

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 572 of 2019**

(Arising out of order dated 17.09.2019 passed in Writ Petition (S) No.7390 of 2019 by the learned Single Judge)

Chief Municipal Officer Nagar Panchayat, Baloda, District- Janjgir-Champa, Chhattisgarh.

---- Appellant**Versus**

1. Smt. Pramila Kanaskar W/o Murari Lal Kanaskar Aged About 43 Years R/o Kaser Para, Baloda, District- Janjgir-Champa, Chhattisgarh.
2. President-in-Council Nagar Panchayat, Baloda, District- Janjgir-Champa, Chhattisgarh.
3. State of Chhattisgarh Through The Secretary, Department of Panchayat And Rural Development, Mahanadi Bhavan Mantralaya, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh.

---- Respondents

For Appellant	: Shri Raghvendra Pradhan, Advocate
For Respondent/State	: Shri Chandresh Shrivastava, Dy. Advocate General

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

P. R. Ramachandra Menon, Chief Justice

11.12.2019

1. The Appellant who was the 2nd Respondent in the Writ Petition (S) No.7390 of 2019 before the learned Single Judge is the Appellant herein. The grievance is against the direction given by the learned Single Judge to have the claim for regularization of Respondent No. 1 to be considered in

the light of the law declared by the Apex Court in **State of Karnataka and Others v. Umadevi (3) and Others, (2006) 4 SCC 1.**

2. The prayers in the writ petition were in the following terms :

“10.1 That, the Hon'ble Court may kindly be pleased to direct the respondents authority to consider the case of the petitioner was regularization in the Bal Mandir School as a primary teacher.

10.2 Any other relief/reelief's which may deem fit and proper in the facts and circumstances of the case may also be allowed.”

3. When the matter was come up for consideration, after hearing the learned counsel for the Petitioner and also learned counsel representing the State, the matter was disposed off without entering into the merits of the case, but for causing the issue to be considered by the Municipal Corporation/Department and to have passed an order as aforesaid, which is subjected to challenge in this appeal.
4. The learned counsel for the Appellant submits that, there is however an observation in paragraph-3 of the order to the effect that the given facts were 'not disputed by the State'. In fact, the factual position could have been disputed only by the Local Authority and not by the State; insofar as the allegation/claim was with reference to the service rendered by the writ Petitioner under the Local Authority. Since no notice was issued to the Local Authority, the facts could not be brought to the notice of the learned Single Judge, submits the learned counsel.
5. The position recorded in 'paragraph-3' of the judgment is only with regard to the submission made by the learned State counsel, which may not have

any bearing with regard to the actual position as far as service particulars of the writ Petitioner under the Local Authority is concerned. Since there is no merit adjudication, this Court does not find any reason to interdict the verdict passed by the learned Single Judge. It is open for the Appellant/Local Authority to ascertain the grievance of the writ Petitioner and pass appropriate orders in terms of the verdict passed by the learned Single Judge, on merits, after affording an opportunity of hearing to the writ Petitioner. The direction given by the learned Single Judge does not declare that the writ Petitioner is right of regularization, and it will depend on the factual position to be established by the Petitioner with reference to the relevant documents to be considered by the Competent Authority, in the light of the relevant provisions of law and the binding judicial precedents.

6. No interference is warranted. The writ appeal is dismissed.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge