

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5121 of 2016

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Menka Mishra W/o Varun Kumar Dwivedi Resident of village - Banuchhappar,
Sant Kabir Road, P.S. Bettiah Mufassil, District – Khagaria Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Education, Bihar, Patna
 2. The Principal Secretary, Department of Education, Bihar, Patna
 3. The Director, Primary Education, Department of Education, Govt. of Bihar, Patna
 4. The Collector - Cum - District Magistrate, West Champaran at Bettiah
 5. The District Education officer, West Champaran at Bettiah
 6. The District Programme officer (Establishment), West Champaran at Bettiah
 7. The Block Development officer, Yogapatti Block, Yogapatti, District - West Champaran
 8. The Block Education Officer, Yogapatti Block, Yogapatti, District - West Champaran
 9. The Headmaster, Govt. Upgraded Middle School, Lalgah, Yogapatti, District - West Champaran Respondents
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Appearance :

For the Petitioner : Mr. Sanjeev Kumar, Advocate
For the Respondents : Mr. D.K. PRASAD, GP 7

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL JUDGMENT

Date: 28-06-2016

The petitioner seeks quashing of order, dated 11.2.2016, contained in Letter no. 463, passed by the District Programme officer (Establishment), West Champaran at Bettiah (respondent no.6) cancelling his earlier order, dated 22.12.2015 contained in Memo no. 4070, by which the petitioner has been directed to submit his joining as Block Teacher in the concerned school in compliance of order dated 4.9.2015, contained in Memo no. 148 passed by the District Teachers Appellate Authority, West Champaran at Bettiah.

2. In 1998, petitioner passed her matriculation examination



from Madhyamik Shiksha Mandal, Madhya Pradesh, Bhopal. She passed intermediate examination in 2004 from Nababharat Shiksha Parishad, Orissa under distant education system in session 2002-04. Thereafter, she was appointed as Block Teacher (untrained) vide order, dated 30.10.2007, and was posted in Government Upgraded Middle School, Lalgah, Yogapatti, District - West Champaran, consequent to which she submitted her joining in the said school on 3.11.2007. The petitioner, in the meantime, obtained Bachelor of Arts (B.A.) degree from Lalit Narayan Mithila University, Darbhanga under distance education course in the first division on 25.4.2015.

3. It is relevant to state here that respondent no.5 by order, dated 9.10.2013 cancelled the employment of the petitioner on the ground that Navbharat Shiksha Parishad, Orissa is not a recognized institution. The petitioner challenged said order in C.W.J.C.No. 63 of 2014 which was permitted to be withdrawn vide order, dated 6.1.2014 with liberty to the petitioner to move before the appellant authority. The petitioner thereafter filed Appeal No.23 of 2014 before the Appellate authority, Bettiah, West Champaran. Said appeal was heard along with cases of some similarly situated persons and was dismissed vide order, dated 13.10.2014, contained in Memo no. 145 (Annexure 10) holding that the petitioner could



not produce any material to satisfy that the institution in question is recognized. It appears that respondent no.6 vide order, dated 10.1.2015, contained in Memo no. 109 again directed the petitioner and some other persons to submit their joining, subject to verification of these subjects. This order was passed on application of the petitioner and others that District Teachers Employment Authority, Vaishali in its order, dated 17.11.2014, passed in Case no. G-04/2013 held that Navbharat Shiksha Parishad, Orissa was recognized during Session 2002-05. However, respondent no.5 vide order, dated 15.1.2015 contained in Memo no. 18 cancelled the earlier order dated 10.1.2015, contained in Annexure 11/1 to the writ petition.

4. It appears that in a similar issue, an appeal bearing LPA No.1347 of 2014 was filed challenging order, dated 13.2.2014, passed in C.W.J.C.No. 1634 of 2014. The Division bench allowed the appeal vide order, dated 8.7.2015 observing that recognition of Navbharat Shiksha Parishad, Orissa shall be subject to further verification by competent authorities. Thereafter, the Director, Primary Education, Bihar, Patna (respondent no.3) considered the case and came to the conclusion that Navbharat Shiksha Parishad, Orissa is not a recognized institution as contained in Memo, dated 3.2.2016 (Annexure 19).



5. However, in view of order, dated 8.7.2015 passed in LPA No. 1347 of 2014, the petitioner prior to the order contained in 3.2.2016, moved before the District Teachers Employment Appellate Authority vide Case no. 24 of 2015. The appellate authority allowed the appeal vide order, dated 4.9.2015 with condition that the continuance of the appellant shall be subject to further verification.

6. The petitioner has challenged the cancellation order before this Court on a number of grounds. He submits that the Director, Primary Education has committed an error of record by observing in his order that Navbharat Shiksha Parishad, Orissa has been shown as non recognized institution. Learned counsel has annexed a copy of the letter to demonstrate that there is no serial no.125 to the appendix. He next submits that it is for the Government to take a firm stand whether the institution in question is a recognized institution or not.

7. According to the State, the petitioner's service was terminated as she had obtained Intermediate degree from an institution which was not recognized by the Government of Bihar. As such, the certificate issued by it would be treated to be void *ab initio*. He refers to a decision in case of **The State of Bihar and others Vs. Mamta Kumari and others, reported in 2010(4)PLJR**

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8. The petitioner, in reply, submits that the UGC vide letter, dated 6.5.2016 has provided a list of fake institutions up to June, 2015 which does not contain the names of the institution in question.

9. The issue is whether the Navbharat Shiksha Parishad, Orissa is duly recognized by the State of Bihar for issuance of intermediate certificates. In case, it is not recognized institution, then the certificates issued from such institution is liable to be declared void. However, the Division Bench way back on 8.7.2015 observed as follows:-

“On this short ground, we allow the appeal and set aside the order passed in the writ petition. We also allow the writ petition and set aside the orders passed by the 8th respondent, subject to the condition that continuance of the appellant or other persons who are appointed on the basis of certificates issued by Nababharat Shiksha Parishad, Orissa, shall be subject to further verification by the competent authority. In the event of appellant being found to be not qualified to be appointed as a Teacher, the 7th respondent shall be considered against the vacancy.”

10. It is evident from the order that the Division bench while restoring the service of the appellant, observed that the restoration of service would be subject to the further verification by competent authority. I, accordingly, in light of order of the Division bench, set aside the order, dated 11.2.2016, passed by respondent

no.6 and remand the matter for authoritative decision of the Principal Secretary, Department of Education, Bihar (respondent no.2) as to whether Navbharat Shiksha Parishad, Orissa is a recognized institute by the State of Bihar for issuance of Intermediate certificate, within a period of two months. The Secretary will also verify whether letter no.998, dated 5.8.2010, issued under the signature of Sri Anjani Kumar Singh, the then Principal Secretary of the Government, has disputed the recognition of the institution in question.

11. In case respondent no.2 finds that the institute is not recognized, he would issue appropriate direction in the matter.

(Samarendra Pratap Singh, J)

Shashi.

AFR/NAFR	
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