

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6984 of 2024

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Chakarapani Himanshu Son of Subodh Prasad Yadav Resident of
Shreerampur, Akbar Nagar, Police Station- Nathnagar, District-Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Patna.
2. The In-Charge Secretary To the Government of Bihar, Patna.
3. The Joint Secretary To the Government of Bihar, Patna.
4. The Additional Chief Secretary-cum-Principal Secretary, Social Welfare Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Ranjan, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, Advocate General
		Mr. Amish Kumar, AC to AG
		Mr. Sanjiv Kumar, AC to AG

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE NANI TAGIA
CAV JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-12-2024

The petitioner is a member of the Child Labour Commission, which stood dissolved by way of the Bihar State Child Labour Commission (Amendment Act) 2024. The Amending act, amended the Bihar State Child Labour Commission Act, 1996 (for brevity, the Act of 1996).

2. We heard Sri Sanjiv Ranjan, learned Counsel for the petitioner and Sri P.K. Shahi, learned Advocate General for the respondent-State.



3. The amendments brought in, to the Act of 1996 provided as per Section 2 that, notwithstanding the tenure prescribed in the Act the State Government would have power to dissolve the Commission anytime, if it is satisfied that dissolution is in larger public interest and to ensure that the functioning of the Commission is inconsistent with its aims and objects.

4. Under Section 3, Section 7 of the Act of 1996 was amended incorporating Section 7A, 7B, 7C and 7D. As per the above provisions, the existing Commission stood dissolved and enabled the Government to appoint an Administrator to manage the affairs of the Commission. Section 7B provided for a Committee of experts to be constituted, for making recommendations for reorganization and restructuring of the Commission. The Committee of experts were to consist of five members, of whom at least one member should be a person possessing adequate knowledge of the subject related to child labour and different affairs of child labour. The Committee was to submit their recommendations to the State Government, within a period of one month and it was to be examined by the Government for acceptance with such modifications as deemed necessary. Section 7C provided for the constitution of a new



Commission within a period of two months and Section 7D enabled the Government to give effect to the provisions of the existing Act or the Amending Act and do such things which are necessary or expedient to remove any difficulties arising.

5. We have to observe that the petitioner, who was appointed as a member of the Commission has no vested right to continue. The Commission, which is constituted as per the Act, by the Government could also be dissolved by the Government for which there was no provision earlier available in the Statute. The learned Counsel for the petitioner pointed out that even at the earlier point, there was a rule made, enabling such dissolution. The grievance seems to be that public interest is such a wide term as to bring in arbitrariness, when such dissolution is carried.

6. We are of the opinion that the petitioner has no cause to challenge the said provision, especially since the dissolution of the existing Commission, is not by the above provision and is by a statutory imprimatur as brought in by Section 7A.

7. We also do not find any reason to interfere with the power to dissolve on larger public interest so as to make the functioning of the Commission consistent with its aims and



objects; which the Government would have to satisfy the appropriate forum when a challenge is made to any order passed invoking such power.

8. As far as the statutory dissolution of the existing Commission, the Government brought in the amendment to revamp the existing structure and functioning. The Government has also specifically referred to the Child And Adolescent Labour, (Prohibition and Regulation) Act 1986, wherein amendments were made by the Central Government and the National Policy for Children, 2013, again formulated by the Central Government. The conventions of the International Labour Organization agreed upon by the Government of India have also been specifically referred to; which speaks of the minimum age and prohibition of child labour in its worst forms. Only considering the changes in the laws and procedures relating to child labour the revamping of the existing system was attempted by the State.

9. The petitioner has a contention that the same was politically motivated only by reason of change in alliance. True, there was a change in alliance, but however, there is no reason to find the present amendments to be politically motivated. There cannot be urged any lack of competence on the



State legislature nor are the amendments in violation of any constitutional provisions; much less that of Article 14 of the Constitution of India.

10. *Shayara Bano v. Union of India; (2017) 9*

SCC 1 was a case in which the Hon'ble Supreme Court found that an arbitrary legislation can be interfered with. We are not able to find any arbitrariness in the amendments made but for the allegation raised of the abrupt discontinuance of the membership in the Commission, of the petitioner; by statutory imprimatur. The Commission is appointed for a specific purpose and when amendments are made dissolving the Commission, forming an expert Committee to make recommendations and also providing for the reconstitution of the Commission within a specific period; there can be no arbitrariness found in the legislation as such, merely for reason of the existing members having ceased to occupy the Office of the Commission.

11. As has been argued by the learned Counsel for the petitioner, true, an Administrator cannot carry on the functions of a Commission; but the appointment of an Administrator is only for the interregnum and the Amending act itself provides for constitution of a fresh Commission within a period of two months.



12. Constitutionality of a statute is to be presumed and the burden of proof rests heavily on the person questioning the constitutionality, on any ground including that of arbitrariness. The petitioner has miserably failed to make out a case of arbitrariness, especially since the ground raised is only of an abrupt cessation of his membership.

13. We find absolutely no reason to interfere with the amendments made, the writ petition stands dismissed.

(K. Vinod Chandran, CJ)

Nani Tagia, J: I Agree

(Nani Tagia, J)

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AFR/NAFR	
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