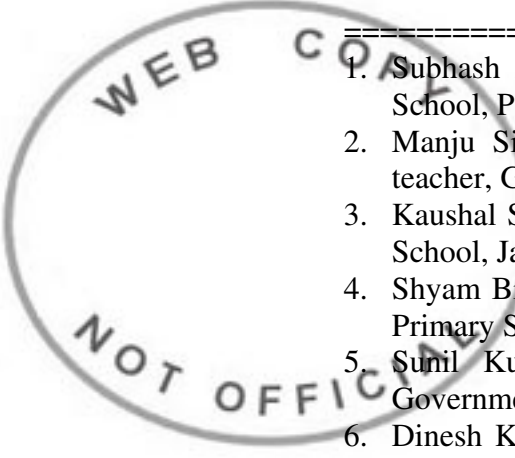
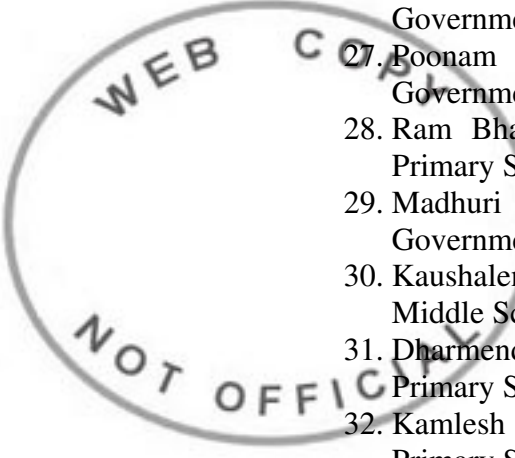


IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18507 of 2015

- 
1. Subhash Kumar son of Triveni Sharma Assistant Teacher Murlidhar Middle School, P.O., P.S. & District- Jehanabad
 2. Manju Sinha D/o Ramdeo Prasad Sharma and W/o Ajit Kumar, Assistant teacher, Government Middle School, Kaira, District- Jehanabad
 3. Kaushal Sharma son of Ramji Sharma, Assistant teacher, Government Primary School, Janbigaha Math, District- Jehanabad
 4. Shyam Bihari Kumar son of Late Shibu Singh, Assistant teacher, Government Primary School, Sarjanpur, District- Jehanabad
 5. Sunil Kumar son of Naresh Sharma, Assistant teacher, Newly created Government Primary School, Laganpatti, District- Jehanabad
 6. Dinesh Kumar, Son of Gupteshwar Sharma, Assistant teacher, Newly created Government Primary School, Laganpatti, District- Jehanabad
 7. Baidyanath Kumar sonof Ramadhar Singh, Assistant teacher, Government Middle School, Mohinuddipur, District- Jehanabad
 8. Sudhir Sharma son of Late Ram Nath Sharma, Assistant teacher, Government Primary School, Gopalpur, District- Jehanabad
 9. Prabhawati daughter of Ramayan Sharma, Assistant teacher, Government Primary School, Khaira, District- Jehanabad
 10. Arvind Kumar sonof Indradeo Singh, Assistant teacher, Newly created Government Primary School, Barabigaha, District- Jehanabad
 11. Mithilesh Singh son of Vishnupad Singh, Assistant teacher, Government Middle School, Lakhaiwat, District- Jehanabad
 12. Daya Devi Daughter of Rambhawan Sharma, Assistant teacher, Newly created Government Primary School, Laganpatti, District- Jehanabad
 13. Shivshakti Sharma son of Parsuram Sharma, Assistant teacher, Narsiddhi Primary School, Janatpur, District- Jehanabad
 14. Nawalesh Kumar sonof Chandrasen Sharma, Assistant teacher, Government Primary School, Golakpur, District- Jehanabad
 15. Kaushalendra Kumar son of Ramcharitra Singh, Assistant teacher, Newly founded Government Primary School, Jolahabigaha, District- Jehanabad
 16. Kaushalendra Kumar, son of Late Indradeo Singh, Assistant teacher, Government Upgraded Middle School, Saidpur, District- Jehanabad
 17. Nagendra Kumar, son of Birendra Sharma, Assistant teacher, Government Middle School, Nuawan, District- Jehanabad
 18. Umesh Kumar son of Jagdish Sharma, Assistant teacher, Government Primary School, Shahpur, District- Jehanabad
 19. Braj Kishore Sharma, son of Jagbahadur Sharma, Assistant teacher, Government Primary School, Sawagpur, District- Jehanabad
 20. Manju Kumari daughter of Baleshwar Sharma, Assistant teacher, Government Primary School, Dawathu, District- Jehanabad
 21. Sanjay Kumar, son of Baijnath Sharma, Assistant teacher, Government Primary School, Faudpur, District- Jehanabad
 22. Ajay Kumar son of Madheshwar Sharma, Assistant teacher, Government Primary School, Karauta, District- Jehanabad
 23. Ashok Kumar son of Shivdani Sharma, Assistant teacher, Government Primary School, Mohammadpur, District- Jehanabad
 24. Kiran Kumari daughter of Kamta Sharma, Assistant teacher, Government Middle School, Unta, District- Jehanabad

