

Chhattisgarh High Court
Chhattisgarh High Court
Tritiya Verg Shaskiya Karamchari ... vs 3 Shri C R Sahu on 11 August, 2008
HIGH COURT OF CHATTISGARH AT BILASPUR

Writ Petition C No 4313 of 2008

Tritiya Verg Shaskiya Karamchari Grih Nirman Samiti Maryadit ...Petitioners

Versus

1 The Chhattisgarh Information Commission

2 The Joint Registrar

3 Shri C R Sahu

...Respondents

! Shri R. S. Patel, Advocate for the petitioner

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Honble Mr Satish K Agnihotri, J

Dated: 11/08/2008

: Judgment

WRIT PETITION UNDER ARTICLE 226

OF THE CONSTITUTION OF INDIA

O R D E R

(Passed on this 11th Day of August, 2008)

1. The petitioner (Tritiya Verg Shaskiya Karmachari Grih Nirman Sahkari Samiti Maryadit) is a society of Class-III Government employees, registered under the provisions of the Chhattisgarh Cooperative Societies Act 1960. The petitioner challenges the legality and validity of the order dated 23rd June, 2008, passed by the Chhattisgarh Information Commission (for short 'the Commission') in Appeal Case No. 175/2008 to the extent of observation of

the Commission that the provisions of the Right to Information Act, 2005 (for short 'the Act, 2005') are applicable to the petitioner society.

2. The facts, in nutshell, are that the respondent No. 3 sought for certain information from the petitioner-Society.

The respondent No. 3 being aggrieved by non-supply of the documents by the Society preferred an appeal before the Commission. The Commission, although dismissed the appeal, however observed that the provisions of the Act, 2005 are applicable to the petitioner-society. Thus, this petition challenges the observation of the Commission to the extent of " vr% bl vk/kkj ij ;g vf/kfu;e mDr lfefr ij ykxw gksuk ekU; fd;k tkrk gS A ".

3. Shri R. S. Patel, learned counsel appearing for the petitioner submits that the Commission though has dismissed the appeal but the observation, as stated above, is not proper and justified. Thus this petition, stating that the above stated observation with regard to the applicability of the provisions of the Act, 2005 to the petitioner- society was made without looking into the documents asto whether the petitioner-society was obtaining any government aid or is a government society. Thus, the same observation deserves to be deleted/expunged.

4. I have heard learned counsel appearing for the petitioner and perused the documents appended thereto.

5. 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 Vs. Commissioner of Income-tax, Delhi and Rajasthan and another¹, 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."

6. In the matter of Dhartipakar Madan Lal Agarwal Vs.

Rajiv Gandhi² 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. Jarvis³ 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."

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

Broadcasting, Govt. of India and others Vs. 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."

8. In the matter of State of Manipur and others Vs.

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."

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

the matter of Arnit Das Vs. 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.³, R. S. Nayak v. A. R. Antulay⁴ and Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi⁵.)"

10. In the matter of Prakash Singh Badal and another Vs.

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."

11. The Commission has not recorded the finding after having examined all the aspects of the matter. This is a mere observation and particularly in view of the facts that no relief was granted against the petitioner, the decision on this issue becomes a matter of academic interest. The Commission has declined to grant relief as sought for by the respondent No.3. Thus, the petitioner is not an aggrieved party to challenge the order dated 23rd June, 2008, passed by the Commission.

12. It is well settled principle of law that the question of law on academic interest cannot be adjudicated upon, the same should be left open for adjudication, whenever the appropriate facts arises. The observation made by the Commission is left open to be decided in the appropriate facts of the case. The observation, which is under challenge, is mere obiter and not a finding recorded by the Commission, as the materials were not available before the Commission to record any finding with regard to the applicability of the provisions.

13. Applying the above stated well settled principles of law, this petition has no merit. The petition is dismissed

accordingly.

J U D G E