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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2803 of 2016

Order Reserved On : 11/11/2016

Order Passed On : 15/02/2017

- H. S. Misra S/o Late Shri V.N. Mishra, Aged About 67 Years
Director National Adventure Exploration & Disaster Management
Institute R/o M 262, Sector II, Shakti Nagar, Bhopal M.P.

---- Petitioner

Versus

1. State Of Chhattisgarh Thorough Secretary, Department Of School
Education Mantralaya, Mahanadi Bhawan Naya Raipur
Chhattisgarh
2. Under Secretary, State Of Chhattisgarh Department Of School
Education Mantralaya Mahanadi Bhawan, Naya Raipur
Chhattisgarh
3. Director, Mass Education Directorate, Indirawati Bhawan, Naya
Raipur Chhattisgarh
4. Chief Commissioner Of State, Bharat Scouts And Guides
Chhattisgarh, Budha Para, Raipur, Chhattisgarh

---- Respondent

For Petitioner : Shri N.K. Malviya, Advocate.
For Respondent/State : Shri Shashank Thakur, Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

C A V Order

1. The petitioner has called in question the order (Annexure-P/1)
passed by respondent No.2, Secretary, Department of School

Education, Government of Chhattisgarh in favour of respondent No.4, the Chief Commissioner of Bharat Scouts and Guides, Chhattisgarh State, according administrative approval to the said respondent for mountaineering and adventurous activities for the financial year 2016-17.

2. It is projected in the Writ Petition that the petitioner's institute namely, National Adventure Exploration & Disaster Management Institute is undertaking mountaineering and adventure training to the students of Government schools throughout the State for number of years. In 2002, a decision was taken to allocate budget to the petitioner Institute; similar decisions were again taken in the year 2008-09 and 2015-16. In these years, sufficient budget was allocated to the petitioner Institute for running the operation/activities in its Pachmadi Centre. The petitioner's case was recommended by the State officials, however, despite recommendation as contained in Annexure-P/7 & P/8, for the present financial year, allocation has been made in favour of respondent No.4 and not in favour of the petitioner which is arbitrary and illegal.
3. The petitioner's counsel would argue that handing over mountaineering and adventurous activities to respondent No.4 for 'E' class of schools and retaining the petitioner's services only for 'T' class of schools is illegal and contrary, to the detriment of the

petitioner's Institute.

4. Learned State Counsel would oppose the writ petition on submission that decision is based on a detailed consideration, therefore, it being a purely administrative decision and policy matter, no interference is called for in this writ petition.
5. Having heard learned counsel for the parties and on perusal of the papers, particularly note sheet contained in Annexure-P/7, it would appear that proposal for budget allocation for the financial year 2016-17 was initiated in the year 2015 itself. The concerned Hon'ble Minister sought for the available policy for allocation to which the officials replied that till date the petitioner Institute which is a purely private Institute, is assigned the work even though Bharat Scouts and Guides is also undertaking mountaineering and adventurous activities at Pachmadi. Having found that the petitioner Institute organizes a camp at cost of Rs.4007/- per student whereas respondent No.4 undertakes the activity at Rs.2800/- per student, therefore, since in the present year i.e. 2015-16 the work has already been handed over to the petitioner Institute, appropriate decision can be taken later for the ensuing year. The proposal moved by respondent No.4 was also placed before the officials and the Hon'ble Minister.
6. The note sheet recorded on 3.6.2016 would reveal that the

petitioner's proposal would incur expenditure of Rs.4007/- per student whereas as per the proposal of respondent No.4, a Government controlled society, expenses of Rs.3560/- is to be incurred for each student. Therefore, considering the saving of Rs.450/- per student, totalling Rs.8,94,000/-, it was decided that for 'E' Class of schools, respondent No.4 should be allocated budget and for 'T' class of schools, the petitioner Institute shall be engaged.

7. On careful examination of the papers, it is revealed that there is no inherent flaw or patent illegality in the procedure adopted for engaging respondent No.4 to provide mountaineering and adventurous activities training for 'E' class of school.
8. While considering the matter under the writ jurisdiction, this Court is not concerned about the decision but the decision making process which appears to be fair and reasonable in the case in hand. In the absence of any factual malafide, pleaded or proved by the petitioner to question the decision, it is not open for this Court to substitute the decision taken by the high officials of the State Government after examining all relevant aspect of the matter.
9. The writ jurisdiction is not to be exercised as appellate jurisdiction but it should be confined to interference only when there is patent

illegality and arbitrariness in the decision making process. Such being not the case here, since this Court has not found any such defect in the decision making process in the present case, the impugned decision is not open for interference by this Court.

10. The Writ Petition being bereft of any substance deserves to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

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