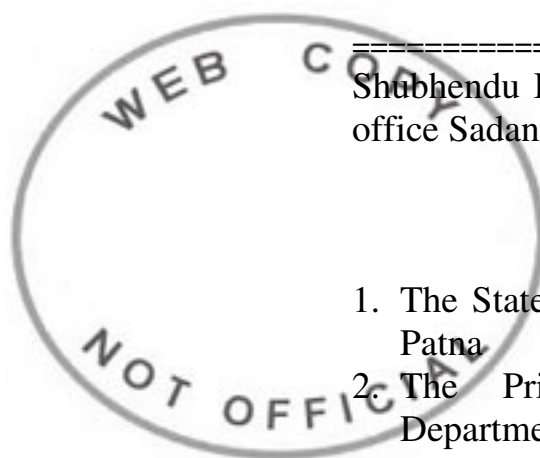




IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10623 of 2016

=====

Shubhendu Kumar Son of Pawan Kumar Singh resident of at & Post
office Sadanandpur, P.S. Ballia Via Lakhminia, District Begusarai

.... Petitioners

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna
3. The Principal Secretary, Primary/Middle/Higher Education, Government of Bihar, Patna
4. The Director, State Council of Educational Research & Training, Mahendru, Patna under Department of Education, Government of Bihar, Patna
5. The Director, Bihar State Education Pariyojna Council, Saidpur, Patna

.... Respondents

With

Civil Writ Jurisdiction Case No. 4222 of 2015

=====

Hari Bachan Bhagat, aged about 67 years son of Late Ramnath Bhagat
Resident of village Chakra, P.O.:- Chakra , Police Station :- Siwan
Muffassil, District :- Siwan.

.... Petitioner

Versus

1. The State Of Bihar, through its Principal Secretary ,Primary and Secondary Education, Government of Bihar, New Secretariat , Patna
2. The Regional Director, National Council For Teacher Education 20/198,Kaveri Path, Near Mansarover Stadium, Mansarover, Jaipur-302020 (Rajasthan).

.... Respondents

Appearance :

(In CWJC No.10623 of 2016)

For the Petitioner : Mr. Sunil Kumar Singh, advocate
For the Respondent : Mr. Vinay Kumar Mishra, Advocate
For the IGNOU: Mr. Kundan Kumar Singh, Advocate
For the N.C.T.E. : Mr. S.N. Pathak, Advocate

(In CWJC No.4222 of 2015)

For the Petitioner : Mr. S. Azeem, Advocate
Mr. Akshay Lal Pandit, Advocate

For the State : Mr. Ashutosh Ranjan Pandey, AAG-15
For IGNOU : Mr. Kundan Kumar Singh, Advocate
For the Intervener : Mr. Niranjan Kumar, Advocate
Mr. Mrityunjay Kumar, Advocate
For the Intervener Respondent: Mr. Amresh Kumar Singh, Advocate
Mr. Sushil Kumar Roy, Advocate

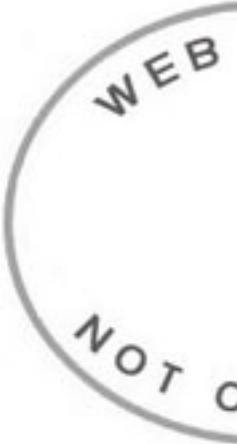
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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

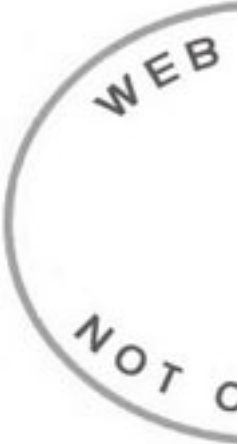
(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)
Date: 05-10-2016

Both these writ petitions, professing public interest, though, *prima facie*, appearing to be private interest are more to create problems than to solve issues. It appears that State of Bihar, pursuant to Article 21A of the Constitution, decided to recruit a large number of teachers for primary education, and were thus recruited. It was decided firstly that they have to upgrade their educational qualification to Intermediate. A time frame was fixed. Those who did not upgrade were to be terminated. Then, it was decided that all the teachers so recruited would have to be trained teachers. Such facility not being available for such a large number of teachers, the State Government involved the Indira Gandhi National Open University (in short the “IGNOU”) to provide correspondence course through which the recruited teachers, who are already



teaching, could get necessary teaching certification as trained teachers. This was necessary because such large numbers could not be put to conventional courses because of shortage thereof, and their services could not be dispensed with as they have been working for a long period. IGNOU agreed to formulate two years corresponding course as against one year under the conventional old type course, which was known as Diploma in Primary Education (in short the “DPE”) by National Council for Teacher’s Education (hereinafter referred to as “N.C.T.E.”). N.C.T.E. approved the two year course but subsequently took a view that such a course was not sufficient, they were further required to undergo six months enrichment speciality course. Pursuant to the recommendation, IGNOU initiated six months programme as well. The State Government took a decision to see that all persons who had successfully concluded the training and get DPE would undergo the same. Thus, the intention of the State Government was clear that it wanted all the teachers right from primary level to be trained teachers. This was being carried on in progression.

Surprisingly, prayer in the two PILs is, first,



that the Government should not recruit untrained teachers, and second, which is even stranger, that teachers who have not been trained within five years of being employed, should be dismissed. On the face of it, we find that there is something more behind these PILs, which meets the eyes. What is the State to do? If the State is unable to get trained teachers, is it to abandon teaching, and thus violate individuals right under Article 21A of the Constitution, or, having recruited teachers, to give them training, subject to such infrastructure being available. Once, government has taken up that programme, then, it is futile to say that the Government ought not to have recruited untrained teachers. That answer the first PIL.

So far as second PIL is concerned, it is only of nuisance value. It only seeks to destabilize the situation when untrained teachers were recruited they were validly recruited. It is not urged that initial recruitment itself was bad. What is being urged is that they ought to have been trained within the first five year of their appointment, and the State having failed to trained them within first five years of appointment, they should now dismiss them. It is nothing but an absurd proposition. It is elementary that if

the State failed to discharge its obligation of training the teachers within a time frame, the teachers cannot be made to suffer. If there was bona fide in the second set of writ petition, then, they ought to have sought a direction to the State to immediately train the teacher who were untrained, but to pray that they should be dismissed for that State having failed to train them, is absurd.

The writ petitions, therefore, lack merits and they are dismissed.

It is hoped that notwithstanding the dismissal of the two writ petitions, the State should carry on the programme and ensure within a fixed time frame for all the untrained teachers that they are duly trained. That would be an obligation and duty of the State.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/N.A.F.R.

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