

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3398 of 2020**

- Pradesh Lipik Varg Shaskeeya Karmachari Sangh A Registered Employees Union Through Its President Gopal Sharma , NBR Colony, Police Station Civil Lines , Rudri , District Dhamtari Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through: The Secretary, Department Of School Education , Mantralaya , Mahanadi Bhawan, Atal Nagar, Nava Raipur , Raipur Chhattisgarh
2. Commissioner Raipur Division Raipur Chhattisgarh
3. District Education Officer Dhamtari , District Dhamtari Chhattisgarh
4. Ramesh Kumar Dewangan Sr. Auditor , O/o District Education Officer, Dhamtari , District Dhamtari Chhattisgarh

---- Respondents

For Petitioner : Shri N. Naha Roy, Advocate

For Respondents/State : Shri Amrito Das, Addl. AG

Hon'ble Shri Justice Goutam Bhaduri**Order****03/11/2020**

1. Heard.
2. Challenge in this petition is to the promotion made to respondent No.4 and the petition has been filed by the Employees Union through its President Gopal Sharma and the following reliefs have been claimed:-

“10.1 Issue an appropriate writ in the nature of mandamus and quash the order dated 06.07.2020 (Annexure P/1), whereby the respondent No.: 2 has revisited and cancelled/rolled back its order dated 03.07.2020 despite

having become functus officio to the issue and having no jurisdiction to pass such order at all.

10.2 Grant any other relief, which is deemed fit in the circumstances of the case.”

3. On a query being made to learned counsel for the petitioner with regard to the maintainability of the petition, he referred to the judgments passed by the Supreme Court in the case of ***Akhil Bharatiya Soshit Karamchari Sangh (Railway) Represented by its Assistant General Secretary on behalf of the Association Versus Union of India & others {1981 (1) SCC 246}*** & ***Confederatio of Ex-Servicemen Association and others Versus Union of India & others {2006 (8) SCC 399}*** and would submit that the filing of the petition by the concerned individual is not required as the Union is empowered to espouse the cause of the aggrieved. He read out the judgment and would submit that under the circumstances, the petition would be maintainable.
4. Per contra, learned State counsel vehemently opposed the same and would submit that the instant petition is not maintainable as the individual promotion of respondent No.4 has been challenged by the Union and the aggrieved person is not before the Court.
5. Prima facie perusal of the documents would show that the promotion of the respondent No.4 is subject of challenge by the Union and the aggrieved person who is affected by such promotion is not before this Court. It is not a class litigation and the promotion of an individual i.e. of respondent No.4 cannot be termed as common cause litigation and the respondent No.4 he may also be a member of the Union cannot be driven to the corner at the behest of the Union when the concerned affected individual is not before the Court. The judgment relied on by the petitioner is completely on the different subject issue and

inference cannot be drawn from that.

6. Accordingly, the petition being devoid of merits is liable to be and is hereby dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu