

Shaukat Ali Ansari Vs The State of Jharkhand and Others

Court: Jharkhand High Court

Date of Decision: Oct. 25, 2013

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: J.S. Tripathi, for the Appellant; Suresh Kumar, for the Respondent

Final Decision: Disposed Off

Judgement

Aparesh Kumar Singh, J.

Heard counsel for the parties. The petitioner was aggrieved against the selection and appointment of the

respondents no. 6-Farukh Ahmad who, according to him, had produced a forged certificate in order to obtain appointment as Para Teacher in

Upgraded Primary School, Sidhpur, Patan, Palamau.

2. The petitioner submitted that in spite of earlier order contained in Annexure-5 to withhold the salary of the said respondent no. 6, the respondent

no. 4-The District Superintendent of Education, Palamau vide Annexure-9 dated 15th February 2010 chose to revoke the order and allowed

payment of salary to the private respondent. In such circumstances, the petitioner had approached this Court seeking a direction upon the

respondent to cancel the appointment of the respondent no. 6 and appoint him as he has got higher marks.

3. Respondents have appeared and filed their counter affidavit. They have admitted in para-2 to 7 of their counter affidavit filed on 24th July 2012

that the petitioner had got 47% marks in Intermediate of Arts Examination, while the respondent no. 6 had got 45.11% marks and had got

selected fraudulently. Thereafter, the respondent Deputy Commissioner, Palamau passed an order for removing the respondent no. 6 from the post

of Para Teacher and to lodge FIR against him as also to recover the entire amount received by him as Honorarium by initiating a certificate

proceeding. However, in the earlier counter affidavit, respondents have taken a stand that after implementation of Right of Children to Free and

Compulsory Education Act, 2009, no untrained candidate can be selected as a Para Teacher.

4. Counsel for the petitioner submits that the cause of action of the petitioner arose before coming into force of Right of Children to Free and

Compulsory Education Act, 2009 which was made effective from 1st April 2010. In such circumstances, the case of the petitioner should be

reconsidered by the respondents in accordance with law.

5. Having heard counsel for the parties, it appears from the stand taken by the respondent themselves that the private respondent was found to

have been selected by submitting a forged certificate relating to his marks sheet. On verification thereof, it was found to be 45.11% marks instead

of 51.88%. The petitioner had submitted certificate showing 47% marks in Intermediate of Arts. The private respondent has therefore been

removed as indicated in the counter affidavit and an FIR has also been lodged against him. In such circumstances, so far as the claim of the

petitioner relating to his appointment as a Para Teacher in the school in question is concerned, the petitioner shall file a representation before the

Respondent No. 5-Deputy Commissioner, Palamau together with all necessary facts and documents. On receipt of such representation, the

Respondent No. 5 shall take a decision in accordance with law by passing a reasoned and speaking order within a period of twelve weeks

thereafter, which shall also be communicated to the petitioner.

The writ petition is disposed of in the aforesaid terms. I.A. No. 1803/2013 also stands disposed of.