GAHC010291282019

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Cont.Cas(C) 703/2019

1:PURNENDU SEKHAR DEBNATH
S/O- LATE BENOD BEHARI DEBNATH, R/O- ROY NAGAR, P.O- KARIMGANJ-788711, DIST- KARIMGANJ, ASSAM

VERSUS

1:PREETOM SAIKIA, IAS AND ANR.
THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
EDUCATION DEPTT, GOVT OF ASSAM, DISPUR, GUWAHATI- 781006

2:P JIDUNG
AES
THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 78101

Advocate for the Petitioner : MR. N DHAR

Advocate for the Respondent : MR. D MOZUMDER

BEFORE
HONOURABLE MR. JUSTICE N. KOTISWAR SINGH

ORDER

Date : 12-02-2020

Heard Mr. N. Dhar, learned counsel for the petitioner and Mr. S.P. Bhattacharjee, learned counsel for the respondents.

2. This Contempt Petition arose out of the judgment and order dated 13.02.2019 passed in WP(C) No.2983/2017 in which the following direction was issued:-

"*21. In view of above discussions and taking into consideration the materials of record, this Court is of the opinion that the appointment of the respondent No. 4 Shri Asit Baran Paul as Principal of the*

Bhikamchand Balika Bidyaniketan H.S. School, Karimganj and the respondent No. 7 in WP(C) 2706/2017, Shri Bijon Nath as the Principal in the Swarna Lakshmi Higher Secondary, School, Narshingpur, Cachar are liable to be interfered with on the ground that the said incumbents do not possess valid post-graduate degrees which is an essential requirement under the Rules. Accordingly, their respective appointments as Principals in the Schools in question are set aside and the respondent authorities would be at liberty to fill up the post from the penal of selected candidates in accordance with law."

3. From the above, what is seen is that after setting aside the appointment of one Asit Baran Paul, the authorities were directed to fill up the post from the panel of selected candidates in accordance with law.

4. The petitioner states that the petitioner's name is included in the list of selected candidates and, as such, he ought to have been appointed as Principal of Bhikamchand Balika Bidyaniketan HS School, Karimganj.

5. Mr. Bhattacharjee, learned counsel, submits that the aforesaid exercise was undertaken in terms of the direction of this Court. However, it was seen that at the time of verification of the certificate of the petitioner, B. Ed degree of the petitioner was found to be without recognition/permission of the NCTE and, hence, his B. Ed degree was considered to be invalid. If that is so, the petitioner cannot be appointed as Principal as mentioned in the official letter dated 30.01.2020. Accordingly, it has been submitted that no willful disobedience has been committed by the respondents.

6. Learned counsel for the petitioner, on the other hand, relying on a decision of the Hon'ble Supreme Court in **Prithawi Nath Ram Vs. State of Jharkhand and others, (2004) 7 SCC 261,** has submitted that in contempt proceedings, Court is really concerned with as to whether the earlier decision of the Court has been complied or not and it would not be permissible for the Court to examine the correctness of the earlier decision, which has not been assailed and take a view different than what was taken in the earlier decision.

7. Learned counsel for the petitioner submits that though B. Ed degree obtained by the petitioner has been assailed by certain adversaries, namely, Asit Baran Paul in the said writ petition, the same has not been set aside by this Court.

8. Be that as it may, since the Government has taken a specific decision that the B. Ed degree obtained by the petitioner is invalid as indicated in the official communication dated 30.01.2020, even if the Court had not taken any decision as regards the validity of his B. Ed

degree, right of the petitioner to derive benefits out of such a degree, which is declared to be invalid by the Government has come under a cloud.

9. Since the Government has already taken a decision that the B. Ed degree obtained by the petitioner is invalid though the same may not be found to be not correct if challenged by the petitioner, nevertheless, the fact remains that as on today, the Government has decided not to accept the B. Ed degree of the petitioner as valid.

10. In view of above, this Court is of the opinion that no willful disobedience of this Court's has been committed by the respondents.

11. However, the petitioner would be at liberty to challenge such a decision taken by the authorities by contending that the B. Ed degree obtained by the petitioner is valid before the appropriate forum.

12. Before parting with this petition, it is made clear that in the event the petitioner is able to prove that his B. Ed degree is valid, he shall be entitled to be appointed as Principal in the concerned School as per decision of this Court rendered in WP(C) No.2983/2017 and move the appropriate forum again.

13. With the above observations and directions, this Contempt Petition is closed.

JUDGE

Comparing Assistant