

Arun Kumar Singh Vs. Human Resource Development

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Court : Jharkhand

Decided On : Dec-02-2014

Appellant : Arun Kumar Singh

Respondent : Human Resource Development

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(PIL) No. 4891 of 2012 Arun Kumar Singh, son of Sri Arjun Singh, President Jharkhand Viklang Manch, office cum resident at Road No. 1, Jhagrubagan, PO. & P.S. Telco, Jamshedpur, Jharkhand 831 004 Petitioner Versus 1. State of Jharkhand through its Secretary, Department of Human Resource Development, Ranchi.

2. Jharkhand Academic Council, Namkum, Ranchi 3. Ranchi University, Ranchi through Registrar.

4. Vinoba Bhave University, Hazaribagh through Registrar.

5. Sidhu Kanhu University, Dumka through Registrar 6. Nilamber Pitamber University, Daltonganj through Registrar 7. Kolhan University, Chaibasa through Registrar 8. Jharkhand High Court, through the Registrar, Ranchi 9. Jharkhand Public Service Commission, Ranchi through Secretary 10. Jharkhand Staff Selection Commission, Ranchi through Secretary Respondents CORAM: HONBLE MR. JUSTICE VIRENDER SINGH, CHIEF JUSTICE HONBLE MR. JUSTICE D.N. PATEL For the Petitioner : Mr. Anup Kumar Agarwal, Advocate For

respondents 1 & 10 : Mr. Ajit Kumar, A.A.G. For respondents 2 & 5 : Mr. M.S. Anwar, Sr. Advocate M/s Rajesh Kumar & P.K. Choudhary, Advocates For respondent no.3 : Mr. Anoop Kumar Mehta, Advocate For respondent no.4 : Mrs. I.Sen Choudhary, Advocate For respondent no.7 : Mr. Ananda Sen, Advocate For respondent no.8 : Mrs. A.R. Choudhary, Advocate For respondent no.9 : Mr. Rajesh Shankar, Advocate Order No. 14 Dated: 2nd December, 2014 Per D.N. Patel, J.

1. This Public Interest Litigation has been mainly preferred for getting the direction that the respondents may give extra time or additional time to appear in the examination to the differently abled persons whether it is school examination, college examination or examination conducted by any other type of educational institutions or by Jharkhand Public Service Commission or may be in a competitive examinations or any examination conducted by the State. This extra time should be given to the differently abled persons which is also known as compensatory time. 2. During the course of hearing of this Public Interest Litigation, this Court has passed various orders including the order dated 7 th August, 2013 whereby different Universities within the State of Jharkhand were ordered to be joined as party respondents. Similarly, Jharkhand Public Service Commission, Jharkhand High Court, Jharkhand Staff Selection Commission were also ordered to be joined as party respondents so that the order passed in this Public Interest Litigation may be made applicable to all the respondents.

3. This Public Interest Litigation preferred by the petitioner is in real sense a Public Interest Litigation. In this writ petition public at large is vitally interested.

4. Various instances have been given in the writ petition in which guidelines have been issued for grant of 20 minutes extra time for each hour and they are Coal India Limited, Reserve Bank of India etc. Moreover, looking to the counter affidavits filed by the State and the Universities and the Jharkhand Public Service Commission and also looking to the counter affidavit filed by the Jharkhand Staff Selection Commission they all have agreed to give 20 minutes extra time for one hour examination. If the examination is of two hours, 40 minutes extra time will be given to the differently abled persons. If the examination is of 3 hours there will be

60 minutes extra time given to the differently abled persons. This Court appreciates the stand taken by the respondent State of Jharkhand, Jharkhand Public Service Commission, Jharkhand Staff Selection Commission as well as by all the Universities within the State of Jharkhand. This time is known as compensatory time.

5. Counsel for the State of Jharkhand Additional Advocate General, Sri Ajit Kumar submitted that the State has framed policy for handicapped persons which have been notified vide resolution no. 1691 dated 5th October, 2012.

