

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.273 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 3378 of 2011**

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Rajesh Prasad, son of Late Ram Kishun Lal, resident of Village & P.O- Chak Bahauddin , P.S.- Dalsing Sarai, District- Samastipur.

.... Petitioner No.1-Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. The Director, Primary Education, Human Resources Development Department, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Saran Division, Chapra.
5. The Regional Director of Education, Patna Division, Patna.
6. The Regional Deputy Director of Education, Darbhanga Division, Darbhanga.
7. The District Education Officer, Gopalganj.
8. The District Education Officer, Patna.
9. The District Education Officer, Samastipur.
10. The Principal Women's Primary Teachers Training College, Thabe, District- Gopalganj.
11. The Principal, Primary Teacher Training College, Vikram, Patna.

Respondents No. 1 to 11-Respondents 1st Set.

12. Kishore Kumar Son of late Keshari Narain Mahto resident of Village & P.O. - Kawadpur, P.S.- Suryagarha, District- Lakhisarai.

.. ...Intervenor-Respondent 2nd Set.

13. Umesh Chandra Jha Son of Late Muni Chandra ShekharJha resident of Village & P.O- Mehishi, P.S- Bibhutipur, District- Samastipur.

14. Kaushaldendra Prasad Choudhary son of late Ramashray Choudhary resident of Village & P.O- Rampur Jalalpur, P.S.- Dalsing Sarai, District- Samastipur.

.... Petitioner Nos.1 & 3- Respondents 3rd Set.

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Appearance :

For the Appellant : Mr. Gyanand Roy, Advocate

For the Respondents-State : Mr. H. S. Roy, A.C. to P.A.A.G.- I

For respondent No.12 : Mr. Dilip Kumar Tiwari, Advocate

Mr. K. K. Tiwari, Advocate

For respondent Nos.13 & 14 : Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 09-08-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 18th of September, 2014 whereby, the writ application filed by the appellant was dismissed.

2. The appellant has challenged the order dated 31st of January, 2011 whereby, the promotion granted to the appellant in the Subordinate Education Service (Primary Education) was cancelled for the reason that *Sahityalankar* is not a degree recognized by the State Government as equivalent to Graduation for the purpose of appointment/promotion. The claim of the appellant for promotion was found to be without merit in the light of the judgment dated 21st February, 2014 in CWJC No.4182 of 2011 (*Treta Nath Upadhyay Versus The State of Bihar & Ors.*) as also CWJC No.2786 of 2011 (*Ram Ekbal Rai & Ors. Versus The State of Bihar & Ors.*) decided on 12th September, 2014.

3. Learned counsel for the appellant in the present



Letters Patent Appeal relies upon fresh instructions issued by the State Government on 8th of April, 2016 (Annexure-1 to the supplementary affidavit filed on behalf of the appellant). The said Circular is issued consequent to an order dated 7th of May, 2012 passed in CWJC No.13343 of 2011(Reeta Srivastava & Ors. Vs. The State of Bihar & Ors.). The Circular revokes the earlier Circular issued on 11th of January, 1991 from 7th of May, 2012, i.e. the date of decision of this Court. It is also mentioned that the appointment or promotion made prior thereto on the basis of degrees granted by *Hindi Vidyapith Deoghar* will not be affected.

4. A perusal of the Circular dated 11th of January, 1991 shows that the *Sahityalankar* from *Hindi Vidyapith, Deoghar* is treated as equivalent to B.A. provided such qualification of *Sahityalankar* is obtained along with English. It is the said Circular of 11th of January, 1991 which was considered by a Division Bench of this Court firstly in the case of Ganesh Prasad Srivastav & Ors. Vs. Punjab National Bank & Ors., 2004(1) PLJR 387. The question considered was whether the qualification of *Sahityalankar* with English from *Hindi Vidyapeeth* is equivalent to Bachelor Degree/Diploma or Certificate for the purposes of giving promotion, increment etc. in the service. It was found that *Hindi Vidyapeeth* is a Voluntary Organization established for propagating and promoting Hindi and that the qualification of *Sahityalankar* is not equivalent to a