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25. Abha Kumari daughter of Siya Sharan Sharma, Assistant teacher, Government Middle School, Bauri, District- Jehanabad
 26. Nawal Kishore Sharma son of Brajnandan Sharma, Assistant teacher, Government Primary School, Udhamapura, District- Jehanabad
 27. Poonam Sharma daughter of Shyam Narayan Sharma, Assistant teacher, Government Primary School, Uber, District- Jehanabad
 28. Ram Bharosa Sharma son of Karu Singh, Assistant teacher, Government Primary School, Balwapur, District- Jehanabad
 29. Madhuri @ Madhuri Kumari daughter of Ram Raj Sharma, Assistant teacher, Government Middle School, Kasva, District- Jehanabad
 30. Kaushalendra Kumar son of Rajendra Sharma, Assistant teacher, Government Middle School, Chiri, District- Jehanabad
 31. Dharmendra Sharma son of Ram Ratan Sharma, Assistant teacher, Government Primary School, Guvapakad, District- Jehanabad
 32. Kamlesh Kumar son of Sukhdeo Prasad, Assistant teacher, Government Primary School, Beldarichak, District- Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Patna- 1
2. The Principal Secretary, Primary Education, Patna- 1
3. The Joint Secretary, Primary Education, Patna- 1
4. The Principal Secretary, Finance, Government of Bihar, Patna - 1
5. The Bihar School Examination Board through its Secretary, Patna- 1
6. The Collector, Jehanabad
7. The District Education Officer, District- Jehanabad
8. The Block Education Officers, All the block of District- Jehanabad
9. The Principals, Government Schools (of the petitioners), District- Jehanabad

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 11129 of 2014

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1. Suresh Thakur son of Jagarnath Thakur Resident of Vil.- Bairgaiva, P.O. AND P.S.- Shikarpur, District- West Champaran
2. Nurul HOda son of Aziz Mian Resident of at AND P.O.- Chuhari, P.S. Chanpatiya, District- West Champaran
3. Abnul Kalam Son of Sheikh Sah Mohammad Resident of Vil.- Khairulya Basua, P.S.- Manigacchi Shikarpur, District- West Champaran
4. Ram Narayan Prasad son of Ramautar Sah Resident of Village- Sidhpur, P.O. AND P.S.- Palanwa, Raxaul, District- East Champaran
5. Smt. Reeta Kumari wife of Subodh Kumar Jha AND Daughter of lalan Jha Resident of Village, P.O. AND P.S.- Sugaon, District- East Champaran
6. Rama Mahto son of Late Ayodhya Mahto Resident of Vil.- Santpur Pipra, P.O.- Bastha, P.S.- Mainatand, District- West Champaran
7. Shrikant Prasad Kushwaha son of Raghunath Bhakta Kushwaha Resident of at AND P.O.- Chuhari, P.S. Chanpatiya, District- West Champaran
8. Ashok Kumar Prasad son of Late Deo Narayan Prasad Resident of village- Sisai, P.o.- Maldi, P.S.- Shikarpur, District- West Champaran
9. Awadhesh Sah son of Jagdish Sah Resident of Village- Hichhopal, P.O. AND

