

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4506 of 2016

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Yogendra Kumar Rai son of late Sakal Rai resident of village-Bedupur, P.O. Rampur Binda Lal, Police Station-Ekma, District- Saran (Chapra), assistant teacher, Govt. upgraded Middle School Paharpur, Block-Barharia, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The District Magistrate, Siwan.
4. The District Education Officer, Siwan.
5. The District Programme Officer (Establishment), Siwan.
6. The Block Education Officer, Barharia, District Siwan.
7. The Headmaster cum Drawing and Disbursing Officer, Govt. upgraded Middle School Paharpur, Block - Barharia, District - Siwan.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3932 of 2016

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1. Naveen Prasad Singh S/o late Guru Sharan Singh aged about 49 years Resident of Village-Rustampur Po Haya Ghat, Block Haya Ghat, District Darbhanga.
2. Hari Narayan Yadav S/o late Shiv Nandan Yadav, aged about 56 years, Resident of Village- Paroriya PO Mangal Gardh P.S. Hasanpur sub Division Rosara District Samastipur.
3. Ram Dayal Jha S/o late Krishnakant Jha Resident of Village-Milkee PO Ladaura Dargah, P.S. Kalyanpur District-Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Primary, Education Department, Education Govt. of Bihar Patna.
3. The District Programme Officer, Siwan.
4. The District Programme Officer, Siwan.
5. The Block Development Officer Lakrini Ganj, Siwan.
6. The Block Development Officer, Lakrinvi Ganj Siwan.
7. The Block Development Officer, Hussain Ganj Siwan.
8. The Block Education Officer, Hussain Ganj Siwan.
9. The Block Development Officer, Ziradei Siwan.
10. The Block Education Officer, Ziradei Siwan.

.... Respondent/s

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Appearance:

(In CWJC No. 4506 of 2016)

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Advocate

Mr. Umesh Kumar Mishra, Advocate

For the State : Mr. Dhurjati Kumar Prasad, GP-14

For the B.S.E.B. : Mr. Amarendra Kumar, Advocate

(In CWJC No. 3932 of 2016)

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Advocate

Mr. Rajeev Kumar Singh

For the Respondent/s : Mr. AVINASH KUMAR, SC-30

For the B.S.E.B. : Mr. Ajay Bihari Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 04-10-2016



Heard Mr. Rajendra Prasad Singh, learned senior counsel appearing for the petitioners, Mr. Dhurjati Kumar Prasad, learned G.P.-14 for the State in both the writ petitions, Mr. Amarendra Kumar for the Bihar School Examination Board (hereinafter referred to as 'the Board') in CWJC No. 4506 of 2016 and Mr. Ajay Bihari Sinha for the Board in second writ petition bearing CWJC No. 3932 of 2016.

Since the issues raised in the two writ petitions are common hence the two writ petitions have been heard analogous and with the consent of the parties are being disposed of at the stage of admission itself by a common judgment.

Since the matter in contest is the same hence for the sake of convenience, I would be referring to the pleadings and Annexures as occurring in CWJC No. 4506 of 2016 unless clarified with specific reference to the other writ petition.

The sole petitioner in CWJC No. 4506 of 2016 and the three petitioners in the second writ petition are aggrieved by the order bearing Memo No. 1074 dated 30.12.2015 whereby their appointment to the post of Assistant Teachers has been terminated on grounds of obtaining teachers training qualification from an institution not recognized by the State Government, namely, the Non-Government

Primary Teacher's Training College, Balughat, Muzaffarpur. A copy of the order is impugned at Annexure-6 to the writ petition and the order is purportedly passed in the light of the judgment and order passed by this Court in CWJC No. 17899 of 2012 (Kanti Kumari vs. State of Bihar).

The only issue which would fall for consideration is whether the foundation for the termination order i.e. obtaining of Teachers' Training Qualification from an institution not recognized by the State Government i.e. the Non Government Primary Teachers Training College, Balughat in the district of Muzaffarpur is valid and can be upheld or whether the petitioners have made out a case for indulgence. The facts leading to the termination order is not in dispute rather the only dispute is whether or not the petitioners have obtained Teachers' Training Qualification from a recognized institute.

