

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11942 of 2000

Dr. Murari Jha, Son of Late Rajeshwar Jha, resident of Village-Mangra, P.S.-Baruadih, District-Palamu, at present the Director, Jan Shikshan Sansthan, Gaya, Rampur Road, P.S.-Rampur, Distict-Gaya.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Department of Human Resources Development, Government of India.
2. The Joint Secretary, Adult Education-cum-Director General National Literacy Mission Ministry of Human Resources Development (Department of Education), Government of India, Shastri Bhawan, New Delhi.
3. The Director, Adult Education, Ministry of Human Resources Development (Department of Education), Government of India, Shastri Bhawan, New Delhi.
4. The Board of Management through its Chairman, Jan Shikshan Sansthan Gaya, Rampur Road, P.S.-Rampur, District-Gaya.
5. The Chairman, Jan Shikshan Sansthan Gaya, Rampur Road, P.S.-Rampur, District-Gaya.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ram Sagar Singh, Advocate

For the Respondent No.5 : Mr. Ashok Kumar Keshari, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 01-07-2015

Heard learned counsel appearing on behalf of the parties.



2. This application has been filed, under Article 226 of the Constitution of India, seeking quashing of an order dated 14.09.2000, issued by the Chairman, Jan Shikshan Sansthan, Gaya, whereby, the service of the petitioner from the post of Director, Jan Shikshan Sansthan, Gaya has been terminated with immediate effect.

3. It is the case of the petitioner that pursuant to advertisement dated 27.10.1995, issued by the Jan Shikshan Sansthan, Gaya (**hereinafter referred to as the 'Sansthan'**), which was earlier known as Sharamik Vidyapeeth, Gaya, he had applied for appointment to the post of Programme Officer. He was selected for the post of Programme Officer and appointed as such, through appointment letter dated 18.01.1996, pursuant to which; he had joined the Sansthan on 29.01.1996. Subsequently, the petitioner was appointed against the post of Director after following the processes of selection, based on an advertisement dated 02.08.1996, through appointment letter dated 18.12.1996.

4. It appears from the pleadings made in the present writ application that subsequently some dispute arose between the petitioner and Chairman of the Sansthan and a disciplinary



action was initiated against him, which finally culminated into issuance of the impugned order dated 14.09.2000. It is the contention on behalf of the petitioner that the impugned order has been issued without following due procedure in conformity with the principles of natural justice and, therefore, the impugned order is illegal and deserves to be quashed.

5. Mr. A.K. Keshari, learned counsel appearing on behalf of the respondent no. 5, at the outset, has made preliminary objection over the maintainability of the writ application on the ground that the said Sansthan is a voluntary organization and petitioner was appointed on contractual basis in the said Sansthan. He submits that the organization is not amenable to the writ jurisdiction, as it is not 'State' within the meaning of Article 12 of the Constitution of India. He has submitted that the organization being voluntary agency, not discharging any function within public domain, no writ can be issued under Article 226 of the Constitution of India. He has referred Guidelines for Management, Planning and Programming, under the scheme of Jan Shikshan Sansthan (Institute of People's Education) of Ministry of Human Resource Development Department of Elementary Education



and Literacy, Government of India and has contended that under the said scheme, the Jan Shikshan Sansthan function as registered voluntary organizations under the aegis of Voluntary agencies of repute or Universities. He submits that admittedly, present Sansthan is not functioning under the aegis of any University. He has further submitted that the petitioner's appointment was contractual in nature and any dispute, with reference to such appointment or service condition, may not be gone into in a proceeding under Article 226 of the Constitution of India.

6. Learned counsel appearing on behalf of the petitioner, responding to the preliminary objection, so raised, has referred to the Guidelines, issued by the Ministry of Human Resource Development Department, in order to contend that Jan Shikshan Sansthan are controlled by the Union of India and there is effective and pervasive control of the Union of India as well as the State Government, inasmuch as, in the Board of Management of Jan Shikshan Sansthan, the State Director of Adult/Mass Organization and Representatives of the Government of India are Members. He has further submitted that the Sansthan is financed by the

Human Resource Development Department, Government of India.

7. In my opinion, Mr. Keshari, learned counsel for the respondent no. 5, is right in his submission that no writ should be issued in exercise of power under Article 226 of the Constitution of India, in the facts and circumstances of the case, particularly, in view of the fact that the petitioner has not been able to satisfy this Court that the said Sansthan is 'State' within the meaning of Article 12 of the Constitution of India and he has not disputed appointment of the petitioner in Sansthan was contractual in nature.

8. Learned counsel for the petitioner has relied upon a decision of this Court in case of "*Arbind Kumar & Ors. vs. Steel Authority of India Ltd. & Ors.*" reported in "*2000 (2) PLJR 569*", wherein, this Court has held that writ can be issued to Co-operative Societies, controlled by the Government or its instrumentality.

9. In the present case, however, I do not find any material to show that the State Government or the Union of India exercise any effective control over the said Sansthan. It is evident that the organization is voluntary in nature. The

dispute between the petitioner and the Sansthan, as raised in the present writ application, cannot be gone into in a proceeding under Article 226 of the Constitution of India.

10. This application is, accordingly, dismissed.

11. No order as to costs.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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