- P.S.- Sathi, District- West Champaran
10. Krishna Kumar Tiwary son of Late Paras Nath Tiwary Resident of Village- Hichhopal, P.O. AND P.S.- Sathi, District- West Champaran
11. Binda Prasad Sah son of Anirudh Prasad Sah Resident of Village- Musaharwa, P.O.- Palanwa, Raxaul, District- East Champaran
12. Mohammad Amil son of late Mohd. Moquim Resident of Shekh Tola Gauripur, P.S.- Balthar, District- West Champaran Petitioners
- Versus
1. The State of Bihar through the Chief Secretary, Patna- 1
2. The Principal Secretary, Primary Education, Patna- 1
3. The Joint Secretary, Primary Education, Patna- 1
4. The Principal Secretary, Finance, Government of Bihar, Patna- 1
5. The Bihar School Examination Board, through its Secretary, Patna -17
6. The Collectors, West Champaran AND Sitamarhi
7. The District Education Officers, District- West Champaran at Bettiah and District- Sitamarhi
8. The Block Education Officers, Blocks- Mainatand, Yogapatti, Shikarpur, Sikta AND Narkatiaganj, null District- West Champaran and Block- Nanpur of District- Sitamarhi Respondents

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Appearance :

(In CWJC No. 18507 of 2015)

For the Petitioners : Mr. Amarendra Nath Verma, Advocate

For the Respondents : Mr. PRASHANT PRATAP, GP6

(In CWJC No. 11129 of 2014)

For the Petitioners : Mr. Amarendra Nath Verma, Advocate

For the Respondents : Mr. Piyush Lall, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL JUDGMENT

Date: 01-04-2016

Petitioners are Panchayat teachers and Assistant teachers in different Panchayats and Government institutions. Each one claim to have been admitted in Siddharth Primary Teachers Training College, Jehanabad in one of the three sessions, namely, 1986-88, 87-89 and 88-90. It is further their case that they had taken their training and examination prior to May 1991 and have obtained teachers training certificate from the said college.

2. They seek quashing of the order, dated 21.5.2015,



issued under the signature of the Joint Secretary, Education Department, Government of Bihar, Patna claiming that Siddharth Training College, Jehanabad was never recognized by the State Government and as such the certificates obtained from the institution would not be considered valid for appointment of teachers in State of Bihar. The institution was established without the permission of the Government and thus in teeth of Notification No. 1107 dated 23.11.1987. Consequent to the order of the Government, dated 21.5.2014, the concerned Block Education officer/ competent authority, issued show cause to the petitioners as to why their appointment be not cancelled, as they had obtained training certificate from an institution which has never been recognized by the Government. The order of Block Education Officer has been challenged by petitioners by filing I.A.No.9448 of 2015.

3. The petitioners do not dispute the right of the Government to cancel the appointment of such teachers, who have got appointment on basis of the training certificate obtained from a non-recognized institution. They however submit that they are protected by different orders of this Court, namely, order dated 18.12.1991, passed by a Division bench of this Court in C.W.J.C.No. 8787 of 1991, order dated 20.7.2006, passed in



C.W.J.C.No. 1800 of 2006 and order, dated 31.8.2006, passed in C.W.J.C.No. 10056 of 2006, all relatable to training certificates obtained from Siddharth Training college, Jehanabad with respect to one or the other three sessions, namely, Sessions no.1986-88, 87-89 and 88-90. They thus submit that their cases are distinguishable from the case of other teachers who have obtained training, from unrecognized institutions. They also contend that they completed their training prior to 1991 and most of them are in their mid 50s and it may not be reasonable to throw them out of service at this stage, when doors to other jobs are closed.

4. On the other hand, counsel for the State submits that this Court as well as Hon'ble Apex Court in a number of cases have observed that no benefit can be granted to the teachers who have got appointment on the basis of training certificates obtained from non-recognized institutions. In support of the submissions, learned counsel relied upon a decision in case of L. Muthu Kumar and another Vs. State of Tamil Nadu, reported in (2000)7 SCC 61, particularly paragraph 8. Relying upon the aforesaid judgment, learned counsel submits that the persons who have done their training from non-recognized institution at best would be only entitled to publication of results, and not mark sheet or the certificate. Paragraph 8 of the judgment is quoted herein below for

easy reference:-

“Thus, looking to the decision of the Division Bench of this High court in PM Joseph case and the decision in this Court in St. John’s Teachers Training Institute case above-mentioned, it is clear that even the candidates who had written the examination at the time when their institutes had recognition, were not entitled to diplomas/certificates consequent upon de-recognition of their institutions subsequently and that such candidates were only entitled to publication of the results of the examination taken and nothing more.”

5. Learned counsel for the State has further relied on a decision in case of State of Bihar Vs. Upendra Narayan Singh, reported in 2009(4) PLJR, SC 73, particularly paragraph 35. Relying upon this decision, learned counsel submits that if similarly situated persons have been granted relief or benefit mistakenly, the same cannot be extended to others, unless a right for the same is established.