All these petitioners were initially appointed as Panchayat Teachers and were subsequently absorbed as Assistant Teachers. There is no dispute on facts insofar as the appointment of these petitioners is concerned who were holding the post of Assistant Teachers in different schools. While the appointment letter of the sole petitioner in CWJC No. 4506 of 2016 (Yogendra Kumar Rai) is present at Annexure-A to the counter affidavit filed in the said case, the appointment letters of the three petitioners in the second writ petition bearing CWJC No. 3932 of 2016 (Naveen Prasad Singh & Ors.) is present at Annexure-10 series at page no. 44, 47 and 51

respectively of the second writ petition.

A cursory glance of the appointment order would show that it is in obedience of the orders passed by the Supreme Court in the Contempt Petition (C) No.297 of 2007 arising from SLP(C) 22882-22888 of 2004.

I need not go too deep into the details of the matter which was put to consideration before the Supreme Court, save and except, that a dispute relating to appointment of Assistant Teachers as regarding the qualification and the procedure to be followed reached the Supreme Court and it is under the regulatory orders passed by the Supreme Court that the appointment of Assistant Teachers were made against 34,540 posts inclusive of the petitioners. The order dated 13.10.2011 passed in the said contempt petition would reflect that a Committee was constituted by the Supreme Court to examine the rival claims and the respondents were required to carry out the verification of the certificates of the applicants and in case any of the certificate was found to be incorrect, liberty was left with the respondents to take necessary steps.

The relevant extract of the order dated 13.10.2011 of the Supreme Court reads thus:

"Contempt Petition (C) No.297 of 2007, filed in S.L.P. (C) No.22882 of 2004, arose out of an alleged breach of undertaking said to have been given on 18th January, 2006, by the State of Bihar and the order passed on the basis thereof on 23rd January, 2006, by this Court in S.L.P. (C) No.22882-22888 of 2004. As we have indicated in our order dated 9th January, 2009, a number of

writ petitions had been filed against the State of Bihar, raising issues relating to recruitment of teachers in primary schools. At one stage, it was brought to our notice that on account of changes in the policy, trained teachers who were in place at the time when the undertakings were given, could not be accommodated. Accordingly, we had passed orders directing that the trained teachers who at one time were less than the number of vacant posts, should be given appointment in the vacancies that were available. Subsequently, however, there was some discrepancy as to the number of vacancies available as against the number of teachers to be accommodated. Accordingly, we adopted a figure from an advertisement which had been published for recruitment of primary school teachers and took the number of available vacancies to be 34,540.

The second issue which has been raised by Mr. Kailash Vasdev is with regard to the examination of the certificates and other documents that may be produced by the candidate concerned at the time of counselling and appointment. In the event, during scrutiny it is found that any of the documents do not conform to the requirements, the concerned authorities will be at liberty to take appropriate steps regarding the said candidate.

There is yet another group of candidates, who claim to be adversely affected by the deliberations and the findings of the learned Special Officer while preparing the list of eligible candidates. It has been claimed by some of the candidates that their institutions have been shown to be unrecognized/fake, whereas from the very same institution other candidates have been found eligible, although, this has not been admitted by Mr. Kailash Vasdev, learned senior counsel appearing for the State of Bihar, we feel if that is the case, such candidates should not be deprived of an opportunity in future. Accordingly, we direct that such

candidates will be at liberty to apply to the Bihar Staff Selection Commission for reconsideration of their status and the status of their institutions in respect of which objections have not been considered by the Special Officer. If such representations are made, the same should be considered and disposed of by the Commission, after giving the candidates an opportunity of hearing and placing their cases before the Commission and if it is found that their cases are genuine, the said candidates should be considered in future vacancies, when other vacancies are available, in order of seniority.

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This brings us to the end of a long and arduous journey regarding the appointment of trained teachers in terms of the undertaking given in this Court by the State Government. We would like to express our deep sense of appreciation to Justice S.K. Chattopadhyay for having undertaken the tedious and painstaking exercise of finalising the list of eligible candidates to be considered for filling up the 34,540 vacancies identified during these proceedings.

