

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.355 of 2010

In

Civil Writ Jurisdiction Case No. 11623 of 2010

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1. The Director, Bihar State School Examination Board, Patna
 2. The Secretary, Bihar State School Examination Board, Patna
 3. The Dy.Secretary, Teachers' Training Cell, Bihar School Examination Board, Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department, Vikas Bhawan, Bailey Road, Government of Bihar, Patna
3. The District Education Officer, Supaul
4. Bhagwan Budha Prathamik Teachers' Training College through its Secretary Radhe Shyam, son of Rasik Lal, resident of AT + PS Nirmali, District Saharsa, Bihar

.... Opp.Parties/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar, Advocate
For the Opp.Party Nos. 1 to 3 : Mr. Binay Kr.Pandey, AC to GA 3
For the Opp.party No. 4 : None

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 08-01-2015 The respondent nos. 3 to 5 of CWJC No. 11623 of 2010 have filed the present Civil Review application seeking review of the order dated 09.08.2010 passed in the aforesaid CWJC No. 11623 of 2010 by a Bench of this Court (Coram: Navin Sinha,J, as His Lordship then was), whereby the writ petition filed on behalf of the opposite party no.4 herein was allowed to the extent indicated in that order in view of interim order dated 25.05.2009 passed by the Hon'ble Apex Court in SLP (Civil) No. 6511 of 2009.

At the very outset, it has to be noted that notice was issued to the original writ petitioner-opposite party no.4 herein twice by order dated 05.12.2012 and again by 25.06.2014. However, despite valid service of notice, opposite party no.4 has

chosen not to appear and contest the present matter, though the other opposite parties are represented.

Learned counsel appearing on behalf of the review petitioners has submitted that the writ petitioner was the Teacher Training College in question and direction was issued by a Bench of this Court for allowing the students of that College to appear in the forthcoming examination to be conducted by the Bihar School Examination Board. It is contended that since time was very short after the aforesaid order dated 09.08.2010, therefore, the students of the College in question could not be allowed to appear in the said teacher training examination conducted by the Bihar School Examination Board. By referring to the judgment dated 23rd November, 2010 passed in Civil Appeal No. 9896 of 2010 arising out of SLP (Civil) No. 6511 of 2009 as contained in Annexure-4 to the supplementary affidavit, it is submitted that the aforesaid civil appeal was finally dismissed by the Hon'ble Apex Court and prayer of the appellant before the Hon'ble Apex Court, who is opposite party no.4 herein, that students of the batches from 1987-89 to 1995-97 be permitted to appear in the examination conducted by the Bihar School Examination Board was negatived. It was also held that if such a prayer is allowed, then this will be contrary to the mandate of NCTE Act, 1993 as the institution in question was never recognized either by the State Government or NCERT.

Learned counsel appearing on behalf of the review petitioners has further submitted that though no objection has been raised on behalf of the writ petitioner on account of non-compliance of the order dated 09.08.2010 passed in CWJC No. 11623 of 2010, but in order to avert any confusion in future, the

aforesaid order dated 09.08.2010 is fit to be reviewed/recalled in the light of the judgment of the Hon'ble Apex Court as contained in Annexure-4 to the supplementary affidavit.

Learned AC to GA 3, appearing on behalf of the State of Bihar and its functionaries (opposite Party nos. 1 to 3) support the contentions raised on behalf of the review petitioners. As noticed above, despite service of notice, opposite party no.4 has chosen not to appear and contest the matter.

For the reasons recorded above, particularly, in view of the judgment of the Hon'ble Apex Court dated 23.11.2010 passed in Civil Appeal No. 9896 of 2010 (Annexure-4 to the supplementary affidavit), the present Civil Review application is allowed and the order dated 09.08.2010 passed in CWJC No. 11623 of 2010 is hereby recalled and the said writ petition filed on behalf of the opposite party no.4 herein is hereby dismissed. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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