
(2014) 3 WLN 262

Rajasthan High Court

Case No: Civil Writ Petition No. 3054/1997

Niranjan Kumar Bohra

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision: March 4, 2014

Acts Referred:

- Constitution of India, 1950 - Article 309
- Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Section 14

Citation: (2014) 3 WLN 262

Hon'ble Judges: Vineet Kothari, J

Bench: Single Bench

Advocate: Lokesh Mathur, Advocate for the Appellant; G.R. Punia, St. Advocate and Rajesh Punia, Advocates, Sunil Joshi on behalf of Rajesh Panwar, AAG, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Dr. Vineet Kothari, J.

The 11 petitioners in the present writ petition of Ministerial Staff of the District Court, Jodhpur, having been appointed as per the provisions of Rajasthan Subordinate Court (Ministerial Establishment) Rules, 1986 (for brevity, hereinafter referred to as "Rules of 1986"), have filed the present writ petition in this Court, aggrieved by the order (Annex. 2) Dt. 04.07.1991 passed by the Registrar, Rajasthan High Court, Jodhpur whereby the Administrative control of the Presiding Officer as well as the staff attached with him in the Special Court under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity, hereinafter referred to as "Act of 1989"), were kept under the Administrative control of the District & Sessions Judge concerned. These persons were deputed to work in the Special Courts created under the provisions (sick) the Act of 1989.

2. Mr. Lokesh Mathur, learned counsel for the petitioners relied upon Section 14 of the said Act of 1989, under which the said Special Courts were created with the concurrence of the Chief Justice of the High Court and he urged that since the Special Courts created under the said Act of 1989 were granted the status of the Court of Sessions, therefore, the Administrative control of the Presiding Officer and his staff in such Courts could not be assigned or delegated by the Rajasthan High Court to the concerned District & Sessions Judge, and therefore, aggrieved of the same, the present writ petition has been filed with the following prayers:--

"It is, therefore, humbly prayed that this writ petition may kindly be allowed. The order Dt. 04.07.1991 (Annex. 2) whereby the Registrar, Rajasthan High Court, Jodhpur kept the administrative control of the Presiding Officer and the staff attached with the Special Court created under the Act of 1989 under the District Judgeship Jodhpur, may kindly be declared illegal and the same may be quashed and set aside.

2. Respondent No. 1 may kindly be directed to frame the Rules under Art. 309 of the Constitution or under its Proviso to govern and regulate recruitment and other service conditions of the petitioners and other staffs working in the Special Courts created under the Act of 1989.

3. Respondent No. 3 may kindly be restrained from making any appointment by way of transfer or otherwise in the Special Court created under the Act of 1989. The post of Reader is lying vacant in the Special Court, Jodhpur, therefore, the respondents may kindly be directed to fill in the post from among the staffs working in the Special Court Jodhpur.

4. Any other appropriate writ, order or direction which this Hon"ble Court may deem it just and proper in the facts and circumstances of the case, may kindly be issued.

5. Costs of this writ petition may kindly be awarded in favour of the petitioners."

3. Learned counsel for the petitioners relied upon the decision of the Hon"ble Apex Court in the case of [Captain Ganpati Singhji Vs. The State of Ajmer and Another](#), and in the case of [A.R. Antulay Vs. Ramdas Srinivas Nayak and Another](#),

4. The respondent- Rajasthan High Court, has filed the reply to the writ petition.

5. Mr. G.R. Punia, Sr. Advocate assisted by Mr. Rajesh Punia, learned counsel for the respondent- High Court, has urged that the petitioners cannot raise any grievance about the Administrative control vested in the concerned District & Sessions Judge as they are appointee(s) under the Rajasthan Subordinate Court (Ministerial Establishment) Rules, 1986, itself and the creation of the Special Courts with the concurrence of Hon"ble the Chief Justice of the High Court and designation of the Court as Court of Sessions, does not deprive the High Court from vesting the Administrative control of the said Courts with the concerned District & Sessions Judge. The relevant portion of the reply is quoted

herein below for ready reference:--

"That while challenging the order Dt. 04.07.1991, on the grounds referred supra and questioning the applicability of the Rules of 1986 to the Staff working in Special Court, the petitioners have deliberately not set out the facts leading to their entry in the service. Strangely enough, it has been contended by the petitioners that their services are not governed by the Rules of 1986 whereas they have entered the service by way of recruitment made under the Rules of 1986. The services of some of the petitioners who were initially recruited on temporary basis were regularised by the District Judge, Jodhpur, under the Rules of 1986 only. For the ready reference, the appointments and regularisation orders of some of the petitioners are annexed herewith as under:

It appears that the petitioners have not set out the basic facts of their appointments in the service so as to mislead this Hon"ble Court. In the entire writ petition, while contending that the said Rules of 1986 are not applicable to them, they have not cared to even refer to the various provisions of the Rules of 1986 which manifestly show that even the services of the staff attached to the Court of Special Judge shall be governed by the provisions of the Rules of 1986 and they shall remain under the Administrative control of the District Judge. The petitioners are, therefore, guilty of concealment and suppression of material facts and, therefore, the writ petition deserves to be dismissed for this reason alone."

6. Having heard the learned counsel for the parties, and upon perusal of the pleadings and the judgments cited at Bar and the provisions of Act of 1989, this Court is of the opinion that the present writ petition filed by the petitioners, is misconceived simply because no prejudice can be said to have been caused to the present petitioners by their Administrative control being vested with the concerned District & Sessions Judge. Since, the said Special Courts have been created by the State Government with the concurrence of the Chief Justice of the High Court; and it was for the High Court to either keep Administrative control with High Court itself or to vest the same with concerned District & Sessions Judge, the supervisory control still remaining with the High Court. Furthermore, since these Special Courts have been created at the District Level, it was only expedient and proper for the High Court to vest the Administrative control of these Courts with the concerned District & Sessions Judge. Therefore, the office order (Annex. 2) Dt. 04.07.1991 is unassailable and does not call for any interference by this Court in the present writ petition.

7. As a matter of fact, no cause of action arises to the present petitioners, who are working as ministerial staff in the said Special Courts and their own appointment itself was made under the provisions of Rajasthan Subordinate Court (Ministerial

Establishment) Rules, 1986, and therefore, the respondents are justified in contending in their reply that they cannot claim to be excluded from the Administrative control of the concerned District & Sessions Judge. The judgments cited at Bar by the learned counsel for the petitioners are of little help to the present petitioners as they arose in entirely different facts and circumstances before the Hon"ble Apex Court. Consequently, the present writ petition is found to be devoid of any merit and same is liable to be dismissed, the same is, accordingly, dismissed. No costs. A copy of this order be sent to the concerned parties forthwith.