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Let the original Roster, as well as the seniority list, which have been produced before us in a sealed cover and is at present lying in the custody of Mr. Gopal Singh, learned Standing Counsel for the State of Bihar, be sent to the Human Resource Department, Government of Bihar, for implementing this order. We make it clear that since the Roster, as well as the seniority list, have been prepared in terms of the order of this Court, no Court shall entertain any other objections or applications with regard to the same.

The contempt petition, as well as the pending interlocutory applications are also disposed of by this order.”



While the matter was pending consideration before the Supreme Court that the appointment orders in question was issued. The appointment order of the sole petitioner in CWJC No.4506 of 2016 bears Memo No.219 dated 7.2.2012. The appointment order in relation to the petitioner no.1 in the second writ petition bears Memo No.230 dated 7.2.2012. The appointment order of the petitioner no.2 of the second writ petition bears Memo No.193 dated 6.2.2012 and that of the petitioner no.3 reads Memo No.253 dated 7.2.2012. Meaning thereby, all these appointments were made while the matter was pending disposal before the Supreme Court, on 6th and 7th of February, 2012. Clause 1 of the appointment order does read that the appointments were temporary in nature and are subject to verification of the certificates with a further stipulation that a confirmation would take its effect on expiry of 1 year of service. According to the respondents it is in the course of verification that it transpired that the teachers training qualification obtained by each of these 4 petitioners was issued by the Non-Government Primary Teachers Training College, Balughat, Muzaffarpur, which institute is not recognized by the State Government. Even though such stand is taken by the respondents for termination of the services of the petitioner but the order impugned bearing Memo No.1074 dated 30.12.2015 passed after three years of the appointment of the petitioner reads otherwise and it is not in course of verification of documents that the order of termination is passed rather it is in purported implementation of a

judgment and order passed in CWJC No.17899 of 2012 (Kanti Kumari vs. State).

The Special Leave Petition before the Supreme Court was finally disposed of on 18.7.2013 in the following terms:

- “1. *Special Leave Petition (Civil) Nos. 22882-22888 of 2004 were filed by several trained teachers for a direction upon the State of Bihar to appoint them in the vacancies in the post of primary teachers in the State of Bihar. The same was withdrawn on an undertaking given on behalf of the State of Bihar on 18th January, 2006, whereby the State of Bihar committed itself to recruiting and filling up the vacant posts of teachers in primary schools with trained teachers. The undertaking given by the State of Bihar reads as follows:-*

“That in the meantime, it has been decided that trained teachers be recruited on the vacant posts available in the State of Bihar. The Bihar Elementary Teachers Appointment Rules, 2003 having been quashed by the Patna High Court, new recruitment rules are contemplated to facilitate recruitment of trained teachers in a decentralized manner, by giving them age relaxation as ordered by the High Court.

That Chapters 6 and 7 of the Bihar Education Code relating to oriental education and hostels and messes will be kept in mind, as directed by the Patna High Court, while making recruitment of teachers.

That it is respectfully submitted that since the number of available trained teachers in the State is expected to be less than the available vacancies, no test for selection is required to that extent, a reference to this Bihar Public Service Commission for initiating the process of recruitment of trained teachers may not be necessary, and the order of this Hon'ble Court and of the Patna High Court in this regard may be modified”

2. *The application made for withdrawal of the Special Leave Petition was disposed of by this Court on 23rd January, 2006. Subsequently, when the State of Bihar failed to abide by its commitments and assurances, the petitioner, Nand Kishore Ojha, filed Contempt Petition (Civil) No. 207 of 2006, and the same was disposed of with a direction upon the State of Bihar to implement the undertaking given earlier, upon a categorical statement being made that priority would be given to the trained teachers in matters of appointment in the said posts.*
3. *Thereafter, on account of further default on the part of the State of Bihar to honour its commitments, another Contempt Petition, being Contempt Petition (Civil) No. 297 of 2007, was filed and several applications were made in*

