

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9413 of 2014

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1. Prem Kumar Chaudhary Son of Ram Naresh Chaudhary resident of Village : - Damariya, P.O. : - Anishabad, P.S.: - Gardanibagh, District : - Patna.
 2. Md. Naushad Hussain Son of Md. Shaukt Hussain resident of Village : - Sultanpur, P.O. : - Danapur, P.S. : - Danapur, District : - Patna.
 3. Anamika Jha Son of Sri Vinayak Jha resident of Village : - Nariyal Ghat Road, Takiyapar, P.O. : - Digha, P.S. : - Danapur, District : - Patna.
 4. Sanjay Kumar Chaudhary Son of Sri Ramanand Chaudhary resident of Village : - Bhikhachak, Naya Tola, P.O.: - Anishabad, P.S. : - Gardanibag, District : - Patna.

.... Petitioners

Versus

1. The State of Bihar through Secretary-cum-Commissioner, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, New Secretariat, Patna.
3. The Bihar School Examination Board, Sinha Library Road, Patna, through its Secretary.
4. The Chairman, Bihar School Examination Board, Sinha Library Road, Patna.
5. The Secretary, Bihar School Examination Board, Sinha Library Road, Patna.
6. The Eastern Regional Committee, National Council for Teacher Education, 15, Nilkanth Nagar, Nayapalli, Bhubneshwar - 751012, through its Regional Director.
7. The Regional Director, Eastern Regional Committee, National Council for Teacher Education, 15, Nilakanth Nagar, Nayapalli, Bhubneshwar - 751012.
8. The Secretary, Millia Sir Syed Primary Teachers Training College, Rambag, Purnea.
9. The Principal, Millia Sir Syed Primary Teachers Training College, Rambag, Purnea.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 11451 of 2013

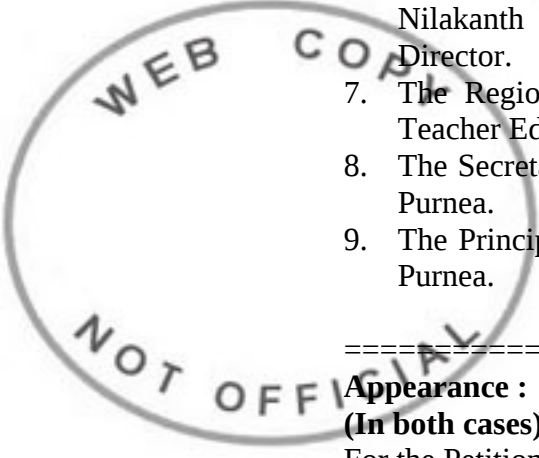
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1. Amar Nath, Son of Ram Khelawan Rai, resident of Village Bibiganj Chowki, P.O. Danapur Cantt, P.S. Danapur, District Patna.
2. Rita Kumari, Wife of Sri Ajay Kumar Chaudhari, Daughter of Shiv Shankar Chaudhari, resident of Village Bhkhachak Naya Tola (Vshnupuri), P.O. Anisabad, P.S. Gardanibag, District Patna.
3. Manoj Kumar Gupta, Son of Binay Kumar Sah, resident of Village Pashi, P.O. Faridpur, P.S. Janipur, District Patna.
4. Uma Nath Vishwakarma, Son of Sri Baijnath Vishwakarma, resident of Village Bibiganj Maida Toli, P.O. Danapur Cantt, P.S. Danapur, District Patna.

.... Petitioners

Versus

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2. The Director, Primary Education, New Secretariat, Patna.
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4. The Chairman, Bihar School Examination Board, Sinha Library Road, Patna.
 5. The Secretary, Bihar School Examination Board, Sinha Library Road, Patna.
 6. The Eastern Regional Committee, National Council for Teacher Education, 15, Nilakanth Nagar, Nayapalli, Bhubneshwar-751012, through its Regional Director.
 7. The Regional Director, Eastern Regional Committee, National Council for Teacher Education, 15, Nilakanth Nagar, Nayapalli, Bhubneshwar-751012.
 8. The Secretary, Millia Sir Saiyed Primary Teachers Training College, Rambag, Purnea.
 9. The Principal, Millia Sir Saiyed Primary Teachers Training College, Rambag, Purnea.

.... Respondents

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Appearance :
(In both cases)

For the Petitioners	:	Mr. Mahesh Narayan Parbat, Senior Advocate Mr. Sanjay Kumar Jha, Advocate
For the State	:	Mr. Sanjeet Kumar Singh, A.C. to A.A.G.10
For B.S.E.B.	:	Mr. Manish Kumar, Advocate
For N.C.T.E.	:	Mr. S.N. Pathak, Advocate
For Res. No.8	:	Mr. Rashid Izhar, Advocate
For Res. No.9	:	Mr. Suman Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 09-02-2016

The two writ applications were clubbed together and heard together for the reason that the petitioners of both the writ applications are seeking common and identical relief against the institution known as Millia Sir Syed Primary Teachers Training College, Rambag, Purnea as well as National Council for Teachers Education and Bihar School Examination Board to conduct examination of the candidates who were admitted for the primary teachers training course by the institution Millia for the session 1996-98 and 1997-99.

