

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19022 of 2015

=====

1. Nazli Anjum daughter of Abdul Hafij resident of Village + P.O. - Jehanabad,
District Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Joint Secretary, Education Department, Government of Bihar, Patna.
4. The Director, Primary Education, Government of Bihar, Patna.
5. The Director, Research and Training, Government of Bihar, Patna.
6. The Secretary, Bihar School Examination Board, Patna.
7. The District Education Officer, Jehanabad.
8. The District Programme Officer, Establishment, Jehanabad.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 8978 of 2016

=====

1. Urmila Kumari daughter of Shri Tukkar Prasad wife of Late Diwakar Prasad
Singh, resident of village- Sahwazpur, P.O.- Habib Nagar, P.S.- Hussainganj,
District- Siwan, assistant teacher, Govt. Middle School Sareya Hindi, Block-
Hussainganj, 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, Hussainganj, District Siwan
7. The Headmaster cum Drawing and Disbursing Officer, Govt. upgraded Middle
School Sareya Hindi, Block- Hussainganj, District- Siwan

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 396 of 2016

=====

1. Surendra Pandit, son of Ramkhelawan Pandit, resident of Village Deoghara, P.O.
Dhangawan, District- Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Joint Secretary, Education Department, Government of Bihar, Patna.

4. The Director, Primary Education, Government of Bihar, Patna.
5. The Director, Research and Training, Government of Bihar, Patna.
6. The Secretary, Bihar School Examination Board, Patna.
7. The District Education Officer, Jehanabad.
8. The District Programme Officer, Establishment Jehanabad.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 455 of 2016

=====

1. Surendra Prasad, Son of Upendra Prasad, Village- Lakhisarai, P.S.- Ghoshi, District- Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna
3. The Joint Secretary, Education Department, Government of Bihar, Patna
4. The Director, Primary Education, Government of Bihar, Patna.
5. The Director, Research and Training, Government of Bihar, Patna.
6. The Secretary, Bihar School Examination Board, Patna.
7. The District Education Officer, Jehanabad
8. The District Programme Officer, Establishment Jehanabad. null null

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 471 of 2016

=====

1. Alakh Niranjana, Son of Late Ramashray Pandit, village Sikaria, P.S. Jehanabad, District- Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar,
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Joint Secretary, Education Department, Government of Bihar, Patna.
4. The Director, Primary Education, Government of Bihar, Patna.
5. The Director, Research and Training, Government of Bihar, Patna.
6. The Secretary, Bihar School Examination Board, Patna.
7. The District Education Officer, Jehanabad.
8. The District Programme Officer, Establishment Jehanabad.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 490 of 2016

=====

1. Uday Prasad Son of Shivnandan Prasad, Resident of Mohalla Prem nagar, Horilganj, P.S. + District - Jehanabad.



.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Joint Secretary, Education Department, Government of Bihar, Patna.
4. The Director, Primary Education, Government of Bihar, Patna.
5. The Director, Research and Training, Government of Bihar, Patna.
6. The Secretary, Bihar School Examination Board, Patna.
7. The District Education Officer, Jehanabad.
8. The District Programme Officer, Establishment Jehanabad.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 497 of 2016

=====

1. Dilip Kumar Son of Late Ram Prasad Sao, Resident of Village - Horilganj, P.O. - Jehanabad, District - Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Joint Secretary, Education Department, Government of Bihar, Patna.
4. The Director, Primary Education, Government of Bihar, Patna.
5. The Director, Research and Training, Government of Bihar, Patna.
6. The Secretary, Bihar School Examination Board, Patna.
7. The District Education Officer, Jehanabad.
8. The District Programme Officer, Establishment, Jehanabad.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 504 of 2016