the Contempt Petition by trained teachers similarly situated, for being impleaded as parties to the proceedings. Ultimately, the learned Attorney General appeared before us on 25th August, 2009, and assured us that it was not the intention of the State of Bihar to resile from the undertaking given on its behalf. Since there had been a change in the administrative set up in the State of Bihar, the situation had become more complex and it had become difficult to work out a solution to the problem posed in filling up the vacancies in the post of primary school teachers throughout the State of Bihar. When Contempt Petition (Civil) No. 297 was taken up for consideration, we heard the same along with several interlocutory applications filed by several teaches having individual grievances and reserved judgment.

4. *By our order dated 13th October, 2011, on the Contempt Petition filed in SLP(C) No. 22882 of 2004, arising out of the breach of undertaking given on 18th January, 2006, by the State of Bihar (illegible) passed on the basis thereof on 23 January, 2006 in the aforesaid SLP, we had passed orders directing that the trained teachers who at one time were less than the number of vacant posts should be given appointment in the vacancies that were available. Subsequently, however, there was some discrepancy as to the number of vacancies available as against the number of teachers to be accommodated. Accordingly, we adopted a figure from an advertisement, which had been published for recruitment of primacy school teachers and took the number of available vacancies to be 34,540. We had further directed that the said vacancies be filled up with the said number of trained teachers as a one time measure to give effect to the undertakings given on 18th January, 2006 and 23rd January, 2006.*
5. *Subsequently, it came to light that the number of candidates available were much more than the number of vacancies and there were also serious doubts raised about the eligibility of some of the candidates and the genuineness of some of the institutions from which they alleged to have received their training. In our order of 19th January, 2011, we had indicated that certain incongruities had been pointed out on behalf of the petitioners with regard to the list of eligible candidates furnished by the State of Bihar.*
6. *When the said dispute could not be resolved in terms of the list produced by the State of Bihar, we thought it fit to entrust a neutral person with the work and, accordingly, we had appointed Justice V.A. Mohta, a retired Judge of the Bombay High Court, we retired as Chief Justice of the Orissa High Court, as Special Officer in whose presence the list could be settled. However, since Justice Mohta expressed his desire to be relieved of the responsibility, by our order dated 24th February, 2011, while relieving Justice V.A. Mohta, we appointed Mr. Justice S.K. Chattopadhyay, a retired Judge of the Patna High Court in his place, to take up and complete the finalization of the seniority list. After much debate, the list submitted by Justice Chattopadhyay was accepted and in terms of the*

recommendations made, 34,540 candidates were appointed in different primary schools in the State of Bihar.

7. *The matter did not end there. On account of the fact that some of the candidates, who had not appeared before Justice Chattopadhyay, came up with fresh applications in support of their cases and urged that there were various omissions from the final select list, we decided to entertain the said applications, particularly, on account of the directions, which we had given, in our judgment and order dated 13th October, 2011, that no court would entertain any objection or applications with regard to the list of candidates, who had already been appointed, in terms of our earlier order.*
8. *During the hearing of these applications, special leave petitions and writ petitions, what emerged is that most of the applicants were aggrieved by some defect or the other in the preparation of the select list, which occurred on account of the failure of the candidates to give their relevant particulars to Justice Chattopadhyay.*
9. *Be that as it may, in the event, some discrepancies had crept in the final select list, the individual grievances contained various anomalies, which it is difficult for us to unravel. Accordingly, we modify our order dated 13th October, 2011, and allow the applicants to approach the High Court for redressal of their grievances. We also direct that the applications, special leave petitions and writ petitions filed before us be treated as withdrawn, with liberty to the parties to approach the High Court individually or otherwise, for relief, if any, but without, in any way, affecting the appointments of those teachers who have already been appointed against the vacant 34,540 posts and are working. We have been informed during the hearing that about 2413 posts out of the 34,540 posts were still left to be filled up. All the applications, Special Leave Petitions and Writ Petitions are, therefore, disposed of in the light of the aforesaid observations. We make it clear that none of the persons appointed out of the 34,540 vacancies should be disturbed in any way, but the question of filling up the balance vacancies may be taken into consideration, while disposing of the applications in question."*

