The Governing Body of Mayai Lambi College, Manipur Vs State of Manipur and Others

Civil Rule No. 1097 of 1998

Court: Gauhati High Court (Shillong Bench)

Date of Decision: Jan. 12, 1999

Acts Referred:
Manipur Education Code, 1982 â€" Rule 2, 27

Citation: AIR 2000 Guw 72 : (1999) 3 GLT 304

Hon'ble Judges: N. Surjamani Singh, J

Bench: Single Bench

Advocate: N. Ibotombi and N. Kotiswar, for the Appellant; A.G. and Shyamkishore Singh, Sr. Govt. Advocate, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

N.S. Singh, J.
The Government order dated 13-11-98 bearing No. 1/51/91-S/SE as in Annexure A/12 to the writ petition placing the

Governing Body of the Mayai Lambi College under suspended animation with immediate effect and until further order and thus appointing one Shri

N. Chura Singh the third respondent herein as Administrator of the said college during the period of suspended animation, is the subject matter

under challenge in this writ petition.

2. The petitioner, namely the Governing Body of Mayai Lambi College, represented by its Secretary is duly represented by its learned counsel

namely Mr. N. Ibotombi and Mr. N. Kotiswar.

3. At the very outset the learned counsel for the petitioner argued, that there is no provision under the related Manipur Education Code for placing

the Governing Body of the Mayai Lambi College hereinafter referred to as Governing Body under suspended animation. Supporting this

submission, the learned counsel has drawn my attention to Rule 27 (d) of Section IV of the Manipur Education Code relating to the General

principles and Condition governing payment of grant-in-aid in the aided colleges in the State of Manipur and submitted that the Government

reserves to itself the right of dissolving the existing Governing Body of the College in case of gross mis-management provided that a caretaker

governing body may be constituted by the Government immediately after the dissolution to run the college until replaced by a regularly constituted

governing body within 6 (six) months from the date of dissolution. According to the learned counsel for the petitioner, the Government means, ""the

Directorate of Education , Government of Manipur"" as per provisions of Rule 2 of Section IV of the Manipur Education Code, but, the impugned

order placing the governing body under suspended animation was issued in the name of the Governor of Manipur, not by the competent authority

namely the Directorate of Education, Government of Manipur.

4. It is also contended by the learned counsel that, the said governing body of the college which was constituted in February 1996 and approved

by the Government of Manipur under a related Govt., order of 15-3-96 (Annexure A/1) was once dissolved under a related order dated 27-2-97

(Annexure A/2) and, that the impugned order of 27-2-97 was challenged under Civil Rule No. 244 of 1997 and this Court suspended the

operation of the impugned order of 27-2-97 r by an order of 5-3-97 and lastly, the case was finally decided by this Court thus quashing the

impugned order of 27-2-97 on the ground inter alia, that the same was issued in complete violation of the principles of natural justice and, that no

appeal was preferred by the respondents against the said order till today.

5. The learned counsel went on to contend, that the respondent-Govt. Issued another order of 9-9-97 thus cancelling the nomination of two

Government nominees from the members of the governing body of the college and, being aggrieved by the said order, another writ petition being

Civil Rule No. 862 of 1997 was filed before this Court and this Court, by an order of 17-7-98 quashed the said order of 9-9-97 (Annexures A/5

and A/7 respectively) and, that the State-respondents did not file any appeal from the said order till date and the order has attained its finality.

6. It is also argued by the learned counsel for the petitioner, that apart from that, on the motion of the petitioner, the learned Civil Judge (Junior

Division, Imphal West) in connection with Original Suit No. 15 of 1997 and the Judicial Misc. No. 44 of 1997, the learned Civil Judge (Junior

Division), Imphal West, was pleased to pass an order on 22-5-98 thereby ordering to maintain status quo of the petitioner"s governing body as on

the date of passing of the order till the disposal of the said original suit. In the main original suit, the petitioner sought for a decree for restraining the

respondent Nos. 1 and 2 from taking any action for dissolution of the existing governing body, withdrawal/substitution of their nominees till the

disposal of the said suit and also, for a decree for not allowing one Shri W. Pishakmacha Singh to work as principal of the said College.

7. It is also submitted by the learned counsel for the petitioner, that the respondent No. 1 issued the impugned order as an Annexure A/12 to the

writ petition without considering the materials on record, more particularly the related orders and judgments passed by this Court in the

aforementioned two Civil Rules and. that of the order passed by the learned Civil Judge (Junior Division), Imphal West, and the impugned order

was Issued only to defeat the orders passed by this Court as well as by the learned Civil Judge (Junior Division) Imphal West, mentioned above.

