**IN THE HIGH COURT OF RAJASTHAN AT JODHPUR**

S.B.C.W.P. No. 7231 of 2010

Decided On: 04.08.2010

Appellants: **Jawari Lal Prajapat and Ors., Shaitan Singh and Ors. and Shiv Dutt Singh Charan and Ors.**
**Vs.**
Respondent: **The State of Raj. and Ors.**

**Hon'ble Judges/Coram:**
Vineet Kothari, J.

**ORDER**

**Vineet Kothari, J.**

1. Heard learned Counsel for the petitioners at length at admission stage.

2. The petitioners, who are Teachers Grade-III, are working on deputation under the Rajasthan Council for Primary Education in 'Sava Shiksha Abhiyan' have invoked the extra ordinary jurisdiction of this Court against the order passed by the Commissioner of the Rajasthan Elementary Education Council vide Annex-4 dated 12.05.2010, and consequential order passed by the Additional District Project Coordinator vide Annex-5 dated 28.05.2010 which was passed to give effect to an order Annex-2 dated 05.06.2008 passed by the Secretary to the Government, Education Department, Jaipur addressed to Commissioner of 'Sarva Shiksha Abhiyan', about two years ago.

3. The grievance of the petitioners raised in the present writ petitions is that they are working on deputation as CRCF (Cluster Resource Centre Facilitator), and as per scheme of 'Sarva Shiksha Abhiyan' upon deputation they were to discharge certain duties, which are specified in the Circular 2008-09 (Annex-1) on record, issued by the said Rajasthan Council for Primary Education under the 'Sarva Shiksha Abhiyan', like holding meetings of various schools under that cluster or group, inspect such schools, make reports on the working of such schools and send necessary reports to the concerned authority, namely, Block Resource Centre Facilitator (BRCF).

4. The project of 'Sava Shiksha Abhiyan' is a Government of India Flagship Programme for achievement of Universalization of Elementary Education (UEE) in a time bound manner, as mandated by 86th Amendment to the Constitution of India making free and compulsory education to the children of 6-14 years age group, a fundamental right. In order to implement the said 'Sarva Shiksha Abhiyan' the teachers of the Government schools like the petitioners, were deputed to carry out the specified duties under that scheme as would be borne out from the said Circular.

5. Vide Annex-2, communication dated 05.06.2008 marked as 'Most Important', the Secretary to the Government of Rajasthan, School Education communicated to the Commissioner, 'Sarva Shiksha Abhiyan', Jaipur that the administrative control of CRCF and BRCF would be henceforth as specified in that communication with immediate effect. The BRCF personnels were to be under the administrative control of Block Elementary Education Officer (BEEO) whereas CRCF personnels, like the present petitioners, were to be under the administrative control of the Nodal Headmaster of the concerned Cluster of the schools.

6. After lapse of about two years, the said Commissioner of 'Sarva Shiksha Abhiyan' issued the impugned order Annex-4 dated 12.05.2010 referring to the said letter of 05.06.2008 giving effect to the said order dated 05.06.2008. He directed that hence forth the CRCF personnels like the petitioners, would be under the administrative control of the concerned Nodal Headmaster of the concerned Cluster of the schools. By the said administrative control, the Commissioner in his impugned communication (Annex-4) dated 12.05.2010 specified that such CRCF personnels will mark their attendance in the attendance register at the concerned cluster of the school headed by the said Nodal Headmaster, their weekly travel plan would be approved by the said Headmaster, their travel bills will also be verified by the said Nodal Headmaster and their report on the inspection of various schools maintained in a Diary will also be counter signed/verified by the said Nodal Headmaster; and after such verification of their travel plan, travel bills etc., the said bills will be forwarded to the BRCF for the needful payments. A consequential order was issued by the Additional District Project Coordinator, Sarva Shiksha Abhiyan (Respondent No. 5) as 28.05.2010 to the same effect.

7. The petitioners have approached this Court by way of present writ petition challenging these two orders and also the earlier order dated 05.06.2008 passed by the Secretary to the Government of Rajasthan, School Education (Annex-2).

8. Learned Counsel for the petitioner, Mr. Kuldeep Mathur taking the Court through these impugned orders as well as the duties assigned to the various persons working at different levels in the said Sarva Shiksha Abhiyan vide Annex-1, urged that CRCF the petitioners, who were reporting earlier to the BRCF, are now made subject to administrative control of the Nodal Headmaster of the Cluster whose school may itself be the subject to the inspection by the petitioners as CRCF and in case their report is adverse to the said school, the administrative control by the said Nodal Headmaster of the Cluster cannot be effective and at the same time, the administrative control of the said Headmaster will create so many hurdles in the effective discharge of the duties by the petitioners. He further submitted that the duties assigned in the Circular did not envisage any such intervention of the said Nodal Headmaster, when such Circular was issued for the year 2008-09 and again on latest Circular relating to Supervision and Monitoring, issued for the Session 2010-11 vide Annex-2 dated 05.06.2008.