Mr. Rajendra Prasad Singh, learned senior counsel has appeared for the petitioners alongwith Mr. Umesh Kumar Mishra in the two writ petition and has relied upon a letter of the District Superintendent of Education-cum- District Programme Officer, Saran dated 10.11.2006 a copy of which is placed at Annexure-3 to CWJC



No.4506 of 2016 to submit that the college in question had the recognition of the State Government for the Session 1983-85 to 1986-1988, whose examination was held on 20.9.1988 and thus in view of the order(s) passed by the Supreme Court on 13.10.2011 and 18.7.2013, the respondents were restrained from interfering in any way with the services of the petitioners. It is argued that there was no occasion for the respondents to terminate the service of these petitioners in purported implementation of the judgment and order passed in CWJC No. 17899 of 2012 which in no manner gave liberty to the respondents to reopen the concluded matters.

The argument of learned counsel for the petitioners is seriously contested by Mr. Dhurjati Prasad Singh, learned G.P.-14 in reference to the letter of the Director, Education Department bearing No. 108 dated 26.2.2013 present at Annexure-R to the counter affidavit filed on behalf of the respondent no. 8 in CWJC No. 4506 of 2016 to submit that the college in question though established in 1983, never got an approval of the State Government and in fact a request in this regard was rejected. He next refers to the minutes of the meeting present at Annexure-B to submit that the case of a number of institutions was considered and the Committee consisting of the Director, Primary Education as well as the Secretary, B.S.E.B. vide Memo No. 821 dated 17.7.2015 concluded that the Primary Teachers Training College, Balughat in the district of Muzaffarpur was not a recognized institution and thus a qualification obtained



therefrom is not a valid qualification. On the strength of these two documents it was argued by Mr. Dhurjati Kumar Prasad that the certificates produced by these petitioners, a copy of which is enclosed in the two writ petitions would not make the petitioners qualified for the post of Assistant Teachers. Learned counsel, however, could not satisfy this Court that if that be so then why in the first place a certificate was issued by the 'Board' if the institution was not having the sanction of the State Government and why necessary steps were not taken by the 'Board' to cancel the results and withdraw the certificate. In fact even Mr. Sinha, learned counsel appearing for the Bihar School Examination Board could not contest the undisputed position that the Teachers Training Examination Certificate issued by the Board has not been cancelled.

I have heard learned counsel for the parties and perused the records.

The uncontroverted position in the dispute is that the appointment of these petitioners is following the orders of the Supreme Court and which also vests the authorities with the power to satisfy themselves on the certificates and qualifications. These petitioners were appointed on 6th or 7th of February 2012 and presumably after verification of the certificates as directed by the Supreme Court. The letter of the District Superintendent of Education present at Annexure-3 certifies that the Non-Government Primary Teachers Training College, Balughat in the District of Muzaffarpur



had the recognition and approval of the State for the Session 1983-85 to 1986-88 and which position is also confirmed by the certificates issued by the Bihar School Examination Board in respect of the petitioners, copies of which is enclosed in each of the two writ petitions. While the certificate of the petitioner in CWJC No. 4506 of 2016 is placed on record vide Annexure-9 to the supplementary affidavit at page 101, insofar as the petitioners in the second writ petition bearing CWJC No. 3932 of 2016 is concerned, their respective certificates are present at page-17, 26 and 36 respectively of the second writ petition.

It can not be disputed that unless an institution has the recognition and approval of the State Government, the students from that very institution would neither be permitted to appear in the examination held by the 'Board' nor would be granted certificate by the 'Board'. In the present case there is neither any objection by the Examination Board nor have they cancelled the certificate of passing the Teachers Training Examination.

