



Serial No. 03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No. 21 of 2021
In WP(C) No. 92 of 2018

Date of order: 08.03.2022

Aynal Haque Vs. State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mrs. S. Bhattacharjee, Adv.

For the Respondent(s) : Mr. B. Bhattacharjee, AAG with
Ms. R. Colney, GA
Mr. S. Thapa, Adv. [For R 4-6]

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

This appeal appears to be founded on forged and fabricated documents that no respectable person of ordinary intelligence could have presented before a Court of law.

2. The appeal is directed against an order of March 26, 2021 by which the appellant's writ petition was dismissed upon it being held that the appellant had neither acquired any right nor had the appellant pursued the claim with any degree of diligence, particularly since the fifth and sixth respondents to the writ petition were selected ahead of the appellant to the two sanctioned posts of teachers in the year 2007, which appears to be a fairly admitted position as far as the appellant is concerned.

3. What is alarming in this matter is that an apparently false case has been presented in Court and it is the perception of the Court that it was known to the writ petitioner that the case was false and the same should have also been known to Advocates appearing for the writ petitioner both before the Court of the first instance and in the present appeal.



4. The writ petitioner claims to have been engaged as a teacher at the Beparipara Lower Primary School in South West Garo Hills in the year 2002. The relevant document appears at pages 64 - 65 of the appeal papers, being an order dated January 29, 2002 issued by the Government of Meghalaya through the Deputy Inspector of Schools, West Garo Hills. In respect of the Beparipara Lower Primary School, three names appear in the relevant list, the appellant's being the third. The order indicates the approval for the temporary engagement of the persons named in the list and it clearly states that the engagement could be "terminated at any time without notice and assigning any reasons..." Thus, by virtue of the temporary engagement of 2002 that the appellant relies on, no right vested in the appellant to continue in the post for an indefinite period or for perpetuity.

5. In 2007, the relevant school was taken over under the Sarva Shiksha Abhiyan (SSA) and, in terms of the applicable scheme, two of the teachers were appointed against the two sanctioned posts for every SSA school. The records produced by the State before the writ court revealed that the fifth and sixth respondents to the writ petition were appointed as the two teachers against the two sanctioned posts; and, though the writ petitioner continued to be shown as a teacher in the relevant school, he was shown as an appointee of the managing committee and not occupying either of the two sanctioned posts. Indeed, such position appears to be admitted as would be evident from a representation made by the writ petitioner to the District Mission Coordinator of SSA on November 16, 2016 as a preparatory step taken to approach this Court. The first paragraph of the relevant representation of



November 16, 2016 is apposite in the present context as the admission cries out clearly therefrom:

“I have the honour to submit that in the year 2001. I along with 2 (two) others were appointed as Teachers on same date and at same time at Beparipara Ad-hoc LP School and we join all together at same time on Dated 1st Feb/2001 having our same educational qualification SSLC (TEN) Passed. In 2005 I have passed the HSSLC (10+2) Examination. There after the School brought under SSA in the year 2007 and while filling the DIES form the acting Head Master filled the 2 (two) Sanctioned Post in the name of 1. Mr. Saidul Miah, 2. Mr. Aktar Hussain ignoring my eligibility to Sanctioned Post. I am fully have conspired and will fully the deprive me of Sanctioned Post.” (sic)

6. The relevant letter of November 16, 2016 has a significant bearing in the present case and will be referred to later to indicate the dishonesty with which the writ petitioner has approached this Court.

7. In the affidavit filed by the State in response to the writ petition, a document which now appears at page 109 of the appeal papers was relied upon. Such document was certified to be a true copy of what appeared from the records pertaining to the relevant school maintained by the State in its appropriate Department. The document is a chart covering several columns and spanning the years 2013-2014 to 2017-2018. In all the five academic years, the two sanctioned posts of teachers in respect of Beparipara SSA Lower Primary School are shown to be occupied by the respondent Nos. 5 and 6 to the writ petition. For each of the years, the name of the appellant herein is also indicated in the list, but his status is qualified in the last column as “SMC”, whereas the two sanctioned posts are shown as “Contract”. “SMC” appears to imply school managing committee.

8. The edifice of the appellant’s case in the writ petition was the aforesaid representation of November 16, 2016 together with a document purporting to be the minutes of a meeting of the school managing committee



of the Beparipara SSA Lower Primary School held on November 3, 2016. The purported minutes set out a two-point agenda, indicate the names of the members who were present along with their purported signatures or thumb impressions and seek to record three resolutions pertaining to the removal of the fifth respondent to the writ petition as the head-teacher and the appointment of the writ petitioner as the head-teacher, instead. Surprisingly, such document which is ordinarily expected to be forwarded by the president of the school managing committee or by any office-bearer thereof to the appropriate Department of the State, was sought to be forwarded on November 4, 2016 by a letter addressed by the writ petitioner himself. Even more surprisingly, the purported document sought to be passed off as the minutes of the meeting held on November 3, 2016 bears the rubber-stamp of the Joint District Mission Coordinator of South West Garo Hills with a writing “Approved” and bearing the date of November 18, 2016.

