

(2007) 04 GAU CK 0016

Gauhati High Court (Shillong Bench)

Case No: Writ Petition (Civil) No(s). 226 (SH) and 332 (SH) of 2006

Managing Committee, Tyrsad
Church of God Lp School

APPELLANT

Vs

State of Meghalaya and Ors.

RESPONDENT

Date of Decision: April 27, 2007

Citation: (2008) 1 GLR 426

Hon'ble Judges: T.Vaiphei, J

Bench: Single Bench

Advocate: S.M.Suna, B.Bhattacharjee, H.Kharmih, K.S.Kynjing, N.D.Chullai, L.Khiangte,
Advocates appearing for Parties

Judgement

1. These two writ petitions, being interconnected and involving the same parties, were heard together and are being disposed of by this common judgment. The facts, bereft of elaborate details but necessary for the writ petitions, are that the private respondent, namely, Medita Rani was appointed as a teacher of Tyrsad Church of God L.P. School by the order dated 15.1.1993 and that after undergoing basic training in the District Institute of Educational and Training Course, Sohra, she was not allowed to resume her duty by the Secretary of the Managing Committee of the School. This resulted in her filing WP(C) No. 161(SH) of 2005 before this court, which by the order dated 21.3.2006 allowed her writ petition and directed the School management to allow her to join her post and pay her salaries due. No appeal was preferred by the School management from this judgment and order, which has now attained finality. However, by the order dated 13.5.2006, the Deputy Inspector of Schools, the respondent No. 3 transferred the private respondent from Tyrsad Church of God LP School to Phaniawlah Church of God LP School, and posted one J. Chyrngap, a teacher of the said Phaniawlah LP School in her place. This again prompted the private respondent to approach this court in WP(C) No. 123(SH) of 2006 for appropriate reliefs. This court by the order dated 31.5.2006 issued an interim order on 31.5.2006 staying the transfer order. The writ appeal being WA No.

216 of 2006 preferred by the School Management before the Division Bench of this Court was ultimately disposed of on 30.6.2006 by remanding the case to the Single Judge of this court for rehearing.

2. It may be noted that before the learned Single Judge disposed of the case, the respondent No. 3 by the order dated 13.5.2006 transferred the private respondent to his office, whereupon this court disposed of the writ petition on 20.7.2006 as infructuous. The private respondent accordingly joined her duty in the office of the respondent No. 3, but before she could remain there for long, the Managing Committee of the School represented by its Secretary filed WP(C) No. 195(SH) of 2006 along with Miscellaneous Case No. 214C(SH) of 2006. This court issued the interim order dated 27.7.2006 staying the order transferring her to the office of the respondent No. 3. However, during the pendency of this writ petition, the respondent No. 3 issued the order dated 29.8.2006 reverting the private respondent to the Tyrsad Church of God LP School. Due to this development, WP(C) No. 195(SH) of 2006 became infructuous and was accordingly disposed of. When the private respondent submitted her joining report to the school in terms of the order dated 29.8.2006, the same was not accepted by the school. Her representations to the management and her request to the respondent No. 3 to use his good office for enabling her to join her post ultimately turned a cropper. Instead of accepting her joining report, the petitioner challenged the order dated 29.8.2006 before this court in WP(C) No. 226(SH) of 2006 and obtained an interim order dated 7.9.2006 in the connected Miscellaneous Case No. 268(SH) of 2006 directing maintenance of status quo by the parties. In the meantime, the respondent No. 3 issued the order dated 4.12.2006 reverting the said J. Chyrngap to Phaniawlah Church of God LP School. This order is apparently in continuation of the earlier order dated 13.5.2006. The petitioner again filed WP(C) No. 332(SH) of 2006 impugning the order dated 4.12.2006 and obtained the interim order dated 11.12.2006 in the connected Miscellaneous Case No. 419(SH) of 2006 directing that the parties maintained the status quo. The respondent No. 4 thereafter filed Miscellaneous Case No. 120(SH) of 2007 before this court praying for vacation of the interim order dated 11.12.2007. Instead of disposing of this Miscellaneous Case, as agreed to by all the parties, both WP(C) No. 226(SH) of 2006 and WP(C) No. 332(SH) of 2006 were directed to be listed together for final disposal. This is how the two cases were taken up for hearing on 23.4.2007.

3. The grievances of the petitioner, as mentioned in its pleadings, are that the impugned orders reverting the respondent No. 4 to their school and the consequential reversion of the said J. Chyrngap to Phaniawlah Church of God LP School are arbitrary and were made without the recommendation of the Managing Committee of the School and that the respondent No. 3 completely disregarded and ignored the academic session at Tyrsad Church of God LP School and has in the process destroyed the otherwise smooth academic atmosphere in the School. In my considered opinion, the petitioner has not made any case for interference by this

court. In the first place, Mr. K.S. Kynjing, the learned senior counsel for the petitioner, cannot point out any provision of law which has been violated by the respondent No. 3 in reverting the private respondent to Tyrsad Church of God L.P. School or in reverting the said J Chyrngap to Phaniawlah Church of God LP School. It is not the case of the petitioner that the impugned transfer orders/ reversion orders violated any statutory provisions, or are issued by an authority not competent to do so, or are vitiated by mala fide. When the Managing Committee has no say in the transfer or reversion of its employee, as evident from the submission of the learned senior counsel for the petitioner, it cannot have any legitimate grievance against the impugned orders. A Challenge to an order of transfer should normally be eschewed and should not be countenanced by the courts or tribunal as though they are appellate authorities over such orders, which could assess the niceties of the administrative needs and requirement of the situation concerned (see State of U.P. v. Gobardhan Lal, AIR 2004 SC 2165).

4. For what has been stated in the foregoing, both the writ petitions be and are hereby dismissed with costs. The petitioner, namely, the Managing Committee of Tyrsad Church of God L.P. School, shall now accept the joining report submitted by the private respondent on 1.9.2006 and allow her to discharge her duties with admissible salary cost of Rs. 10,000 to her for subjecting her to litigations without reasonable cause. The petitioner shall/also release the back wages of the private respondent due to her with effect from March 2006 within two months from today, failing which it shall pay interest @ 12 per cent per annum till full payment thereof. Needless to say, it shall also be open to the private respondent to file contempt petition against the petitioner if all or any of the aforesaid directions are not complied with by it. The interim orders dated 7.9.2006 and 11.12.2006 are accordingly vacated.