

(2014) 07 JH CK 0031

Jharkhand High Court

Case No: W.P. (PIL) No. 4519 of 2013

Omprakash Vishwakarma

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision: July 30, 2014

Hon'ble Judges: R. Banumathi, C.J; Amitav Kumar Gupta, J

Bench: Division Bench

Advocate: S.N. Pathak, Sr. Advocates and M.M. Sharma, Advocate for the Appellant;
Rajesh Kumar, G.P.-V, Advocate for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Amitav Kumar Gupta, J.

The instant writ application has been filed by the petitioner in the interest of public at large and the residents of State of Jharkhand for issuance of an appropriate writ/order/direction to the respondents to fill up the vacancies/to appoint the Sanitary Inspectors/Malaria Inspectors in all the districts of State of Jharkhand as the State is duty bound to protect the health of the citizen.

2. The brief fact as stated is that the petitioner is a resident of Churi Colliery, of District - Palamau; that he is conscious about the health of the citizens and cleanliness of the State; that he filed an application under the Right to Information Act, 2005 (R.T.I. Act) seeking information regarding availability of Sanitary and Malaria Inspectors in the district of Ranchi whereupon the Health Department provided the information that after reorganisation of the State of Bihar 40 posts of Malaria Inspectors were allotted to State of Jharkhand but no appointment has been made on the said post and the persons who were working have superannuated from service and till date no recruitment Rule has been framed, due to which vacancies are not being filled up; that the petitioner filed another application under the R.T.I. Act seeking information regarding the vacancies of Sanitary Inspectors and from the information furnished he came to know that in each and every District posts of Sanitary Inspectors are lying vacant for the last 20 years and the Media also

published the news regarding the vacancy of the posts of Malaria Inspectors, Sanitary Inspectors, Food Inspectors and other vacancies in the Department of Health but the State Government i.e. the respondents, are not taking care to appoint and fill up the vacancy due to which health of the citizen and cleanliness of each and every districts of Jharkhand are at stake; that the petitioner had also made an application before the Advisor to the Hon"ble Governor of Jharkhand but till date no action has been taken.

3. Mr. S.N. Pathak, learned Sr. Counsel has contended that it is crystal clear that the respondents have failed in discharging their constitutional duties in not filling up the vacancy for the last more than twelve years since reorganization of the State of Bihar and the petitioner, as a citizen of the country and the State of Jharkhand, had moved various authorities but no positive action has been taken till date. Accordingly, the present writ petition has been filed for issuing direction to the respondents-authorities to immediately start the process and complete the entire exercise of appointment and fill up the vacancies of Malaria Inspectors and Sanitary Inspectors within a stipulated period of time as may be fixed by this Court. It is further submitted that the respondents are the creature of the Statute and they have to discharge their duty to maintain the health and cleanliness of the respective district. He has drawn our attention to the newspaper reports dated 27.04.2013 published in "Hindustan" wherein it has been stated that dozens of people are dying due to malaria and the Government is not taking any step to fill up the vacancy of the Malaria Inspector which are lying vacant and till date the State or the Health Department has not framed any recruitment Rule or Policy which shows the failure of the State in ensuring proper health and cleanliness for the citizens. It is urged by the counsel for the petitioner that this Court should direct the State Government to fill up the vacancy for the post of Sanitary Inspector and Malaria Inspector at the earliest to ensure the health and safety of the lives of the citizen of the State.

4. Learned counsel appearing on behalf of the respondents-State has referred to the counter affidavit and submitted that after the cadre division 50 posts of Malaria Inspector were allotted to Jharkhand which are lying vacant; that the process of framing Rule for promotion and appointment is going on and the appointment cannot be initiated without the Rule; that in the interest of public health 47 Malaria Inspectors are posted and 86 Malaria Technical Supervisors have been engaged on contractual basis as per Annexure-A. It is submitted that out of 190 posts of Sanitary Inspector Cadre only 27 persons are working in the district. It is further submitted that the present Public Interest Litigation has been filed by the petitioner with the personal interest and the same is not maintainable as the Government has initiated steps for formulating the policy and framing the Rules for recruitment on the said post.

5. We have heard learned counsel for the parties.

6. It is admitted that 50 post of Malaria Inspector is vacant but as per Annexure-B to the counter affidavit it is evident that 47 Malaria Inspectors are working in the districts and 86 Malaria Technical Supervisors are working on contractual basis and 27 Sanitary Inspectors in various districts which shows that Government is aware and taking steps for the health and safety of the people of the State and the required hygiene. The district wise posting is shown in Annexure-B of the counter affidavit. As per the counter affidavit filed by the State it is apparent that the Rules are yet to be framed for promotion and appointment under National Vector Borne Disease Control Programme and the same is under process and the Government, in the interest of the public health.

7. From the applications filed by the petitioner under the R.T.I. Act which are at Annexures-3, 4, 5 and 6 series to the writ petition it transpires that the petitioner has made queries regarding the eligibility criteria, salary and who is the competent authority to appoint the Sanitary Inspector/Malaria Inspector and information has been sought with regard to the period for filing up the vacancy. That the petitioner has not asked for any information as to how many persons have died on account of malaria and what steps the Government has taken for protection of the citizen of the State from the said infectious diseases or about the amount of funds allocated for the hygiene and cleanliness of the district rather his query is based more on appointment procedure and the eligibility criteria, qualification and salary payable to a Sanitary Inspector/Malaria Inspector.

8. Thus, it is evident that the petitioner's bona fide is questionable in respect to the filing of the present petition. If he was so conscious he could have also sought information regarding the functioning of Primary Health Centre and the scheme which the Government has formulated for the safety of the health of the people and the cleanliness in the district. These facts have not been narrated by the petitioner in the writ petition nor any information in this regard was sought under the R.T.I. Act.

9. Admittedly, the State of Jharkhand has been created a decade back and it is a fledgling State and the Government, as noticed above, has taken steps to appoint persons on contractual basis and the framing of Rule and policy is under process. Thus, the present writ petition does not appear to have been filed with bona fide objective.

10. Thus, the present writ petition is not fit to be entertained. Consequently, it is hereby dismissed.