

(2013) 10 JH CK 0023

Jharkhand High Court

Case No: Writ Petition (S) No. 3700 of 2010

Shaukat Ali Ansari

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

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.