8. Resisting and opposing the case of the petitioner, Mr. L. Shyamkishore Singh, the learned senior Govt. Advocate for the State-respondent

contended 1 hat the respondent has ample power and jurisdiction to place a governing body of an Aided College under suspended animation

even-though there is no specific provision under the Manipur Education Code as the competent authority which has the power to dissolve the

governing body of a college has the power to place the governing body under suspended animation as it is the implied duty and implied powers of

the competent authority.

9. The learned senior Govt. Advocate also argued, that so many irregularities and illegal acts have been committed by the governing body of the

said college and, as such, the Govt. of Manipur, after due consideration, decided to conduct an enquiry against the existing governing body to find

out the truth of the allegations and irregularities which are duly highlighted in the impugned order of 13-11-98 as in Annexure A/12 and, as such,

there is no infirmity or irregularity in the impugned order.

10. It is true that the competent authority has ample jurisdiction to conduct and make enquiry against the existing governing body to find out the

truth of the allegations or about the irregularities, etc. etc. and these are to be done under the related provisions of law/rules and guidelines for

which, there is Manipur Education Code. Rule 2(a) and Rule 27(d) of Section IV of the Manipur Education Code the provision of which are very

much Important and material in the instant case and, as such, the same are termed as here under : --

Rule 2(a)

The Government"" means the Directorate of Education, Government of Manipur,

Rule 27(d)

The Government reserves to Itself the right of dissolving the existing governing body of the college in case of gross mismanagement provided that a

caretaker governing body be constituted by the Government immediately after the dissolution to run the college until replaced by a regularly

constituted governing body within 6 months from the date of dissolution.

On bare perusal of these provisions laid down under the Manipur Education Code, it is known to all that the Directorate of Education, Govt. of

Manipur, reserves to Itself the right of dissolving the existing governing body of the college in case of gross mismanagement.

11. It is also true that to whomsoever the jurisdiction is given, those things also are supposed to be granted, without which the jurisdiction cannot

be exercised, and the grant of jurisdiction implies the grant of all powers necessary to its exercise, in other words, implied powers. At this stage, I

hereby recall the legal maxim, ""cui jurisdiction data est, ea quoque concessa esse videntur, since cuibus jurisdiction explicar non potest"". Here in

the instant case, the impugned order placing the governing body of the said college under suspended animation was not passed by the Directorate

of Education, Govt. of Manipur, but by the respondent No. 1 (State Of Manipur). In view of the provisions of the above Rules, the respondent

No. 1 has no jurisdiction and power to pass and issue the Impugned order placing the governing body of the said college under suspended

animation and moreover, the respondent No. 1 has usurped the powers and function of the Directorate of Education, Govt. of Manipur and, as

such, in my opinion, it is an arbitrary and illegal action of the respondent No. 1 while passing the impugned order as in Annexure A/12 to the writ

petition.

12. It may also be noted that this Court quashed the earlier dissolution order passed by the State-respondents vide, order dated 7-8-97 passed in

Civil Rule No. 241/97 and no appeal was preferred from the said order and, over and above this, this Court finally disposed of another Civil Rule

No. 862 of 1997 on 17-7-98 the quashing the order of 9-9-97 cancelling the nomination of two Government nominees from the members of the

governing body of the said college and, apart from it. there is a specific interim Injunction order issued by the learned lower Civil Court maintaining

the status quo of the petitioner"s governing body of the date of passing of the said order of 22-5-98 till the disposal of the connected main original

suit mentioned above and, there is no appeal as against the said order of 25-5-98, but, by virtue of the impugned order of 13-11-98 (Annexure

A/12), the State-respondents had defied and disobeyed the order of the Civil Court, thus depriving the legitimate rights of the present writ

petitioner. In my considered view, the petitioner ought, to have filed an application before the appropriate Civil Court as against the person/persons

guilty for such disobedience and breach of the injunction order mentioned above by invoking the provisions of law laid down under Order 39, Rule

2A of the Code of Civil Procedure. Considering these existing facts and circumstances, liberty is granted to the petitioner to file an application

before the competent Civil Court under Order 39, Rule 2A, C.P.C. against the person/persons guilty for such disobedience and breaeh of the

injunction order.

13. It is submitted at the Bar by the learned counsel for the petitioner, that after passing the impugned order of 13-11-98 (Annexure A/12), no

enquiry is yet conducted by the State-respondents till date (hearing date) and the term of petitioner/governing body of the said college is ending

and expiring in the month of March, 1999 in view of the faet that the approval of the constitution of the petitioner/governing body was approved by

the Govt. of Manipur under a related order of 15-3-96.

14. For the reasons, observations and discussions made above, the impugned order dated 13-11-98 as in Annexure A/12 to the writ petition

placing the governing body of the said college under suspended animation and appointing the respondent No. 3 as administrator of the said college

is quashed. The petitioner/governing body of the said college is allowed to assume its duties and functions forthwith.

15. In the result, the writ petition is allowed. No cost.