

Serial No. 24
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 438 of 2018

Date of Decision: 20.12.2018

Shri. Dasuklang Kharjana

Vs.

State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice S.R. Sen, Judge (Oral)

Appearance:

For the Petitioner(s)

:

Mr. P. Nongbri, Adv.

For the Respondent(s)

:

Mr. K. Barua, GA. (For R 1-6)

None for R 7 & 8.

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| i) | Whether approved for reporting in
Law journals etc.: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |

1. Heard Mr. P. Nongbri, learned counsel appearing on behalf of the petitioner as well as Mr. K. Barua, learned counsel appearing on behalf of the respondent No. 1-6.

None appeared on behalf of the respondent No. 7 & 8.

2. The brief fact of the petitioner's case in a nutshell is that:

“The petitioner was appointed as Assistant Teacher at Kynshi Presbyterian Upper Primary School, Kynshi. On being appointed the petitioner submitted his joining report on 02.02.2015 and since then the petitioner has been discharging his duties to the satisfaction of all concerned. However, suddenly in the month of July, 2018 after the petitioner has completed 3 years and 5 months in service, to the surprise of the petitioner the respondent No. 7 verbally directed the petitioner to resign from the post of Assistant Teacher. The petitioner was informed the reason behind this direction was that the petitioner had married a lady from a different denomination which belonged to the Roman Catholic Church.

Thereafter on 11.05.2018 the petitioner submitted a written complaint to the respondent No. 3 requesting respondent No. 3 to look into the

discriminatory actions of the respondent No. 7 in forcing the petitioner to resign from the post of Assistant Teacher only on the ground that the petitioner had married a lady from a different religious denomination. Acting on the complaint submitted by the petitioner, the respondent No. 6 during the month of July, 2018 had directed the petitioner to come to the Office of respondent No. 3, the petitioner accordingly appeared before the Office of respondent No. 3 and after meeting the respondent No. 3 the petitioner was assured the matter would be taken up with the respondent No. 7. However, till date there is no positive response from the Office of the respondent No. 3. Since there was no positive response either from the respondent No. 3 or from the respondent No. 8, the petitioner was left in a shadow of doubt. The petitioner submitted another representation dated 11.10.2018 but till date no decision has been taken in the matter and the petitioner is left in the dark.

The petitioner was forced to resign from the post of Assistant Teacher without any semblance of any complaint which in gross violation of the principles of natural justice. The petitioner has been forced to resign from the post of Assistant Teacher only on the purported ground that the petitioner has entered into a marriage with a lady belonging to a different denomination i.e. Roman Catholic Church which is also in violation of the fundamental rights guaranteed under Article 14, 16, 19, 21, 25 and 26 of the Constitution of India. Hence, this instant petition”.

3. Learned counsel appearing on behalf of the petitioner submits that the respondent No. 7 & 8 refuse to accept the notice of the Court. He also further submits that the petitioner was removed from service by the Managing Committee i.e. respondent No. 7 on the ground that the petitioner belonged to Presbyterian Church and married a lady from a different denomination who belonged to the Roman Catholic Church.
4. Learned GA appearing on behalf of the respondent No. 1-6 submits that the Government also issued a show cause notice, but the respondent No. 7 & 8 choose to remain silent.
5. At the outset, I expressed my anguish and displeasure over the whole matter. No authority can stop inter-caste marriage or intersect marriage. It is purely a decision between the private party i.e. bride and

bridegroom to choose their life and their marriage is in no way connected with their service.

6. The Hon'ble Supreme Court in the case of *Arumugam Servai v. State of Tamil Nadu: (2011) 6 SCC 405 Para 16, 17 and 18* was pleased to observe that:

“16. Since several such instances are coming to our knowledge of harassment, threats and violence against young men and women who marry outside their caste, we feel it necessary to make some general comments on the matter. The nation is passing through a crucial transitional period in our history, and this Court cannot remain silent in matters of great public concern, such as the present one”.

“17. The caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation unitedly. Hence, inter-caste marriages are in fact in the national interest as they will result in destroying the caste system. However, disturbing news is coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut-off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple is not harassed by anyone nor subjected to threats or acts of violence, and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law”.

“18. We sometimes hear of ‘honour’ killings of such persons who undergo inter-caste or inter-religious marriage of their own free will. There is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal minded persons who deserve harsh punishment. Only in this way can we stamp out such acts of barbarism”.

7. After considering the arguments advanced by the learned counsel for the parties, I am really shock that at this 21st century also we are going through such narrow outlook. Therefore, I direct the respondent No. 7 & 8 to reinstate the petitioner immediately without any further delay and to clear all his dues, salary and other benefits. Besides that, the respondent No. 7 & 8 are directed to pay Rs. 50,000/- (Rupees fifty thousand) only as compensation to the petitioner.

8. With this observation and direction, writ petition is allowed and stands disposed of.



**(S.R. Sen)
Judge**

Meghalaya
20.12.2018
“D. Nary, PS”