

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2924 of 2016**

Order Reserved On : 18/04/2017

Order Passed On : 18/07/2017

- Dr. R. G. Yadav S/o Shri L.R. Yadav, Aged About 64 Years Retd. Librarian D.P. Vipra College, Bilaspur, District Bilaspur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh, through the Secretary to the Government of Chhattisgarh, Department of Higher Education, Mantralaya, Mahanadi Bhawan, Naya Raipur, PS Rakhi, Raipur (Chhattisgarh)
2. The Commissioner, Department Of Higher Education Block C, 30 Second / Third Floor Indravati Bhawan, Raipur, District Raipur Chhattisgarh
3. The Governing Body, (Constituted Under Statute 28 Of College Code Of Chhattisgarh Vishwavidyalaya Adhinium 1973 Of D.P. Vipra College) Through The Secretary To The Governing Body (Constituted Under Statute 28 Of Chhattisgarh Vishwavidyalaya Adhinium 1973) Office Of The Principal D.P. Vipra College Old High Court Road, Bilaspur Chhattisgarh
4. The Principal, D.P. Vipra College, Old High Court Road, Bilaspur Chhattisgarh

---- Respondent

For Petitioner : Shri Anurag Dayal Shrivastava, Advocate.
For Respondent/State : Shri Shashank Thakur, Govt. Advocate.
For Respondents 3 & 4 : Dr. N.K. Shukla, Sr. Advocate with Shri
Sudeep Agrawal and Shri A. Tiwari, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

C A V Order

1. The parties were heard on 18.4.2017 on the issue as to whether the matter should be referred for police investigation and lodging FIR against the respondents or any other person for filing of false affidavit and concocted documents. The present petition has been preferred seeking direction to respondents No.3 & 4 to disburse the amount of contributory Provident Fund and Leave Encashment with interest @ 12%.
2. By an interim order dated 10.11.2016 respondents No.3 & 4 i.e. the Governing Body and the Principal of the College respectively, were directed to immediately release the amount of Leave Encashment to the petitioner within a period of 15 days. It was further observed that subject to releasing of the amount of Leave Encashment, the only dispute left for adjudication would be retaining of amount of Rs.1.72 lakhs from the Provident Fund of the petitioner. When the interim order was not complied with, on 14.12.2016, this Court directed respondents No.3 & 4 to remain present in person before this Court to explain as to why contempt proceeding should not be drawn against them for willful non-compliance of the order dated 10.11.2016.

3. On 21.12.2016, this Court noted that Writ Appeal No.561/2016 preferred by respondents No.3 & 4 against the interim order dated 10.11.2016 has been dismissed by the Division Bench on 20.12.2016. The Division Bench directed the respondents No.3 & 4 to comply with the order by 10th January, 2017. On 13.4.2017, the petitioner's counsel submitted that in the teeth of document (Annexure-P/13) filed with the petitioner's rejoinder, the document (Annexure R-3/2) filed with the return of respondents 3 & 4 under the signatures of Principal of the College Dr. Smt. Sunanda Tijare appears to be false and concocted. This Court thereafter directed the Principal and other 6 teachers, who have signed over the documents, to remain present before this Court. On 18.04.2017, the Principal and 6 Teachers/Professors, who have signed over the documents were present and made statement before the Court which is recorded thus:-

“The above named persons namely; Dr. (Smt.) Sandhya Som, Dr. Sanjay Tiwari, Dr. K.K. Sharma, Dr. Sharad Dewangan & Prof. Jayant Rai, would categorically state before the Court that as Members of the Library Committee they have submitted only one report signed on 4th December, 2014 which is filed by the petitioner as Annexure – P/13 with the rejoinder.

For the other documents filed by the respondent as Annexure – R3/2, they would explain that after submission of the report

(Annexure – P/13) the Principal of the College called them and made them to put signature on the document without informing them as to the nature of the document. The Principal told them not to mention the date under their signature in the document. It is their categorical statement before the Court that they have not submitted any other report than the report dated 4-12-2014.”

4. It is argued for the petitioner that document (Annexure R-3/2) was subsequently prepared only to deny the benefit of the amount of Provident Fund to the petitioner. The signatories having made statement that they have submitted only one report, respondents No.3 & 4 are guilty of committing perjury and contempt of lawful authority of this Court with sole motive of defeating the petition. Prayer has been made to direct lodging of FIR against respondents No.3 & 4.
5. Per contra, the respondents’ counsel would submit that signatories have not denied their signatures on the document, therefore, it is not a case of preparation of false document.
6. The document (Annexure-P/13) has recommended that misplaced books be written off whereas the document (Annexure R-3/2) does not contain any such recommendation. The amount of Rs.1.72 lakhs has been retained and refused to be disbursed to the petitioner only on account of misplacement of book from the library. Thus, the first report of the committee which has not been

denied by the signatories to the report is an important document in favour of the petitioner, therefore, the Principal has got prepared the subsequent document (Annexure R-3/2) to defeat the claim of the petitioner. Such preparation of false document in the teeth of earlier document of similar nature but the subsequent document having material departure from the first one in relation to the subject in dispute would amount to committing perjury and placement of false and misleading counter affidavit on the basis of false document produced before this Court.

7. In **Dalip Singh Vs. State of Uttar Pradesh and Others** {(2010) 2 SCC 114}, the Supreme Court has observed that truth constituted an integral part of the justice delivery system and a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. Therefore, a litigant who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final. Noticing false statement made by the concerned litigant, the Supreme Court denied relief to them.
8. In **State of Karnataka through Secretary, Housing and Urban Development and Another Vs. Vasavadatta Cement and Another** {(2015) 11 SCC 653}, the Supreme Court, noticing that

the concerned litigant has filed two copies of the same document but there was substantial difference in one paragraph, observed that one of the document was prepared subsequently by an officer of the State of Karnataka. The Supreme Court took serious view of the matter and directed for an enquiry into the matter and if, so necessary, file FIR against the alleged Officer who might have created the document.

9. Similarly, in **Sciemed Overseas Inc. Vs. BOC India Limited and Others** {(2016) 3 SCC 70}, the Supreme Court having found that the concerned party has filed false affidavit observed that filing of false affidavit should be effectively curbed with a strong hand to preserve purity of judicial proceedings. The Supreme Court eventually refused to quash the order whereby the High Court had imposed cost of Rs.10 lakhs on the party who had filed false document before the Court.
10. In the case at hand, the signatories to the document have already appeared and made a statement before this Court that the document (Annexure R-3/2) was got prepared subsequently and respondent No.4 Dr. Smt. Sunanda Tijare forced them to put signature on the document without mentioning the date. It has also been stated by the concerned individuals that they have submitted only one report,

which is filed as Annexure-R/13 by the petitioner.

11. In view of such statement made before the Court, an enquiry into the matter is not needed. This Court may, therefore, straightway direct lodging of FIR against respondent No.4, who was instrumental in preparing false document. However, considering her age and other obtaining circumstances, instead of lodging FIR, this Court would direct respondent No.3, the Governing Body and the respondent No.4 Dr. Smt. Sunanda Tijare to pay cost of Rs.5 lakhs, out of which Rs.2.5 lakhs shall be paid to the petitioner and the remaining Rs.2.5 lakhs shall be deposited with the High Court Legal Aid Committee. Let the cost be paid within a period of one month from today.
12. With the direction aforesaid, the Writ Petition is disposed of.

Sd/-
Judge
(Prashant Kumar Mishra)