The orders of the Supreme Court referred to above while protecting the Assistant Teachers who came within the zone of 34,540 posts yet gave liberty to the respondents to verify their credentials and if not found to be in order then to take appropriate steps. Meaning thereby the petitioners stood protected until the foundation on which their appointment stands, was removed. In the present case the petitioners were appointed subject to verification of their certificate in



February 2012 and it is after three years that the foundation is sought to be removed by doubting the qualification of Teachers Training Examination and that also in the process of implementation of an order passed in Kanti Kumari (supra) which is in a different context altogether. In fact in the case of Kanti Kumari (supra) the bench had issued directions to examine the claim of 2317 applicants to the post which direction in no manner gave opening to the respondents to reopen the appointment made pursuant to the Supreme Court direction nor there is anything on record to take away the right vested in the petitioners to continue on their posts.

A cursory glance of the order passed in the case of Kanti Kumari (supra) would show that in purported compliance thereof, the respondents have tried to undo the exercise completed under the regulatory orders of the Supreme Court. Clearly the respondents have exceeded their jurisdiction to interfere with the appointment of these petitioners under the garb of implementation of order passed in Kanti Kumari (supra) which issues no such mandamus as apparent from prayer noted in paragraph 3 and the directions issued in paragraph 82 which runs as follows:

“3. The prayer of the petitioner in this writ application reads as follows:-

- 2(I) *For commanding the respondents particularly respondents Staff Selection Commission to make correction in the integrated session wise seniority list of primary teachers passing the Primary Teachers Training Exam in the session column as 1987-1989 in place of 1989-91 as mentioned in the list, and further make correction in the column of category as Most Backward Class in place of General Category.*
- (II) *For commanding the respondents particularly respondents Staff Selection Commission to place the petitioner at an*

appropriate place in the integrated session wise seniority list of primary teachers prepared pursuant to the advertisement no. 210/2010.

(III) *For holding that the impugned non-consideration of the claim of the petitioner in the matter of placing her at an appropriate place in the integrated session-wise seniority list of primary teachers after making correction in the column of session and category of list, is illegal, arbitrary and without any lawful justification.*

82. Thus, having dealt with the aforesaid major issues in the batch of this writ petition and all other tagged together writ applications all of them are hereby disposed of with the following observation and directions:-

- (i) For filling up 2413 posts, a Committee consisting of Director, Primary Education and Secretary to the Bihar Staff Selection Commission shall take any decision with the approval of Principal Secretary of Education Department. Incase of difference of opinion between the two functionaries, namely, Director, Primary Education and Secretary to the Bihar Staff Selection Commission, the decision taken by the Principal Secretary of the Education Department shall be final.
- (ii) The Committee shall first issue notice in the newspaper for appearance of the 1929 candidates for counseling as per paragraph no. 7(a) of the counter affidavit filed in this case as has also been extracted earlier in paragraph no.28 of this judgment. Such counseling of 1929 candidates must be completed within a maximum period of three months and letter of appointment to the eligible candidates having prescribed qualification and fulfilling other eligibility conditions must be issued within one month of the date of completing the counselling.
- (iii) The cases of 366 candidates again reflected in paragraph no. 7(c) of the counter affidavit shown to be pending also must be decided one way or the other within the same period of three months and those found eligible should also be given letter of appointment in next one month.
- (iv) In the likewise manner, the Committee also must re-consider the case of 118 candidates not earlier found fit for appointment as again explained in paragraph no.7(b) of the counter affidavit and take a final decision in respect

of them within the same period of three months and those found eligible among them should also be given letter of their appointment in next one month.