9. Learned Counsel for the petitioners further contended that the channel of reporting by CRCF to BRCF and BRCF further reporting to BEEO was the proper channel and the Nodal Headmaster had administrative control over the CRCF present petitioners hitherto, and there is no justification for this change of the administrative method by the Respondent- State and same being in violation of Article 14 of the Constitution of India being arbitrary, deserves to be quashed by this Court under Article 226 of the Constitution of India.

10. Having examined the scheme of 'Sarva Shiksha Abhiyan' with the assistance of learned Counsel for the petitioner and after going through the Circular Annex-1, for the year 2008-09, and later Circular for year 2010-11 and impugned orders, this Court is unable to appreciate the contentions raised by the learned Counsel for the petitioners.

11. In the considered opinion of this Court, the order issued by the Secretary to the Government of Rajasthan, School Education on 05.06.2008 was merely an administrative reform and introducing the intervention of the Nodal Headmaster of the concerned Clusters, the State Government only intended to provide for better control and more effective checks on the working of the present petitioners CRCF. It is simply a Policy decision of the State Government and no arbitrariness in the same is seen by this Court. The concerned Commissioner of the 'Sarva Shiksha Abhiyan' coming out his slumber, as it were, took two years to implement the said Policy decision of the State Government communicated to him vide Annex-2 dated 05.06.2008 itself is a serious matter of concern for this Court. His decision to implement an administrative reform after two years of the said communication beats the snails speed. If the Education system in our country is suffering today, it is because of these kind of authorities who take two years to implement a reform in the Policy for better administrative control. The said Commissioner vide Annex-4 dated 12.05.2010 boldly gives reference to the order dated 05.06.2008 of the Secretary and issues the direction to give effect to that order without even caring to explain the delay and as to why it has taken so long for him to implement the said Policy decision of the State Government. It is beyond the pale of doubt that State Government through its personnels, including the teachers and the present petitioners is empowered and duty bound to implement the 'Sarva Shiksha Abhiyan', a flagship programme of Government of India as stated above and when the said reform was implemented the petitioners, up in arms, in an absolutely thoughtless and reckless manner approached this Court, invoking its extraordinary jurisdiction for quashing of such administrative reform and a simple policy decision, one fails to understand what prejudice can be caused to the petitioners, if they are made subject to the administrative control of the Nodal Headmaster of the concerned Cluster of the schools instead of reporting to BRCF as earlier done by them. It can neither amount to change of service conditions, as contended by learned Counsel, nor the petitioners can be said to have any vested right in administrative control by a particular authority or superior. The contention of the learned Counsel for the petitioners that the petitioners may have to make a report adverse in the interest of the concerned school itself, which is headed by the same Nodal Headmaster under whose administrative control they are now placed and, therefore, that situation may effect affect their working adversely, is thoroughly misconceived to be rejected out of hand. If the petitioners are bonafide, working honestly with sincerity, they are expected to be bold enough to report the actual working of that school even to the concerned Headmaster himself who is their administrative authority. If anything untoward is done by such Headmaster out of bias for such adverse reporting, the petitioners are not remediless in the matter and there are superior authorities in the Department of State Government to look after their grievances in case same arise in implementation of the said administrative Policy.

12. It is unfortunate indeed that implementation of educational scheme, which is the constitutional mandate as per Article 21-A and Compulsory and Free Education Act having been enacted by the Parliament, that intervention of the Courts in Article 226 of the Constitution of India, is invoked for such so-called petty grievances, which in fact are really intended to make that scheme more effective. This Court should guard itself against such intervention sought by the teachers-petitioners who instead of discharging their duties faithfully and sincerely on the field and in the schools, seek to challenge every such step taken by the responsible authorities of the State Government, every now and then and for every petty change in Policy for the fall of the Hat as they say. It is well settled legal position that Policy decisions of the State Government cannot be interfered by the Courts in extraordinary jurisdiction under Article 226 of the Constitution of India unless such Policy decisions are demonstrably shown to be perverse, shocking the good conscience of the Courts, which renders them fail the acid test under Article 14 of the Constitution of India.

13. Accordingly, while expressing its anguish over the sluggish speed with which the Commissioner of the said 'Sarva Shiksha Abhiyan' has acted in the matter and deprecating the same, the arguments raised by the learned Counsel for the petitioners are found to be wholly devoid of merit and in the considered opinion of this Court, these writ petitions in fact deserve dismissal with exemplary costs. However, the same is spared for the time being.

14. The writ petitions are accordingly dismissed. Copy of this order be sent to the respondents immediately.