Degree granted by a University. The Court held to the following effect:-

“14. The sole question for consideration is as to whether the Sahityalankar qualification awarded by the Hindi Vidyapeeth, Deoghar, which is a Voluntary Organisation, is equivalent to a Bachelor Degree or not. Hindi Vidyapeeth, Deoghar, has been established for propagating and promoting Hindi. From the Press Note issued by the Central Hindi Directorate, Ministry of Human Resources Development, Government of India (Annexure 'A' to the counter-affidavit of CWJC No.4538/03), it is clear that the Government of India has recognised the Hindi Organisations, including the Organisation in question, for the sole purpose of propagation and promotion of Hindi. It provides that in case of employment in Government or the Semi-Government service, if Hindi is required to be a special qualification, then the candidates having certificates from such organisations may be eligible for the said employment but in case any other qualification other than the Hindi is required then the certificate granted by the Voluntary Organisations cannot be treated to be equivalent to a certificate, degree or diploma conferred by the different Universities and the same will not be recognised as qualification of High School, Intermediate or B.A.

15. Thus, it is clear that the qualification of Sahityalankar obtained from Voluntary Organisations, including Hindi Vidyapeeth, Deoghar, is with regard to the standard of Hindi prescribed in the equivalent Hindi examination and it is not to be treated as Bachelor degree awarded by a University or Educational Board etc. of the State. Therefore, in a case where minimum qualification is prescribed as Bachelor degree, a person cannot claim promotion or other benefits by virtue of acquiring a qualification of Sahityalankar from Voluntary Organisations like Hindi Vidyapeeth, Deoghar.”

5. The ratio laid down in the aforesaid judgment was reiterated later on in CWJC No.13343 of 2011 (Reeta Srivastava & Ors. Vs. The State of Bihar & Ors.) and other analogous cases in a judgment reported in 2012 (3) PLJR 353. It may be noticed that the judgment in Reeta Srivastava & Ors. (supra) has been affirmed in L.P.A. No.1303 of 2012 (Smt. Usha Prasad Bhakta & Ors. *Versus* The State of Bihar & Ors.) vide judgment dated 13th December, 2012.

The Learned Single Bench held to the following effect:-

“27. To sum up therefore, this Court categorically holds that a Sahityalankar degree is not equivalent to graduation and no holder of a degree of Sahityalanakar, therefore, can claim the benefit of promotion to the Subordinate Education Service as a matter of right. The recognition if at all given by the State is with a limited object which has been talked about earlier, that is for the purpose of qualifying any Hindi examination and drawing advantage thereof in service and not to beget appointment based on the eligibility laid down for such recruitment or promotion by treating such degree to have equivalence.

28. A Sahityalankar degree therefore is not equivalent to graduation degree in light of what has been held by this Court in this decision and therefore none of the petitioners have been illegally and arbitrarily discriminated by refusal of the State to bring them within the zone of consideration for promotion to the Subordinate Education Service.”

6. In the light of the findings recorded therein, the Circular issued by the State Government on 8th of April, 2016 needs to be examined as to whether by virtue of such Circular, a candidate, who has qualified *Sahityalankar*, can be treated as equivalent to be possession Graduation Degree prior to 7th May, 2012.

7. We find that the infirmities noticed by the Division Bench of this Court in Ganesh Prasad Sirvastav & Ors. (supra) and the learned Single Judge of this Court in Reeta Srivastava & Ors. (supra) cannot be cured and has not been cured. The *Hindi Vidyapeeth* continues to be voluntary organization and engaged in the field of propagating Hindi. Therefore, the qualification of *Sahityalankar* from *Hindi Vidyapeeth* cannot be treated as equivalent to degree in Graduation making the holder of such qualification eligible for appointment and/or promotion. In view of the above, we do not find any merit in the present Letters Patent Appeal. The same is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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