6. I have heard learned counsel for the parties.

7. There cannot be any dispute that the appointments to educational institutions are governed under respective rules and regulations framed there under by the Government. If the rules do not permit appointment of a teacher, who has obtained educational qualification from a non-recognized institution, the Government would be within its right to cancel such appointment. The main contention of the petitioners is that they are protected by various



orders of this Court and as such their case is distinguishable and different from the cases of other teachers, who have obtained their training certificates from non-recognized institutions. The petitioners contend that though they had completed their training from Siddharth Training college in one or the other of these sessions e.g. 1986-88, 87-89 and 88-90, still their results were not published. As such they moved this Court in C.W.J.C.No. 8787 of 1991. The writ petition was disposed of on 18.12.1991 by a Division Bench with a direction to the respondents to publish the results for the aforesaid three sessions. The Division Bench clarified that the institutions would not be permitted to admit the students or to make any application for permitting the students to take other examination until the application for affiliation is decided. The Court further directed the respondents to dispose of the matter of recognition within three months from the date of communication of the order.

8. Pursuant to the direction of this Court, results of the petitioners were published and they were issued marks sheet and certificates. The Government in its turn, decided not to grant affiliation/recognition to the institution vide letter, dated 29.6.1992. It appears that the results of these examinations i.e. Sessions 86-88, 88-89 and 89-90 which were published pursuant to the order of a



Division bench judgment of this court, dated 18.12.1991, passed in C.W.J.C.No. 8787 of 1991 were cancelled on 31.12.2004. Being aggrieved, the examinees of sessions 86-88, 88-89 and 89-90, moved this Court in C.W.J.C.No. 1800 of 2006 and 10056 of 2006. A bench of this Court vide order, dated 31.8.2006 deprecated the action of the Board in cancelling the result, after 12 years of publication in year, 2004. While setting aside order of the Board, dated 11.12.2004 in respect of students, whose results were published in the year 1992, the learned Single judge observed as follows:-

“I have said in my order dated 27.7.2006 that if within a reasonable time from 16.2.1992 it had been held out to the students that because the college could not get recognition, they can not get benefit of the efforts at the examination, the students could pursue the self same course in the some other college. I have said that this reasonable time could not be stretched by a decade. It was, therefore, unjust and improper on the part of the respondent Board to hold out after lapse of 12 years that the petitioners are not entitled to the glory of the success in the subject examination.”

Note:- The underlining is mine for emphasis.

9. On strength of the observations of this Court quoted above, petitioners argued that they would be eligible for consideration, as if they had passed from a recognized institution, otherwise publication of results and issuance of mark sheets would become meaningless. Their further case is that the results were

published pursuant to the order of this Court, and subsequently when an attempt was made to cancel their results, the same was protected by this Court vide order, dated 31.8.2006 in C.W.J.C.No. 10056 of 2006 mentioned above.

10. I need not examine these aspects of the matter, whether petitioners' case is covered under the orders of this Court, as I find that the appointments of the petitioners have not been cancelled and they have only been issued show cause to explain their case. Learned counsel for the State submits that all the petitioners have not submitted their certificates and one of the petitioners, namely, petitioner no.1 has himself annexed the certificate, which would demonstrate that he completed his training in the year 1992. As such, on the face of his own averment, he would not be entitled to any benefit.

11. I have already observed that as only show cause notice has been issued, this Court would not like to examine the relative merits of the matter. These writ petitions are disposed of in the following terms:-

12. Petitioners would file their show cause before the concerned respondents within a period of eight weeks from today. On receipt of the show cause reply, the authorities concerned would pass appropriate orders, also taking into consideration the order of

the Hon'ble Apex Court, quoted in order, dated 21.7.2014, passed in C.W.J.C.No. 3895/2014. The respondents would also take into consideration whether the case of the petitioners are distinguishable from examinees passing from non-recognized training institutions and whether they are covered under different orders passed by this Court, to which reference has been made in the foregoing paragraphs. The respondents would also verify whether the petitioners' name figured in the list of successful candidates pursuant to direction of Division Bench, dated 18.12.1991, in C.W.J.C.No. 8787 of 1991, contained in Annexure 9.

13. It would be open for the petitioners to make a prayer for granting a composite hearing in the matter. Status quo granted earlier by this court would continue till final adjudication of the matter.

(Samarendra Pratap Singh, J)

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