

CF 1001 (3)

THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

IN THE MATTER OF W.P. NO. 4001 / 2003

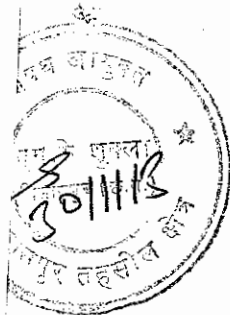
PETITIONER : Ku. Kamla Keraketta,
aged 40 Years, Principal,
Government Boys Higher
Secondary School, Jashpur (C.G.)

VERSUS

RESPONDENTS

1. The State of Chhattisgarh
through Secretary, Tribal Welfare
Department, Mantralaya, D.K.S.
Bhawan, Raipur.
2. Commissioner,
Tribal Welfare Department,
Raipur (C.G.)
3. Assistant Commissioner,
Tribal Welfare Department,
Jashpur
4. Collector,
Jashpur Nagar, Jashpur.
5. Mr. I.R. Minj,
Government Higher Secondary
School, Narayanpur (C.G.)

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P. R. No. 3903/03
submitted by Shri. K. K. Keraketta
dated 03-12-03

WRIT PETITION UNDER ARTICLES 226/227 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN
NATURE OF MANDAMUS, CERTIORARY AND/OR ANY
OTHER WRIT OF LIKE NATURE

The petitioner respectfully submits as under:-

1. PARTICULARS OF THE PETITIONER :

WRIT PETITION NO.4001/03

Ku. Kamla Keraketta

Vs.

State of Chhattisgarh & Ors.

ORDER

Post for: 31/3/2004.

**Sd/-
Fakhruddin
Judge**

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No.4001/03

Ku. Kamla Keraketta

Vs.

State of Chhattisgarh & ors.

ORDER

Per Fakhruddin,J:

The present petition has been filed by the petitioner challenging the order dated 1/10/2003 (Annexure-P/1), whereby respondent no.5 has been posted in the post of Principal, Govt. Boys Higher Secondary School, Jashpur Nagar. She has also challenged the order dated 22/11/2003 (Annexure-P/2), whereby she has been clamped with the charges of embezzlement of funds.

2. The submission of the petitioner is that as per Annexure-P/3 dated 5/7/2003, she was posted at Jashpur Nagar by the State by following order:

“ कु० कमला केरकेट्टा, प्राचार्य, शास० हाईस्कूल चरईडांड वि०ख० दुलदुला जिला जशपुर को समान सामर्थ्य में स्वयं के व्यय पर स्थानांतरित कर शास०बा० उ०मा०शाला, जशपुरनगर, जिला जशपुर में आगामी आदेश पर्यन्त पदस्थ किया जाता है ।”

It is submitted that while she was working at Jashpur Nagar, the order Annexure-P/1 has been passed by the State, which reads as under:

"क्रमांक /एफ-22-24/2003/25-1/आजाक-राज्य शासन एतद् द्वारा शास0बा0उ0मा0शा0जशपुर जिला जशपुरनगर के प्राचार्य की मृत्यु हो जाने के फलस्वरूप वरिष्ठ व्याख्याता श्री आई0आर0मिंज, प्राचार्य, शास0 उ0 मा0 शा0, नारायणपुर जिला जशपुर को प्राचार्य, शास0बा0उ0मा0शा0, जशपुरनगर जिला जशपुर के पद पर आगामी आदेश पर्यन्त अस्थायी रूप से पदस्थ किया जाता है।

यह आदेश तत्काल प्रभावशील होगा।"

3. Learned counsel for the petitioner submitted that the posting order of respondent No.5 as Principal as per Annexure P-1 has been made, but it is nowhere stated that the petitioner will not function as Principal. Counsel for the petitioner admitted that respondent No.5 is senior to the petitioner. He however submitted that the State has not passed specific order. It is contended by the petitioner that there is an anomaly.

4. Learned counsel for respondents no.1 to 4 on the other hand submitted that the post of Principal carries the grade of Rs.8000/- and neither the petitioner nor respondent No.5 have been granted that scale. It is further submitted that they are in the scale of Rs.6500/-. It is also submitted that the petitioner is the Lecturer of the batch of year 1995 and the respondent no.5 is the Lecturer of the batch of year 1992 and as such respondent No.5 is much senior.

5. Learned counsel for respondent No.5 reiterated the above fact and contended that respondent No.5 is much senior to the petitioner. He submitted that one Shri G.K.

Tiwari was the Principal, who had died while working on the post, and as such Shri B.P. Patel was made officiating Principal. It is submitted that during this period the petitioner was posted and she being the senior was given the charge of Principal. Counsel for respondent No.5 points out that the posting order of respondent No.5 clearly states this fact that respondent No.5 is being posted temporarily as Principal on account of death of the Principal Shri G.K. Tiwari. It is contended that order of petitioner does not state this fact that she was posted on the post of Shri G.K. Tiwari. The grievance of respondent No.5 is to the effect that these facts were suppressed by the petitioner before the Court in the petition. It is further submitted that respondent No.5 had joined on 07.10.2003, but the pay has not been drawn deliberately so as to put him in great loss and humiliation, though as per Annexure P-6 the posts of Principal and Vice-Principal are there.

6. It is pointed out by the learned counsel for respondents No.1 to 4 that Annexure R-2 filed by them is a document signed by the petitioner, wherein the petitioner herself showed two sanctioned posts i.e. one post of Principal and one post of Vice Principal; the post of Principal is filled in and the post of Vice Principal is lying vacant.

7. Counsel for the parties admit that the situation in the State of Chhattisgarh is such that for some reason or the

other the posts of Principal are lying unfilled because of non-availability of persons and the Lecturers are being given the charges according to their seniority.

8. So far as drawing of salary of respondent no.5 is concerned, this was brought to the notice of this Court and this Court on 22/3/2004 has passed the order that the salary of respondent no.5 would now be drawn as per Annexure P-6 dated 19/11/2003. If not drawn, it be drawn immediately by the State.

9. So far as postings of petitioner and respondent no.5 are concerned, petitioner and respondent No.5 both state that the entire matter be enquired by the State and re-examined keeping in view the seniority of the respective parties and clear & unambiguous orders may be passed as early as possible to avoid the situation prevailing in the school. Let that be done as expeditiously as possible preferably within 15 days from the date of production of copy of this order.

10. Accordingly, subject to above directions, this petition stands disposed of at this stage.

Sd/-
Fakhruddin
Judge

Hande/-