

(2008) 08 JH CK 0067

Jharkhand High Court

Case No: None

Nawal Kishore Singh and
Another

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: Aug. 1, 2008

Citation: (2008) 4 JCR 617 : (2009) 5 SLR 18

Hon'ble Judges: Gyan Sudha Mishra, C.J; Dilip kumar sinha, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. This application (I.A. No. 2280 of 2007) has been filed seeking leave to appeal against the judgment and order dated 15.02.2007 passed in W.P.(S) No. 3603 of 2003 wherein the applicant was not impleaded as a party to the writ petition

2. To explain the controversy, it may be stated that a writ petition bearing W.P.(S) No. 3603 of 2003 had been filed by the Respondent Nos. 7 & 8 namely Vinay Kumar Dubey & Lallan Prasad respectively wherein they had challenged the order passed by the Director, Primary Education, Jharkhand by which he had directed the District Superintendent of Education to post the petitioners i.e. respondent No. 7 & 9 in Nationalized Elementary Schools. This order was assailed by the aforesaid respondents essentially on the ground that all through they had been functioning as teachers in the Basic Government School which is a Divisional Cadre, whereas posting in the Nationalized Elementary Schools is a District Cadre and hence this order was illegal and beyond the jurisdiction of the Director. The writ petition was heard along with another writ petition bearing W.P.(S) No. 353 of 2005 filed by Dinesh Kumar Dandpat, Sanjay Kumar Joshi & Ajit Kumar. The learned Single Judge was pleased to quash the orders passed by the Director, Primary Education, Jharkhand and was pleased to grant liberty to the competent authorities to post/transfer the petitioners therein including the respondents herein within the

Divisional Cadre. The writ petitions were accordingly disposed of.

3. The respondents were not made parties to the writ petitions obviously as they were not affected by the order of the Director, Primary Education, Jharkhand in any manner as the order was passed only against the petitioners in the writ petition and therefore the applicants Nawal Kishore Singh and Anr. were not impleaded in the writ petition.

4. This application has been filed seeking permission to assail the order passed by the learned Single Judge on the plea that the order passed by the learned Single Judge is going to adversely affect the interests of the applicants herein as their chances of promotion might get affected in future and hence they have sought permission to file this appeal against the impugned order.

5. Having heard the Counsel for the applicants, we find absolutely no reason for the applicants to file this application seeking leave to appeal as the question of promotion in the Divisional Cadre was not a subject matter of challenge in that writ petitions in which the order for posting/transfer of the petitioners in the writ petition in the Divisional Cadre was made. What exactly is going to happen in future cannot be considered at this stage in anticipation that inclusion of the petitioners/respondents might affect the chances of promotion of the persons like the applicants. It is evidently clear that this is a very far fetched apprehension of the applicants herein and there is absolutely no reason for them to seek leave to appeal to assail the order passed by the learned Single Judge. Besides this, if they are affected in future in any manner, that obviously will be a fresh cause of action for them to challenge by way of an independent writ petition. In so far as this application seeking leave to appeal is concerned, it has absolutely no legal basis.

For the reasons stated hereinbefore, the application seeking leave to appeal is, therefore, rejected. Consequently the appeal filed at the first instance shall also be treated as dismissed.