9. There is no certainty regarding the date of the meeting because of the overwriting therein and the other dates indicated by the several alleged signatories thereto. Indeed, even the forwarding letter written by the writ petitioner on November 4, 2016 bears the rubber-stamp of the Joint District Mission Coordinator, SSA, South West Garo Hills with the writing “Approved” and the same initials by way of signature.

10. It is remarkable that a copy of any minutes evidencing a resolution adopted by a school managing committee would be forwarded by a person who is not a part of the managing committee and such document would receive the imprimatur of the State by way of a rubber-stamp being affixed thereon without an independent letter being issued to accept the recommendations or the proposals forwarded by way of resolutions. In the



writ petitioner's anxiety to give a cloak of authenticity to his forwarding letter of November 4, 2016, he has relied on the same rubber-stamp and the writing "Approved" appended thereto, which, in the context, appear to be quite irrelevant and incongruent.

11. As has been recorded in the impugned judgment, the tenure of the relevant managing committee was due to have expired on November 4, 2016 and the purported meeting was sought to be shown to have been held on November 3, 2016 to oust the head-teacher who had admittedly been in the post from 2007 without so much as a by-your-leave or a formal notice to the fifth respondent. The State asserts that there is no record of such document in its files and it does not appear that either the letter of November 4, 2016 or the document purporting to be the minutes of the meeting of the school managing committee held on November 3, 2016 was forwarded to the State or the appropriate authority.

12. To return to the representation of November 16, 2016, it is conspicuous that it bears no reference to the purported resolution passed at the meeting of the school managing committee allegedly held on November 3, 2016. If the writ petitioner had been appointed as a head-teacher on November 3, 2016, which decision had been forwarded to the State, surely in the representation of November 16, 2016 a reference to the same would have been made. Further, it is inconceivable that the approval of the decision taken at the purported meeting of the school managing committee held on November 3, 2016 would be granted on November 18, 2016, as the date above the rubber-stamp shows, despite the writ petitioner's representation of November 16, 2016. Not only was a dishonest petition carried to Court, but it appears to have been foolishly dishonest.



13. Courts today are reeling under the burden of false claims and dishonest defences and since, by either yardstick of balance of probabilities or beyond reasonable doubt, the Court has to go through an elaborate process to assess the legitimacy of a claim or the propriety of a defence, precious time is wasted in dealing with false claims and imaginary defences while genuine matters rot. Courts have been shy in dealing with the menace that has led to a proliferation of such misadventure and it has become fashionable nowadays to present a false claim or a false defence in the hope that once it reaches the black hole that is perceived to be the judicial system, no meaningful outcome is expected within a reasonable time for there to be any degree of accountability. Judges are also slow in awarding costs to deal with such malaise and, unfortunately, purely for professional reasons, members of a once noble profession, sometimes aid and abet in the dishonest exercise.

14. This writ petitioner has to be appropriately rewarded for his endeavour. To begin with, the appeal is dismissed with costs assessed at Rs. 50,000/- to be paid to the State for wasting the Court's time both before the writ court and in course of this appeal. More importantly, and since it is expedient in the interest of justice, the Registrar-General of this Court is directed to lodge a complaint with the appropriate Magistrate for the writ petitioner having relied upon what appear to be forged, fabricated and manufactured documents in a dishonest attempt to steal a march over the fifth and sixth respondents to the writ petition and deliberately mislead this Court in the writ petitioner's attempt to obtain underserving benefits. The Registrar-General will lodge the complaint along a copy of this order within four weeks from date and place the same before the appropriate Magistrate. Copies of the documents appearing at pages 72 to 74 and at page 122 of the



appeal papers will be forwarded to the relevant criminal court for the criminal court to require the best copies of such documents in the writ petitioner's possession to be produced before such court for the court to ascertain the veracity thereof. It may be recorded that the document dated January 27, 2007 appearing at page 122 of the appeal papers was disclosed by the writ petitioner only in the rejoinder filed before the writ court. The writ petitioner will remain bound to cooperate in the proceedings and with the investigation in course of the criminal matter. The writ petitioner will not be entitled to leave the country without the express previous leave of this Court or, upon the matter being taken cognizance of by the appropriate criminal court, of such criminal court.

15. WP(C) No. 92 of 2018 has been appropriately dismissed and the judgment and order impugned do not call for any interference.

16. The observations in this order as to the veracity of the relevant documents should be regarded as tentative and will not be binding on the criminal court.

(W. Diengdoh)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
08.03.2022
"Sylvana PS"