

(2010) 08 JH CK 0003

Jharkhand High Court

Case No: W.P (S) No. 3010 of 2009 and I.A. No"s. 1982, 2641, 2686, 2890, 2992, 2998, 3112 and 3658 of 2009

Ashim Kumar Samanta

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: Aug. 31, 2010

Hon'ble Judges: Dhirubhai Naranbhai Patel, J

Bench: Single Bench

Advocate: R.M. Singh and Ashok Kumar, for the Appellant; A. Allam, Sr. S.C-II and Shravan Kumar, for the State of Jharkhand, Rajesh Kumar and Vijoy Pratap Singh and Rajeeb Ranjan, for the Respondent

Judgement

D.N. Patel, J.

Counsel for the Petitioner submitted that Respondent No. 5 is not possessing the requisite statutory qualifications and statutory experiences for the appointment on the post of Director, Rajendra Institute of Medical Sciences, Ranchi (hereinafter referred for the sake of brevity RIMS) and therefore, a writ of quo warranto may be issued against Respondent No. 5 and his appointment may be quashed and set aside by this Court.

2. Counsel for the Petitioner submitted that there is violation of Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998 enacted by the Medical Council of India and also submitted that there is violation of the Rajendra Ayurvigyan Sansthan Adhiniyam, 2002 (RIMS Act) as well as Rajendra Ayurvigyan Sansthan Niyamavali, 2002 (RIMS Rules) in the appointment of Respondent No. 5. The appointment of Respondent No. 5 ought to have been in consonance with the aforesaid legal provisions.

3. I have heard counsel appearing on behalf of the State, who has vehemently submitted that in fact the Petitioner is not a Director, RIMS. Now, question left out is probable appointment of Respondent No. 5 and consideration of his candidature. It

is further submitted by the counsel for the Respondents-State that Whomsoever will be considered for the post of Director, RIMS, will be considered, in accordance with law as well as in accordance with the Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998, Rajendra Ayurvedigyan Sansthan Adhiniyam, 2002 as well as Rajendra Ayurvedigyan Sansthan Niyamavali, 2002 and the State will also take all care, that those who are having requisite qualifications and requisite statutory experiences, shall be appointed as a Director, RIMS. No illegality will be committed by the State in selection process as well as in selection and appointment of any candidate for the post of Director, RIMS.

4. Counsel for Respondent No. 5 submitted that no illegality has been committed by Respondent No. 5 and Respondent No. 5 is fully qualified for the post of Director, RIMS.

5. Counsel for Respondent No. 2 is accepting submissions made by the counsel for the Respondents-State and submitted that they will not be a party to any illegality for appointment of high post in its institution i.e. for the post of Director, RIMS.

6. Having heard counsels for both the sides and looking to the facts and circumstances of the case, it appears that Respondent No. 5, as on today, is not working as a Director, RIMS. He is yet to be selected or he is yet to be appointed as Director, RIMS, as per the statement reiterated by the counsel for the State.

7. In view of these situations, I hereby, direct the State as well as the governing body of the RIMS, to select a candidate for the post of Director, RIMS in accordance with law. They will also strictly follow the rules and regulations applicable for selection and appointment on the post of Director, RIMS. Both sides have argued that Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998 is applicable in this case, which shall strictly be followed by the State authorities for the selection process of candidate and for the appointment for the post of Director, RIMS. I also direct the State as well as the governing body of the RIMS to follow Rajendra Ayurvedigyan Sansthan Adhiniyam, 2002 as well as Rajendra Ayurvedigyan Sansthan Niyamavali; 2002 for adopting a correct legal methodology for the selection process and those rules and regulations will also be followed scrupulously by the State as well as the governing body of the RIMS and will make all endeavours that no person may be appointed, who is not having statutory qualifications under the rules and regulations, as stated hereinabove.

8. It is submitted by the counsel for the Respondents-State that two months time may kindly be given to complete the process of selection and actual appointment on the post of Director, RIMS.

9. I further direct the Respondents-State as well as the governing body of the RIMS that post of the Director, RIMS will be filled up in accordance with law, as stated hereinabove, within a period of two months from the date of receipt of a copy of the order of this Court. It goes without saying that if Respondent No. 5 is possessing, by

now, the statutory qualification and experience as per the aforesaid law, rules, regulations i.e. Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998, Rajendra Ayurvedigyan Sansthan Adhiniyam, 2002 as well as Rajendra Ayurvedigyan Sansthan Niyamavali, 2002 then, his case will also be properly considered by the State as well as by the governing body of the RIMS.

10. In view of the above observations and directions, this writ petition is hereby, disposed of. In view of the final disposal of the main petition, all the aforesaid interlocutory applications are also stand disposed of.