schedule Tribe High School, Gopikandar, Dumka, to Ten Plus Two Schedule Tribe Residential High School, Inderbani, Dumka, in terms of office order no. 2157 dated 27.09.2011. It has been submitted that there is a clear cut direction in the office order dated 22.12.2015 -3- that deputation of the teacher in the residential schools has been cancelled and Smt. Rekha Mishra has been made Incharge Headmaster of that School. It has further been submitted that pursuant to the office order dated 22.12.2015 Smt. Rekha Mishra has already assumed charge of Incharge Headmaster and the petitioner has been relieved from his present place of posting to join at Schedule Tribe High School, Gopikandar, Dumka. It has, therefore, been submitted that in terms of the office order referred to the petitioner has rightly been relieved and has been replaced by Smt. Rekha Mishra as Incharge Headmaster. It is not in dispute that the petitioner was functioning as a Headmaster of Ten Plus Two Schedule Tribe Residential High School, Inderbani, Dumka, on Incharge basis, where from he was sent to High School, Gopikandar, Dumka on deputation. It is also not in dispute that the petitioner pursuant to office order dated 22.12.2015 has been relieved from his present place of posting to join High School, Gopikandar, Dumka. The Office order dated 22.12.2015 issued by the Deputy Director, Welfare Department, Santhal Paragana

Division, Dumka suggests that Smt. Rekha Mishra has been appointed as Incharge Headmaster of the said School in which the petitioner was initially posted and functioning as Incharge Principal. It appears, therefore, that an Incharge Headmaster has been replaced by another Incharge Headmaster. This Ad-hoc arrangement is contrary to Paragraph 3 of the office order dated 23.09.2015. Since the petitioner has been relieved to join at High School, Gopikandar, Dumka, and a new Incharge Headmaster has already joined at Ten plus two Schedule Tribe Residential High School, Inderbani, Dumka, in such circumstance, therefore, there is no occasion to entertain the present writ application. However, since the Ad-hoc arrangement has been replaced by another Ad- hoc arrangement, it would be incumbent on the part of the State authority to dispense with the practice and take necessary steps so that regular Headmaster be appointed at Ten plus two Schedule Tribe Residential High School, Inderbani, Dumka, at the earliest. This writ application stands disposed of in the aforesaid terms. (RONGON MUKHOPADHYAY , J) Sharma/-

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