(2000) 07 GAU CK 0013

Gauhati High Court (Imphal Bench)

Case No: Ref. W.P. (C) No. 1689 of 1999 and Contempt Case (C) No. 67 of 2000

Yumna Lokendro Singh (Dr.) and Others		APPELLANT
	Vs	
V. Chhiver, IAS and Others		RESPONDENT

Date of Decision: July 5, 2000

Acts Referred:

- Manipur Health Services Amendment Rules, 1936 - Rule 13A

Citation: (2003) 3 GLT 419

Hon'ble Judges: W.A. Shishak, J

Bench: Single Bench

Advocate: N. Kumaijit Singh, for the Appellant; L. Nanda Kumar Singh, A.K. Soumendra, T. Nanda Kumar Singh, A. Mohendro Singh and N. Kotiswor Singh, for the Respondent

Final Decision: Dismissed

Judgement

W.A. Shishak, J.
W.P.(C) No. 1689/1999 was disposed of by this Court on 11.02.2000. The said petition was filed by (nine) Medical Officers of the Government of Manipur. The Petitioners in this Contempt Petition contend that the Respondents have defied the direction issued by this Court dated 11.02.2000 while disposing of writ petition No. 1689/1999.

2. Brief facts as regards the contentions of the writ Petitioners may be narrated. The Petitioners were sponsored by the Government of Manipur for undergoing Post Graduate Courses in different Institutions of India in different disciplines. The duration of Post Graduate study is 3(three) years. As per Medical Council of India norms as well as Central Council of Homeopathic the duration of Post Graduate Course is 3(three) years. The Petitioner have undergone 3(three) years Post Graduate Course successfully and they have resumed/rejoined their duties as Medical Officers in Manipur. The point that was raised in the writ petition was as regards payment of salary and allowances during

the study leave. In this aspect also it may be clarified that they were paid their normal salary and allowances for 2(two) years. The question, therefore, that was to be decided by this Court in the writ petition was as regards the 3rd year. In other-words, the dispute was relating study leave for the 3rd year.

3. It was recorded by this Court in para 3 of the judgment that the learned Advocate General of Manipur appreciated the situation of the case and he made a submission on that certain leave rules were standing in the way of releasing payment of salary and allowances to the writ Petitioners for the 3rd year unless amendments were made to the existing rules. It was also submitted by the learned Advocate General that in order to avoid undue hardship to the writ Petitioners, the State could resort to the power of relaxation in appropriate cases. This submission was made because the Petitioners were sponsored candidates of the Government to undergo studies as stated above. Rule 13 A of Manipur Health Services Amendment Rules, 1936 states:

13A. Training. A person appointed to the service may be considered for sponsorship for undergoing Post Graduate studies as the Government may decide from time to time, subject to the following conditions:

(i) completion of 5(five) years regular service;

(ii) Posting and physical presence of three years in the hill areas or difficult rural areas.

There is no dispute that the writ Petitioners had fulfilled the conditions stated above. The note to Rule 13A further indicates that normally the duration of the Post Graduate studies would be as laid down by the Medical Council of India or the Dental Council of India and such other relevant Councils for S.M., Homeopathy and Nature Cure of the Government of India. It may be stated that the duration laid down by the Medical Council of India for such Post Graduate Course is 3(three) years. The operative part of this Court''s order was stated in para 5 is as follows:

Under the circumstances there cannot be any justification for not taking necessary steps by the state Government as per the law. However, since the learned Advocate General has taken a fair stand, this Court refrains from passing any order at this stage with the firm expectation, that the State Respondents shall take up the matter in the right direction as expeditiously as possible, preferably within a period 2(two) weeks from today so as to enable the Petitioners to undergo their training without any financial constraints.

We the above observations this writ petition is disposed of however, no order as to costs. Liberty is granted to the Petitioners to approach this Court if the occasion so demands.

4. As the State Government did not resolve the dispute as indicated in the above order, the writ Petitioners have approached this Court for drawing up contempt proceedings against the Respondents. To be fair to all concerned I may state that on careful perusal of the aforesaid order passed by this Court, it cannot be said that the writ petition was

disposed of in any manner on merit, though the word disposal has been used. In fact, it was clearly stated "Liberty is granted to the Petitioners to approach this Court if the occasion so demands." Therefore, if the State Government did not take steps to redress the grievances of the writ Petitioners, the Petitioners ought to have approached this Court by a fresh petition. Rightly or wrongly the Respondents have now given reasons for not being able to allow reliefs sought for by the writ Petitioners. The issues raised by the Petitioners have not been determined and no enforceable directions, have been issued by this Court. In my view, therefore, it will not be appropriate for this Court to decide the merit of the case in this contempt petition.

In the result, this petition is dismissed.