

Baso Devi Vs. The State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Jul-12-2016

Appellant : Baso Devi

Respondent : The State of Jharkhand and Ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 5254 of 2014 with I.A. No. 587 of 2016 Baso Devi Petitioner Versus 1. The State of Jharkhand.

2. Deputy Commissioner, Godda.

3. District Superintendent of Education, Godda.

4. Block Education Extension Officer, Pathargama, Godda.

5. Head Master, Primary School, Harkatta, Pathargama, Godda.

6. Pradhan Baski, Chairman, Saraswati Vahini Mata Samitee, Primary School, Harkatta, Pathargama, Godda.

7. Bahamai Soren, Convener, Saraswati Vahini Mata Samitee, Primary School, Karkatta, Pathargama, Godda. .. Respondents. ----- CORAM : HONBLE MR. JUSTICE H. C. MISHRA ----- For the Petitioner : Mr. Pradeep Kr. Verma, Advocate For the Respondents : Mr. Kumar Sundaram, J.C. to A.A.G. ----- 05/

12.07.2016 Heard learned counsel for the petitioner and learned Junior counsel to the Additional Advocate General for the respondent State.

2. The petitioner, who was working as Cook under the Mid Day Meal Scheme in Primary School, Harkatta in the District of Godda, has filed this writ application with the prayer for a direction upon the respondents to permit the petitioner to work as Cook under the Mid Day Meal Scheme and to pay her arrears of honorarium.

3. According to the petitioners case, the petitioner was appointed as Cook under the Mid Day Meal Scheme with the honorarium of Rs. 1,000/- per month in Primary School, Harkatta. The appointment was approved in the meeting of the Saraswati Vahini Sanchalan Samittee / Village Education Committee, vide minutes of meeting dated 13.5.2010. Thereafter the petitioner started working as such and used to get her honorarium regularly. The petitioner went on medical leave from 12.8.2013 to 22.8.2013 and when she came back to join on 23.8.2013, she was not allowed to resume her work as Cook in the aforesaid School.

4. Learned counsel for the petitioner has submitted that the petitioner has not been allowed to join her work without any valid reason, and in spite of the fact that there is a direction of the District Superintendent of Education, Godda, that the Cooks of Mid Day Meal Scheme of any school, should not be changed without taking prior approval of the District Superintendent of Education, and a letter has been issued to this effect on 23.7.2010 itself. -2- 5. A counter affidavit has been filed on behalf of the State, which shows that after filing of this writ application, the matter was heard by the District Superintendent of Education, Godda, on 26.3.2015 , but in view of the fact that the necessary documents were not available, the meeting was re-scheduled to be held on 1.4.2015 in the office of District Superintendent of Education, Godda. On 1.4.2015, the matter was finally heard by the District Superintendent of Education, Godda, in which, Block Education Extension Ofifcer, Pathargama, as well as the petitioner were heard. The District Superintendent of Education, Godda, however, rejected the claim of the petitioner as regards the arrears of honorarium, since the petitioner was admittedly not working in the school since 24.8.2013. The District Superintendent of Education, Godda, however, directed the Village Education Committee / Saraswatu Vahini Sanchalan

Samittee to hold a meeting and take a decision with respect of working of the petitioner as Cook in the School. It was also directed that the said meeting be held under the supervision of the Block Education Extension Officer, Pathargama, and the decision be conveyed to the District Superintendent of Education, Godda, accordingly. The said order dated 1.4.2015, passed by the District Superintendent of Education, Godda, has been brought on record as Annexure-D to the counter affidavit.

6. When this matter was taken up on 14.6.2016, in view of the order dated 1.4.2015, passed by the District Superintendent of Education, Godda, as contained in Annexure-D to the counter affidavit, learned counsel for the State was directed to file supplementary counter affidavit, bringing on record the decision taken by the Village Education Committee / Saraswati Vahini Sanchalan Samittee, if any, pursuant to the said order. Today, when the matter was taken up, learned Junior Counsel to the Additional Advocate General submitted that after the direction of the District Superintendent of Education, Godda, the decision had already been taken by the Village Education Committee / Saraswati Vahini Sanchalan Samittee, in the meeting held on 1.4.2015 itself, and the same is already on record. The document, on which, the learned counsel for the State has placed reliance, clearly shows that it is only the minutes of the proceeding held before the District Superintendent of Education, Godda, on 1.4.2015, in which it was informed by the Block Education Extension Officer, Pathargama, that a meeting of the Committee was held on 10.2.2014 itself, in which, decision was taken to remove the petitioner from the post of Cook. Even after taking that into consideration, it was directed by the District Superintendent of Education, Godda, - 3- by his order dated 1.4.2015, as contained in Annexure-D to the counter affidavit, to hold the meeting of Village Education Committee / Saraswati Vahini Sanchalan Samittee afresh under the supervision of Block Education Extension Officer, Pathargama, and to take a decision afresh about the working of the petitioner. Nothing has been brought on record by the learned counsel for the State to show that the meeting, as directed by the District Superintendent of Education, Godda, has been held and the decision has been taken afresh. In absence of any counter affidavit to that effect, it has to be presumed that no such meeting has been held. Even the minutes of the meeting of the Committee said to

be held on 10.2.2014, in which, decision was allegedly taken to remove the petitioner from the post of Cook, has not been brought on record by the learned counsel for the State.

7. In view of the aforementioned discussions, the respondent authorities are directed to forthwith allow the petitioner to work as Cook under the Mid Day Meal Scheme in Primary School, Harkatta, in the District of Godda, and also make the payment of her current honorarium from the date, she starts working, as such. Until the meeting of the Village Education Committee / Saraswati Vahini Sanchalan Samittee is held under the supervision of the Block Education Extension Officer, Pathargama, pursuant to the direction of the District Superintendent of Education, Godda, as contained in Annexure-D to the Counter affidavit, in which any contrary decision is taken in accordance with law, there shall be no interference in the working of the petitioner and she shall be paid her honorarium regularly. There shall however, be no interference in the rejection of the claim of the petitioner as regards the arrears of honorarium, since the petitioner was admittedly not working in the school since 24.8.2013.

8. This application is accordingly, allowed in part, with the direction as above. The aforesaid I.A. also stand disposed of. (H. C. Mishra, J.) Amitesh/-

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