

Chattisgarh High Court
Chattisgarh High Court
Raj Kumar Patel vs State Of Madhya Pradesh Now C G ... on 1 March, 2011
WRIT PETITION S NO 883 OF 2005

Raj Kumar Patel

...Petitioners

Versus

State of Madhya Pradesh Now C G & Others

...Respondents

! Shri V R Tiwari Advocate for the petitioner

^ Shri A V Shridhar Panel Lawyer for the State

CORAM: Honble Mr Satish K Agnihotri J

Dated: 01/03/2011

: Judgement

ORDER (ORAL)

(Passed on this 1st day of March, 2011)

1. The petitioner seeks to challenge the appointment of the respondent No.4 Babu Lal Sahu, on the post of Teacher in Junior Primary School Parsadeepa, District Raigarh, by order dated 11.3.1993 on the ground that requirement to give preference to a village, which is closer to the School, as prescribed in Clause-2 of the circular dated 13.9.1990 (Annexure-A) is not followed.
2. Learned counsel appearing for the petitioner submits that Babu Lal Sahu had died during pendency of this case and his wife namely Geeta Bai Sahu has been impleaded, as party respondent.
3. The question asto whether the petitioner was

appointed, in accordance with law, cannot be considered at this stage, as Babu Lal had already died. Secondly, the petitioner has not claimed his appointment, as a consequence of quashing of the appointment order dated 11.3.1993, but the relief sought for, is to consider the candidates belonging to Parsadeepa Para village in preference to other candidates, which cannot be granted today, when the appointment of Babu Lal was made on 11.3.1993 and he died during pendency of this petition. Thus, the question raised by the petitioner has become academic, warranting no adjudication.

4. It is well settled that if a case has become infructuous on the facts of the case and question remains to be decided for academic purpose, it is not necessary to examine the case. In the matter of *Basheshar Nath v. Commissioner of Income-tax, Delhi* and *Rajasthan and another*¹, the Supreme Court observed as under :

“12. ...We take the view that this Court should not make any pronouncement on any question which is not strictly necessary for the disposal of the particular case before it. We, therefore, confine our attention to Art. 14 and proceed to discuss the question on that footing.”

5. In the matter of *Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi*², their Lordships observed as under :-

“4.In this view grounds raised in the petition for setting aside the election of the respondent have been rendered academic. Court should not undertake to decide an issue unless it is a living issue between the parties. If an issue is purely academic in that its decision one way or the other would have no impact on the position of the parties, it would be waste of public time to engage itself in deciding it. Lord Viscount Simon in his speech in the House of Lords in *Sun Life Assurance Co. of Canada v. Jarvis* observed : I do not think that it would be a proper exercise of the authority which this House possesses to hear appeals if it occupies time in this case in deciding an academic question, the answer to which cannot affect the respondent in any way. It is an essential quality of an appeal fit to be disposed of by his House that there should exist between the parties

to a matter in actual controversy which the House undertakes to decide as a living issue."

6. In the matter of Secretary, Ministry of Information &

Broadcasting, Govt. of India and others v. Cricket

Association of Bengal and others³, the Supreme Court

observed as under :-

"121. The orders passed by the High Court have to be viewed against the backdrop of the events and the position of law discussed above. The circumstances in which the High Court passed the orders and the factual and legal considerations which weighed with it in passing them speak for themselves. However, since the cricket matches have already been telecast, the question of the legality or otherwise of the orders has become academic and it is not necessary to pronounce our formal verdict on the same. Hence we refrain from doing so."

7. In the matter of State of Manipur and others v.

Chandam Manihar Singh⁴ the Supreme Court observed as

under:-

"10. Having given our anxious consideration to the rival contentions, we find that as the High Court's direction in favour of the respondent's tenure which is to expire on 15-10-1999 has almost worked itself out and less than a month remains for him to act as Chairman of the Board, the first grievance raised by learned Senior Counsel for the appellants in connection with the removal of the respondent by order dated 19-10-1998 has become of academic interest. We, therefore, did not permit learned Senior Counsel for the appellants to canvass this point any further before us. That takes us to the consideration of the second point."

8. The Hon'ble Constitution Bench of the Supreme Court in

the matter of Arnit Das v. State of Bihar⁵ observed as

under:-

"6. It is settled practice that this Court does not decide matters which are only of academic interest on the facts of a particular case. (See with advantage: Sanjeev Coke Mfg. Co. v. Bharat Coking Coal Ltd., R. S. Nayak v. A. R. Antulay and Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi.)".

9. In the matter of Prakash Singh Badal and another v.

State of Punjab and others⁶ the Supreme Court observed

as under:-

"39. So far as the question about the non-application of mind in the sanction or absence of sanction is concerned, this has been answered in the first question i.e. where the public servant has ceased to be a public servant since he has ceased to hold the office where the alleged offence is supposed to have taken place, the other questions really become academic."

10. This Court, relying on the observations made by the

Supreme Court in the cases as aforesaid, in *Tritiya*

Verg Shaskiya Karamchari Grih Nirman Samiti Maryadit v.

*The Chhattisgarh Information Commission & Others*⁷, held

that question of law of academic interest cannot be

adjudicated upon.

11. For the reasons mentioned hereinabove, the writ petition

is dismissed. No order as to costs.

J U D G E