

Trigun Chand Thakur vs State Of Bihar on 9 July, 2019

Equivalent citations: AIR ONLINE 2019 SC 550, (2019) 2 ORISSA LR 340, (2019) 3 SERVLJ 96, 2019 (7) SCC 513

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Bench: A.S. Bopanna, R. Banumathi

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 10003 OF 2010

TRIGUN CHAND THAKUR

Appel

VERSUS

STATE OF BIHAR & ORS.

Respo

O R D E R

(1) This appeal arises out of judgment and order dated 21st January, 2008 in L.P.A. NO.670 of 1999 in and by which the Division Bench of the High Court of Patna affirmed the judgment of learned Single Judge holding that the Management Committee of the private schools is not “State” within the meaning of Article 12 of the Constitution of India and hence the writ petition of the petitioner is not maintainable. (2) The case has chequered history. The appellant was appointed as a Sanskrit teacher on 01.01.1985. On certain allegations, against the appellant by the School Department, a show cause notice was issued to him on 06.09.1994. On 01.10.1994, the appellant received the communication informing that he was suspended on account of his absence on the eve of Independence Day and Teachers’ Day.

(3) Being aggrieved, the appellant has filed the writ petition before the High Court. During the pendency of the writ petition, the service of the appellant was terminated on 23.12.1994. Learned Single Judge of the High Court vide Order dated 31.08.1995 disposed of the writ petition with the consent of both the parties observing that the appellant may agitate his rights before the Chairman of the Bihar Sanskrit Shiksha Board and the Chairman of the Board shall consider the

representation of the appellant and dispose of the same in accordance with law. On 03.08.1996, the Chairman, Bihar Sanskrit Shiksha Board, considered the matter on the basis of representation of the appellant against the order of dismissal passed by the Managing Committee and found that the punishment of termination of the appellant from service was disproportionate and directed reinstatement of the appellant. Being aggrieved, Managing Committee filed an appeal before the Special Director, Secondary, Primary and Adult Education- Respondent no.2, under Section 24 of the Bihar Sanskrit Shiksha Board Act, 1981. The Special Director (Secondary Education) by Order dated 13.12.1997 remanded the matter back to the Chairman, Bihar Sanskrit Shiksha Board, with a direction to reconsider the matter in the light of the grounds taken in the appeal.

(4) Being aggrieved by remand of the matter to the Chairman, Bihar Sanskrit Shiksha Board, the appellant filed writ petition before the High Court seeking to quash Order dated 13.12.1997. Learned Single Judge placed reliance upon the Judgment of the Patna High Court in Chandra Nath Thakur v. The Bihar Sanskrit Shiksha Board & Ors., 1999 (1) PLJR 529 and by Order dated 29.04.1999 dismissed the writ petition and held that in matters relating to the termination of the teachers by the Managing Committee of the private school, the writ petition is not maintainable and accordingly dismissed the writ petition. (5) Being aggrieved, the appellant has filed L.P.A. NO.670 of 1999 before Division Bench of the High Court. The Division Bench vide impugned order dated 21.01.2008 dismissed the L.P.A. filed by the appellant and affirmed the order passed by learned Single Judge. In the impugned order, the Division Bench of the High Court has also placed reliance on Chandra Nath Thakur v. The Bihar Sanskrit Shiksha Board & Ors., 1999 (1) PLJR 529 and held that a teacher of a privately managed school, even though financially aided by the State Government or the Board, cannot maintain a writ petition against an order of termination from service passed by the Management Committee. The Division Bench also pointed out that the consent order passed by the High Court in C.W.J.C. NO.10698 of 1994 cannot confer jurisdiction on this Court and does not make the Managing Committee "State" within the meaning of Article 12 of the Constitution of India. (6) Having considered the submissions of learned counsel for the parties and the materials on record, we do not find any ground to take a different view.

(7) In the result, the appeal is dismissed. No costs.

.....J. (R. BANUMATHI)J. (A.S. BOPANNA) NEW DELHI, JULY 09, 2019.