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- (v) Depending on the result of such exercise of fresh consideration of the cases of aforesaid 2413 candidates who were either absent during counseling or whose cases for appointment was kept pending or whose cases earlier was not found fit for appointment as explained in paragraph no.7 of the counter affidavit and upon issuance of appointment letters to those found eligible, they shall be given one month's time for joining their post from their date of issuance of their appointment letter inserting a clause that if they do not join their post within the prescribed period, they shall forfeit their claim for appointment against 2413 posts for once and ever.
 - (vi) The Committee on expiry of the period of one month for joining of the eligible appointment from amongst aforesaid 2413 candidates shall obtain a district wise report of their joining in next one month and reascertain the position of left over vacancy on 2413 posts.
 - (vii) The Committee having taken the aforesaid steps and completed the exercise for considering the 2413 posts and on being reported the number of actual number candidates who had ultimately submitted their joining will reascertain the number of vacant posts in the respective subject category and would publish them in the newspaper as also on its official website inviting claims in a prescribed format from the left over candidates whose applications were received in time by the Commission and had formed part of 123149 of the total applications received as shown in the report of Hon'ble Justice S.K. Chattopadhyay the Special Officer submitted to Apex Court.
 - (viii) This inviting of claim must be done by the Committee within three months of issuance of last appointment letter to the category of 2413 candidates giving a clear one month time to remaining candidates to submit their respective claim in writing in a prescribed format only by registered/ speed post. In no case any claim shall be entertained by receipt through hand in the department/commission.
 - (ix) The Committee only in exceptional cases and that too for reasons recorded in writing shall make any change in the seniority position in final panel of 94205 candidates as approved by the Apex Court on 13.10.2011 confining itself to make such correction in cases of clear clerical error or error of record or any other allied compelling reason. It is made clear that for such appointment only on

the remaining vacancy after considering the cases of pending 2413 candidates, the revised merit list will be prepared not only in accordance with the terms and conditions set out in 2010 Rules and the advertisement but also in keeping with the statement made by the Respondents in paragraph no. 9(a) and 9(b) of the counter affidavit as also in the light of findings recorded in paragraphs 35 to 81 of this judgment.

- (x) Such tentative revised merit list for the left over vacancies for each of the three subject teacher of general/ Urdu/Physical Training after considering the claims shall be published in newspaper and official website of the Education inviting objection and thereafter on considering such objection the revised merit list shall be finalized and made public both in newspaper and official website. This entire exercise however must be completed by the Committee within six months of publication of notice inviting the initial claim from the candidates.
- (xi) It is from this revised panel for the limited number of vacancy left out after consideration of 2413 pending cases in the manner indicated above, that steps for appointment for left over vacancy will be completed within two months of publication of the final panel. In no event, such appointments however shall be made beyond the number of post for each subject category which is 2007 for the general subject, 372 for Urdu teacher and 34 for Physical Trained Teacher as clearly stated before the Apex Court and this Court in the status report dated 30.08.2012 and the counter affidavit respectively.”

The directions issued are self eloquent and the exercise of appointment was to be done in respect of 2413 vacancies that remained to be filled up after appointments were made against 34540 posts under the orders of the Supreme Court. In fact these 2413 vacancies also stands discussed in the order of the Supreme Court passed on 18.7.2013 and the order passed by this Court in the case of Kanti Kumari (supra) is only in direction of completing the process so initiated. The order in no manner interferes with the appointment already made under the order of the Supreme Court as construed by

the respondents.

The reference thus made in the termination order to the case of Kanti Kumari (supra), is on misconception of the directions and thus unsustainable. Even the stand taken in the counter affidavit regarding the institution at Balughat becomes unsustainable in view of Annexure-3 and with nothing to controvert the position.

This matter was taken up in July, 2016 and since thereafter has been heard on not less than nine occasions when opportunity was granted to the State to contest the position arising from Annexure-3 confirming the recognition of the institution for the Sessions 1983-85 to 1986-88 in the background of the certificate issued by the Examination Board which continues to hold the field. The matter is posted for judgment today and neither the Board counsel nor the State counsel have been able to counter the position existing at Annexure-3 as well as the fact that the certificate issued to the petitioners by the Bihar School Examination Board certifying their qualification of passing the Teachers Training Examination, has not been interfered with.

For the reasons aforementioned, the order bearing Memo No. 1074 dated 30.12.2015 impugned at Annexure-6 to CWJC No. 4506 of 2016 and Annexure-1 to the second writ petition is quashed and set aside. The petitioners in the two writ petitions stand restored to their respective posts together with consequential benefits which should be provided to them within a period of three months from the

date of receipt / production of a copy of the order.

The two writ petitions are accordingly allowed.

(Jyoti Saran, J)

