

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1413 of 2013

IN

Civil Writ Jurisdiction Case No. 669 of 2012

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1. Arti Kumari, W/O Ranjeet Paswan, R/O Vill- Bhusari, P.S & District- Samastipur.
 2. Ranju Kumari, D/O Sita Ram Paswan, R/O Vill- Musepur, P.S- Kalyanpur, District- Samastipur.
 3. Vidya Kumari, W/O Mahesh Singh, R/O Vill-Ramchandra Andhel, P.S- Ujiarpur, District- Samastipur.
 4. Sharvan Kumar, S/O Shri Vishwanath Rajak, R/O Village- Dahia Asadhar, P.S- Angarghat, District- Samastipur.
 5. Nand Lal Das, S/O Jawahar Das, R/O Vill- Keos Nizamat, P.S & District- Samastipur.
 6. Sunita Kumari, D/O Vishwanath Rajak, R/O Vill- Dadhia, Asadhar, P.S- Angharghat, Distt- Samastipur

.... Appellants

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Human Resources Development, Govt. of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The District Superintendent of Education, Samastipur.
5. The District Education Officer, Samastipur.
6. The Block Development Officer, Samastipur.
7. The Block Education and Extension Officer, Samastipur.
8. The Block Development Officer, Kalyanpur.
9. The Block Education and Extension Officer, Kalyanpur.
10. The Block Development Officer, Ujiarpur.
11. The Block Education and Extension Officer, Ujiarpur.
12. Mukhia, Chhatauna Panchayat, Block and District- Samastipur.
13. Panchayat Secretary, Chhatauna Panchayat, Block and District Samastipur.
14. Mukhia, Bhagirathpur Panchayat, Kalyanpur, Samastipur.
15. Panchayat Secretary, Bhagirathpur Panchayat, Kalyanpur Samastipur.
16. Mukhia, Ramchandrapur Andhail, Ujiarpur, Samastipur.
17. Panchayat Secretary, Ramchandrapur Andhail, Ujiarpur, Samastipur.
18. Mukhia, Keos Nijamat Panchayat, Samastipur.
19. Panchayat Secretary, Keos Nijamat Panchayat, Samastipur.

.... Respondents

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Appearance :

For the Appellant : Mr. Pramod Kumar, Advocate
For the State : Mr. Prasoon Sinha, G.A.-2

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 28-01-2015

The unsuccessful petitioners in C.W.J.C. No.669 of 2012 are the appellants.

2. The facts, in brief, are as under:

The appellants were appointed as Primary Teachers in various institutions in Samastipur district by the respective Panchayat Secretaries in the year 2007. They possessed the qualification of Shiksha Visharad conducted by Hindi Sahitya Sammelan. Shortly after the appointment of the appellants, orders of termination were issued on the ground that the qualification prescribed for the post of Teacher is Intermediate and Shiksha Visharad is not recognized as equivalent thereto.

3. The appellants filed CWJC No.4857 of 2007 challenging the order of their termination. This Court allowed the writ petition through order dated 30.6.2008 and remanded the matter for fresh consideration. After remand also, the orders of termination were issued. Thereafter CWJC No.9758 of 2009 was filed challenging those orders. The writ petitions were allowed by this

Court through order dated 28.8.2009 and the appellants were directed to be reinstated in service.

4. The question as to whether the Shiksha Visharad conducted by Hindi Sahitya Sammelan is treated as equivalent to Intermediate as a qualification for appointment as Teacher, has been dealt with by the Division Bench of this Court in L.P.A. No.28 of 2010 and batch of analogous appeals. Through a common judgment dated 28.4.2010, the Division Bench of this Court held that Shiksha Visharad is not a recognized qualification for appointment as Teacher.

5. In view of the judgment of this Court in L.P.A. No.28 of 2010, the concerned authority terminated the service of the petitioners. Challenging the same, C.W.J.C. No.669 of 2012 was filed urging various grounds. Learned single Judge dismissed the same through order dated 12.1.2012. Hence this appeal.

6. Heard Mr. Pramod Kumar, learned counsel for the appellants, and Mr. Prasoon Singh, learned Government Advocate No.2, appearing for the

respondent-State.

7. The only controversy that arose for determination in the three rounds of litigation instituted by the appellants is as to whether Shiksha Visharad conducted by Hindi Sahitya Sammelan is equivalent to Intermediate.

8. The first writ petition filed by them was disposed of by remanding the matter and in the second writ petition, no specific finding was given on this aspect. It is only in L.P.A. No.28 of 2010, that the controversy was set at rest holding that it is not equivalent. It is no doubt true that the appellants were not parties to the said L.P.A. However, the fact remains that the question as to the equivalence of Shiksha Visharad with other recognized qualifications was dealt with extensively in the said L.P.A. and it was held that the same cannot be treated to be a qualification, for a person to be appointed as Teacher.

9. It may be true that the petitioners-appellants herein got the benefit of an order passed by the learned single Judge of this Court in CWJC No.9758

of 2009. However, the fact is that the said order virtually stood overruled, with the judgment in L.P.A. No.28 of 2010. Hence, the petitioners cannot fall back on the order in CWJC No.9758 of 2009. It may also be true that the respondents did not issue show cause notice to the petitioners-appellants herein. However, once the order of termination is passed based upon the judgment of the High Court, which squarely applies to them, we are of the view that this plea is not available to the petitioners-appellants herein.

10. We do not find any merit in this appeal. The appeal is, accordingly, dismissed.

11. The interlocutory application, if any, shall also stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Gopal Prasad, J)

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