

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 1977/2002

MUSHTAQ ALI Vs. THE STATE OF RAJASTHAN & ANR.

DATE: 31.10.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Ms. Gayatri Rathore for the petitioner.

Mr. B.S. Chhaba, Dy. GA for the State.

Brief facts of the case are that the petitioner's school/institution was recognised by the Inspector Education, Jhunjhunu upto 5th Class vide letter dated 04.09.57. Being a recognised institution, 70% aid was provided by the Government and 30% ws borned by the institution.

The controversy arose when the Secretary removed three teacher from the service and the affected teacher filed writ petitions which were decided in their favour. They also filed contempt petition to comply with the directions issued by this Court in the respective writ petitions. Thus, for non compliance of the order, the respondent No.2, the District Education Officer, Jhunjhunu vide its order dated 11.01.99 withdrawn the recognition of the institution, but the

same was recalled and withdrawn by the respondent No.2 vide order dated 23.01.2002, but after few days, on 06.02.2002, the order of withdrawal of earlier order dated 11.01.99 has been recalled.

Therefore, the present writ petition has been preferred by the petitioner against the order dated 06.02.2002 on the ground that recognition was withdrawn as the order passed by this Court was not complied with so far in regard to reinstatement of three teachers who were removed by the Secretary.

It is contended that they have not joined the institution as they are engaged in other suitable job and since they do not want to join the institution, the order of withdrawal of the recognition has wrongly been passed.

On the other hand, the respondent in their reply have raised preliminary objection that the present writ petition is not maintainable as the writ petition has been filed in the name of General Secretary Shri Mushtaq Ali and not in the name of the institution.

It is also submitted that the petitioner institution is not receiving any grant-in-aid from the Government to the extent of 70% and the withdrawal of the recognition was not on the ground that they have

not complied with the order passed by this Court, but was on the ground that institution has misappropriated the fund granted by the Government and made embezzlement of Government fund and the have not extended the benefit of salary to their employees against which grant is provided by the Government.

It is further submitted that the relevant record has been seized by the A.C.D. and registered a Case No. 406/1991 and the same is pending.

I have considered the rival submissions of the respective parties and gone through the recognition order as well as the order of withdrawal of the recognition and all the relevant orders.

The petitioner has submitted that the order of recalling/withdrawning the recognition vide impugned order dated 06.02.2002, by which the order dated 23.01.2002 has been withdrawn, has been passed without assigning any reason.

I have carefully gone through the averments made in the writ petition as well as in the reply.

It is clear that the petitioner himself has admitted that three teachers who were removed from service by the Secretary, have not been reinstated as the institution is only responsible to make the payment to the extent of 30% and rest 70% is to be paid by the

Government, which itself shows that the petitioner was not willing to take them back in service, even their writ petitions were allowed by this Court and contempt petition was also filed.

Be that as it may. I have also considered this aspect that the grant-in-aid to the extent of 70% granted to the petitioner's institution has been withdrawn as the petitioner institution was not utilising the same for the purpose the Government was provided the same and not paid salary to the teachers, on the contrary embezzlement and misappropriation in the amount of grant-in-aid provided by the Government was found and in this regard, as stated by the respondents in their reply, record of the institution was seized and A.C.D. has registered case No. 406/1991 and the same is still pending.

Having considered these aspects, merely because the reasons have not been assigned in the impugned order dated 06.02.2002, the order impugned cannot be said to be illegal. I find no merit in the writ petition as there are several irregularities pointed out by the respondents and I am fully satisfied with the submissions made on behalf of the respondents and in my considered view, I do not want to interfere with the order impugned dated 06.02.2002.

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Consequently, the writ petition fails being devoid of merit and the same is hereby dismissed.

(K.S. RATHORE),J.

/KKC/