6. It is further submitted that as per the policy, the handicapped persons of the State are entitled to various benefits including reservation in services. 7. It is further submitted that the State Government vide resolution no. 7281 dated 07.11.2012 notified reservation for the handicapped persons in the public employment and admission into the educational institutions. 3 8. It is further submitted vide letter no. 4821 dated 05.06.2013 that the Department of Personnel instructed all the departments as well as the Jharkhand Public Service Commission, Jharkhand Staff Selection Board and the Combined Examination Board for compliance of the Government of India letter no. 16110/2003 dated 26.02.2013 concerning grant of extra time to the handicapped persons in the competitive examination. Similarly, all the respondents have accepted to give compensatory time of 20 minutes per hour examination. Counsel for the High Court of Jharkhand has submitted upon instructions that principally, compensatory time will be given to the differently abled persons. Nonetheless, for this purpose, administrative order will be required to be passed by the High Court of Jharkhand. 9. Considering the contentions raised in this Public Interest Litigation and the counter affidavits filed by the respondents it appears that: The Government of Jharkhand has already framed policy for handicapped persons which is published on 05.10.2012. As per the said policy several benefits have been given to the handicapped persons. As per the State of Jharkhand resolution dated 07.11.2012, there is a reservation for handicapped persons in public employment and in admission process in the educational institutions. Department of Personnel of the State of Jharkhand vide letter no. 4821 dated 5th June, 2013 has issued instructions to all the departments as well as to the Jharkhand Public Service

Commission and also to the Jharkhand Staff Selection Commission and Combined Examination Board for compliance of the Government of India vide letter no.16110/2003 dated 26th February, 2013 for grant of compensatory time to the differently abled persons in the competitive examinations etc. Department of Human Resources (Directorate of Higher Education) has issued a notification no. 1449 dated 23rd September, 2014 to all the Universities situated in the State of Jharkhand to give the compensatory time to the differently abled persons in all the examinations conducted by the Universities. 4 It ought to be kept in mind that human life is gift of God. Some persons have taken birth as differently abled persons and some persons during their life for any reason whatsoever becomes handicapped persons. Civilization of any society is tested upon the fact how much care the society is taking of mad persons, disabled persons, the persons in the jail, senior citizens, women and children. Extra Care is required to be taken by the society for its one of the components namely handicapped persons who are addressed as differently abled persons. This principle to take extra care is emerging out of the principles of equality. For maintenance of equality the handicapped persons should be given extra lift, by the society at large, so that even though they are handicapped persons, they may not feel handicapped in competing with other similarly situated children or examinees, in school, college, university examinations or during their competitive examinations conducted by the Jharkhand Public Service Commission or by Jharkhand Staff Selection Commission or by Combined Examination Board. For the development of the society as a whole, the abilities of differently abled persons can be brought out by giving compensatory time during their examination. For maintenance of the uniformity and consistency, across the State, for the persons with disabilities, for written examination, compensatory time should be provided by all the authorities who are State within the meaning of the Article 12 of the Constitution of India. This compensatory time provides a level playing field to the handicapped persons. The grant of compensatory time puts them at par with the other students or candidates, who are giving exams. Thus, the principles of equality enshrined in Article 14 demands grant of compensatory time to the differently abled persons in the examinations conducted by the authorities, who are State within the meaning of Article 12 of the Constitution of India. Detail guidelines for conducting the written

examinations for persons with disability has been pointed out in a communication dated 26th February, 2013 by the letter of Government of India bearing no. 16 5 110/2003 (AnnexureA series to the supplementary counter affidavit filed by the State dated 18th June, 2014), shall be followed by the State of Jharkhand and will be followed by the respondent Universities, Jharkhand Public Service Commission, Jharkhand Staff Selection Commission and the Combined Examination Board as per the direction given by the State of Jharkhand letter no. 4821 dated 05.06.2013 as well as stated in the notification no. 1449 dated 23rd September, 2014 issued by the Department of Human Resources (Directorate of Higher Education) to all the universities situated in the State of Jharkhand. It is also expected from the Jharkhand High Court that whenever any examination is conducted by the High Court of Jharkhand compensatory time will be given to the differently abled persons and for this purpose this order will be placed before Hon'ble the Chief Justice of this Court for necessary administrative order to be issued. 10. This Court appreciates the painstakingly assistance rendered by Advocate Sri Anup Kumar Agarwal and this writ petition is in true sense a Public Interest Litigation. The Court appreciates the cause highlighted by the petitioner before this Court which is a loud cause meant for the public at large. This writ petition is disposed of as the State of Jharkhand, all the Universities in the State of Jharkhand, Jharkhand Public Service Commission as well as Jharkhand Staff Selection Commission and Combined Examination Board including High Court of Jharkhand is completely agreeing for grant of compensatory time to the differently abled persons and in the light of the counter affidavits and annexures revealing the various notifications issued by the respondents, we see no reason to further monitor this Public Interest Litigation.

11. This Public Interest Litigation is disposed of, in view of the aforesaid observations. (Virender Singh, C.J.) (D.N. Patel, J.) VK

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