

UPENDRA PRADHAN AND OTHERS

A

v.

STATE OF ORISSA AND OTHERS

APRIL 30.1993

[R.M. SAHAI AND N. VENKATACHALA, JJ]

B

Orissa Education Act 1969:

Section 10A—Termination of service of Teacher—School recognised not aided—Applicability of the provision—Validity of Termination Order.

C

The services of the appellants were terminated by the Management of a recognised unaided school. The termination was not approved by the Inspector of Schools. The appellants filed a writ petition before the High Court for reinstatement and salaries from the date the school became an aided institution. The High Court having dismissed the writ petition, appellants preferred the present appeal.

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Dismissing the appeal, this Court,

HELD: Section 10-A of the Orissa Education Act provides that the termination of a teacher of an aided institution shall be subject to the approval of the Inspector of Schools. Use of the word 'aided institution' is clear indication that the provisions of approval apply only to the aided schools. Since on the date the services of the appellants were terminated the institution was recognised only and not aided, the Inspector could not have exercised the power of disapproval. Recognition of an institution for purposes of imparting education is different than bringing it on grants-in-aid. To the former the regulatory provisions of the Education Act or the rules do not apply. The Education Department has no control either on admission of students or members of staff. (476-D-F)

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CIVIL APPELLATE JURISDICTION: Civil Appeal No. 2476 of 1993.

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From the Judgment and Order dated 21.2.1992 of the Orissa High Court in O.J.S. No. 4866 of 1991.

H

A R.K. Mehta for the Appellants.

H.L. Aggarwal, S.K. Patri, Abhijat P. Medh, Ms. Kirti Mishra and A.K. Panda for the Respondents.

The following Order of the Court was delivered:

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Service of the appellants employed in the school established in the year 1981 recognised in 1983 brought on grants-in-aid in 1988, were terminated in 1986. Their termination was not approved by the Inspector of Schools. Since the order not approving termination was not given effect to by the Institution the appellants approached the High Court by way of a writ petition for a mandamus to reinstate them and grant them their salaries from the date the school became an aided institution. The High Court did not find any merit in the claim for various reasons.

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D

Section 10-A of the Orissa Education Act provides that the termination of a teacher of an aided institution shall be subject to the approval of the Inspector. Use of the word 'aided institution' is clear indication that the provisions of approval apply only to the aided schools. Since on the date the services of the appellants were terminated the institution was recognised only and not aided the Inspector could not have exercised the power of disapproval. Consequently no right vested in the appellant which he could get enforced in a court of law. The submission that the principle of Section 10-A being benevolent in nature should be extended to teachers of the institution once it has been granted recognition to avoid exploitation and undue harassment of those who are unequal in the bargain cannot be accepted. Recognition of an institution for purpose of imparting education is different than bringing it on grants-in-aid. To the former the regulatory provisions of the Education Act or the rules do not apply. The Education Department has no control either on admission of students or members of staff. The High Court, therefore, did not commit any error of law in dismissing the writ petition.

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The appeal accordingly fails and is dismissed. But there shall be no order as to costs.

GN.

Appeal dismissed.