



24/03/17

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NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1872 of 2005

Smt. Kumud Saxena, aged about 44 years, W/o Shri S.S.S. Saxena,
Occupation : Lecturer in English Govt. Girls' Higher Secondary School Sakti,
District- Janjgir Champa (M)

---- Petitioner

Versus

1. State of Madhya Pradesh through: Secretary Department of School Education
Vallabh Bhawan, Bhopal
2. Director, Director Public Instructions Bhopal
3. District Education Officer, Bilaspur
4. Shri J.K. Sharma, Occupation-Principal, Govt. Girl's High Secondary School,
Sakti, Janjgir Champa, District- Janjgir Champa

---- Respondents

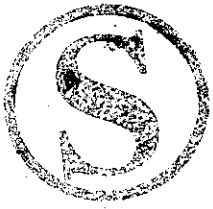
For Petitioner	:	Shri Ajay Shrivastava, Advocate
For Respondents No. 1 to 3/State:	:	Shri Satish Gupta, Govt. Advocate
For Respondent No.4	:	None appears

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

09/03/2017

1. By this petition, the petitioner has challenged correctness and validity of the order dated 20th October, 1999 by which the petitioner's promotion has been cancelled and the petitioner reverted to the post of Upper Division Teacher.
2. Amongst various grounds raised in the petition, one of the grounds raised in the petition is that the petitioner was not afforded any opportunity of hearing before cancellation of promotion. It is submitted that vide order dated 28.1.1995, the petitioner was promoted as Lecturer and after more than four years, by the impugned order dated 20th October, 1999, promotion of the petitioner was cancelled. Relying upon the decision of the Supreme Court in the case of



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Prakash Ratan Sinha Vs. State of Bihar & Ors¹, it is submitted that issuance of notice and opportunity of hearing before passing adverse order was imperative.

3. On the other hand, learned counsel for the State submits that petitioner's promotion was rightly cancelled because the petitioner was transferred from Tribal Department to School Education Department, therefore, the petitioner lost her seniority and a circular was also issued by the respondent on 23rd August, 1980 that in such case of transfer on own request, seniority would be lost.
4. I have considered the rival submissions made by learned counsel for the parties and perused the records.
5. It is found that in the present case, when the petitioner challenged the order of cancellation before the State Administrative Tribunal, the Tribunal vide order dated 10.12.1999, stayed the order of operation of impugned order dated 20th October, 1999, which is still continuing meaning thereby that the reversion of the petitioner has not been given effect to till date.
6. In view of the aforesaid circumstances and that the petitioner was not afforded any opportunity of hearing before cancellation of her promotion and further in view judgment of the Supreme Court in the case of **Prakash Ratan Sinha** (supra), it would be appropriate to direct the respondents that the respondents shall afford the opportunity of hearing to the petitioner stating the reason for reversion. The petitioner shall submit her reply and thereafter decision shall be taken on the same. Till the appropriate orders are passed by the respondents, the impugned order which has remained stayed for these years shall not be given effect to. It is made clear that if any order of reversion is passed against the petitioner, the protective umbrella of the Court shall come to an end.
7. The petition is accordingly allowed to the extent and in the manner indicated above.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Praveen