

(2014) 01 GAU CK 0031

Gauhati High Court

Case No: P.I.L. No. 6 of 2014

Human Welfare Mission

APPELLANT

Vs

State of Assam

RESPONDENT

Date of Decision: Jan. 23, 2014

Acts Referred:

- Constitution of India, 1950 - Article 226, 227

Citation: (2014) 3 GLT 484

Hon'ble Judges: Abhay Manohar Sapre, C.J; Ujjal Bhuyan, J

Bench: Division Bench

Advocate: S.S.S. Rahman and S.B. Rahman, Advocate for the Appellant

Judgement

Abhay Manohar Sapre, C.J.

1. Heard Mr. S.B. Barman, learned counsel for the petitioner. This is a PIL filed by the petitioner for claiming following reliefs by invoking the extraordinary jurisdiction of this Court under Article 226/ 227 of the Constitution of India. The relief claimed are these:

"In the premises aforesaid the petitioners prayed that Your Lordships may be Pleased to issue a Rule calling upon the respondents to show cause as to why a writ in the nature of Mandamus and/or any other appropriate writ order or direction shall not be issued for granting the following reliefs, viz:

(1) To direct the respondents to cancel all engagement of CRCC taken on Attachment basis.

(2) To direct the respondents to cancel all recruitment made vide Advertisement dated 17.10.12.

(3) To direct the respondents to stop the transfer of teachers from those schools whose Pupil Teacher Ratio (PTR) is below the minimum mandatory ratio as

mentioned in the 2009 Act.

(4) To direct the respondents to fill up all the vacant teachers post to maintain the minimum PTR as mandated in 2009 Act in a time bound manner.

(5) To direct the respondents that till minimum PTR is not achieved, CRCCs may only be engaged either on deputation basis or through regular cadre.

(6) To direct the respondents that once the minimum PTR is maintained, a new advertisement may be published with objective eligibility criteria.

-AND-

On perusal of the petition make the Rule absolute, and/or pass any such further or other order or orders as Your Lordships may deem fit and proper."

2. At the outset, we made a query to learned counsel appearing for the petitioner that since the advertisement impugned in this petition was subject matter of one litigation prior to filing of this petition then why this fact was not disclosed in this PIL by the petitioner. This query was made by the Bench because incidentally one of us (Justice Ujjal Bhuyan) had the occasion to decide the said litigation sitting in Single Bench and the said petition was dismissed by his Lordship by upholding the impugned advertisement.

3. Learned counsel for the petitioner then fairly admitted that the impugned advertisement (Relief Clause No. 1 of this petition) was under challenge at the instance of some other petitioners and it was dismissed by the writ Court by upholding the impugned advertisement. He also then said that the matter is now carried to Supreme Court of India at the instance of those writ petitioners and the same is pending in Supreme Court.

4. Be that as it may, on these admitted facts which has a material bearing over the controversy raised in this PIL and the fact that the petitioner though aware of these material facts suppressed them in the writ petition, we are of the view this PIL deserves dismissal on this ground alone.

5. If the petitioner does not disclose the material facts in the petition which undergone judicial scrutiny by the Court resulting in passing the judgment on the same relief which is claimed in this PIL then in our considered view it is a clear case of suppression on the part of the petitioner. It is of no consequence whether earlier petition was filed by other persons. That apart, when the issue is pending in appeal before the Supreme Court at the instance of those writ petitioners then in our considered view, it would be a clear case where petitioner can be characterised as coming to the Court with unclean hands. In such cases, we cannot invoke our PIL extra ordinary equitable jurisdiction under Article 226/ 227.

6. Learned counsel for the petitioner then vehemently contended that so far the other reliefs claimed in PIL are concerned, they can be entertained in this PIL. This

submission also deserves to be rejected.

7. Mere perusal of all the relief clauses would go to show that all the reliefs claimed in the writ petition (PIL) centres around the impugned advertisement and flows from main relief. It is, therefore, incorrect to urge that other reliefs are independent to main relief. In other words, all reliefs are intrinsically connected with each other. In this view of the matter, it is not possible to separate them. That apart, if filing of petition is bad for want of suppression of material facts then it necessarily follows that it would apply to all reliefs. In view of foregoing discussion, we find no merit in PIL which fails and is hereby dismissed in limini.

No cost.