2. The institution was set up to impart teachers training



in a remote district of Purnea years ago. They had some kind of recognition by the State of Bihar and based on such recognition they used to take admission and impart training and the students used to be imparted certificates of proficiency on the basis of examination conducted by Bihar School Examination Board. The problem arose when the Central Government decided to regulate and maintain uniform standards in imparting education by institutions of such kind by enacting a Central legislation known as National Council for Teachers Education Act, 1993. The State Government after coming of this legislation lost the right to grant recognition to any such institution and the power now vested in the Regional Committees established under the Act. The Act was notified and became operative w.e.f. 17th August, 1995.

3. After the said date, it became incumbent upon all such institutions, which were carrying on the responsibilities of imparting teachers training, to seek recognition afresh now from National Council of Teachers Education. The mandate was unequivocal. For the transitory period, the relevant provision is Section 14 of the Act which even counsel for the petitioners as well as the institution are putting emphasis on. The petitioners want to draw advantage of the proviso, therefore, the Court would like to reproduce the provisions of Section 14 of the N.C.T.E. Act:

14. Recognition of institutions offering course or training in teacher education.-(1) Every institution offering or intending to offer a course or training in teacher education on or after the appointed day, may, for grant of recognition under this act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations :

Provided that an institution offering a course of training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee.

4. The stand of the counsel for the petitioners, who are the students for the said batch as well as the institution, is in unison and they more or less take a common plea that the institution could continue after making an application till a final decision was rendered by the Council on such application. The proviso is in two parts. One talks of continuance for a period of six months and the other talks of continuance till a decision is rendered on the application.

5. It is also of significance that a Regulation governing filing of applications for recognition was also put in place and attention of the Court was drawn to Clause 7 of the said Regulation. Even this provision, therefore, is reproduced:-

7. Time limit for making applications.-(a)
Every institution offering a course or training in teacher

education immediately before the 17th August, 1995 shall make an application so as to reach the concerned Regional Committee within a period of six months i.e. 16th February, 1996.

(b) Every institution intending to offer a course or training in teacher education shall make an application so as to reach the concerned Regional Committee by the 31st December every year for commencement of course or training from the next academic session.

(c) Application for permission to start any new course or training in teacher education by recognised institutions shall be submitted in the form in Appendix-1 so as to reach the Regional Committee concerned before 31st December of the calendar year for the course or training in teacher education proposed to be offered in the next academic year.

6. To put the records straight, the application for such recognition for the courses in question, i.e., for the year 1996-98 and 1997-99, if at all, was filed on 10.07.1996. A stand is taken that till date neither these students nor the institution knows the fate of the decision taken on such application. Therefore, by necessary inference and implication the institution offered admission even for the period in question and now the students cannot be barred from participation in examination on the technicality that no notification giving recognition for the periods in question was granted by N.C.T.E.

7. Controversy is not new to this institution. Issues of



recognition, holding of examinations for various batches etc. etc. has been dogging it for many a years and it is strange that the institution is being run more by judicial orders than by what the institution is supposed to do by compliance of statutory provisions and maintenance of standards by such institution. The Court has reasons to say so on the basis of Annexure-10 which is an order passed in an earlier writ application which was C.W.J.C. No.9319 of 2000 decided on 16.10.2004. The order speaks for itself. Here the issue was session 1994-96, 1996-97, 1996-98 and 1997-99. What is of significance is that the bench dealt with all the issues and gave relief but has deliberately remained silent with regard to the session 1996-98 and 1997-99. No relief or direction, therefore, was granted to the batch of students who belonged to the two sessions. It is not a coincidence that the bench chose to remain silent with regard to the two batches in question. Can there be better example that the batch in question which has again surfaced before this Court by yet another writ application after almost 14 years is trying to overcome what was not made available to them in the previous litigation?

8. Coming to the implication of the proviso to Section 14(1) of the N.C.T.E. Act, 1993 and keeping in mind that the application for recognition was made on 10.07.1996, contrary to the provision of Section 14 and Regulation 7 of the 1995 Regulation,



there was no obligation upon N.C.T.E. to take cognizance or to communicate any decision to the institution on the question of recognition. If the institution did not comply with the statutory requirements, the onus cannot be shifted onto N.C.T.E. and the plea which is being taken that the institution could continue imparting education by giving admission is fallacious in nature. It will be doing violence to the statutory provision and obligation created under law for such institutions, if they wanted to have the benefit of recognition and right to impart training to the candidates who took admissions for the sessions after coming of the N.C.T.E. Act.

9. The Court, therefore, is not impressed by the submissions made at the bar on behalf of the petitioners or the institution that there is a case made out for a direction upon the Bihar School Examination Board to hold examination for these candidates after more than a decade and a half in violation of the statute. The fact is that no recognition was granted for the sessions in question by National Council of Teachers Education. The inference, therefore, of such kind of recognition or right of continuance is also not established by the fact that the institution did not take steps for seeking recognition within the time frame and cut off dates indicated in Regulation 7 or Section 14(1) of the Act. In addition there is inordinate delay when the cause of action arose and

when relief for permission or participation in examination has been sought.

10. Both the writ applications, therefore, are required to be dismissed and are dismissed.

(Ajay Kumar Tripathi, J.)

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