=====

1. Satyendra Narayan Sinha son of Ram Pravesh Sinha resident of Bishwatola, P.S. Jehanabad, District Jehanabad.

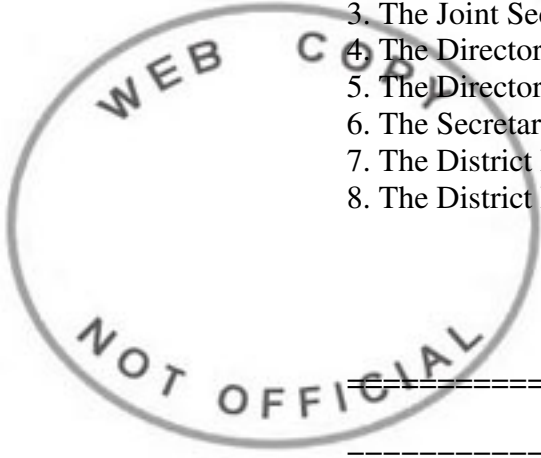
.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Joint Secretary, Education Department, Government of Bihar, Patna.
4. The Director, Primary Education, Government of Bihar, Patna.
5. The Director, Research and Training, Government of Bihar, Patna.
6. The Secretary, Bihar School Examination Board, Patna.
7. The District Education Officer, Jehanabad.
8. The District Programme Officer, Establishment, Jehanabad.

.... Respondent/s

with



=====

Civil Writ Jurisdiction Case No. 520 of 2016

=====

1. Ram Pravesh Prasad Son of Late Chandeshwar Prasad village - Matukchak, P.O. Agbila, P.S. Parsa Bigha, District - Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna
3. The Joint Secretary, Education Department, Government of Bihar, Patna
4. The Director, Primary Education, Government of Bihar, Patna
5. The Director, Research and Training, Government of Bihar, Patna
6. The Secretary, Bihar School Examination Board, Patna
7. The District Education officer, Jehanabad
8. The District Programme officer, Establishment, Jehanabad

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 523 of 2016

=====

1. Shri Kumari Daughter of Devdeep Singh resident of village - Pokhyan, Block - Ratni, Faridpur, District - Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna
3. The Joint Secretary, Education Department, Government of Bihar, Patna
4. The Director, Primary Education, Government of Bihar, Patna
5. The Director, Research and Training, Government of Bihar, Patna
6. The Secretary, Bihar School Examination Board, Patna
7. The District Education officer, Jehanabad
8. The District Programme officer, Eastablishment, Jehanabad

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 535 of 2016

=====

1. Sultana Khatoon daughter of Syed Ali Ahmad Village & P.S. Jehanabad, District Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department , Government of Bihar, Patna.
3. The Joint Secretary, Education Department , Government of Bihar, Patna.
4. The Director, Primary Education Govt. of Bihar Patna.
5. The Director, Research And Training, Education Government of Bihar,Patna.

6. The Secretary, Bihar School Examination Board, Patna
7. The District Education Officer, Jehanabad.
8. The District Programme Officer (Establishment) Jehanabad.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 600 of 2016

=====

1. Uday Kumar Son of Late Gobind Raut, Resident of Village - Dehuni, P.S. Jehanabad, District - Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Joint Secretary, Education Department, Government of Bihar, Patna.
4. The Director, Primary Education, Government of Bihar, Patna.
5. The Director, Research and Training, Government of Bihar, Patna.
6. The Secretary, Bihar School Examination Board, Patna.
7. The District Education Officer, Jehanabad.
8. The District Programme Officer, Establishment, Jehanabad.

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 676 of 2016

=====

1. Pramod Kumar Son of Sri Ram Pariksha Sharma, resident of village- Derhsaiya, P.O.- Hatti, P.S.- Kako, District- Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna
3. The Joint Secretary, Education Department, Government of Bihar, Patna
4. The Director, Primary Education, Government of Bihar, Patna
5. The Director, Research and Training, Government of Bihar, Patna
6. The Secretary, Bihar School Examination Board, Patna
7. The District Education Officer, Jehanabad
8. The District Programme Officer, Establishment, Jehanabad

.... Respondent/s

with

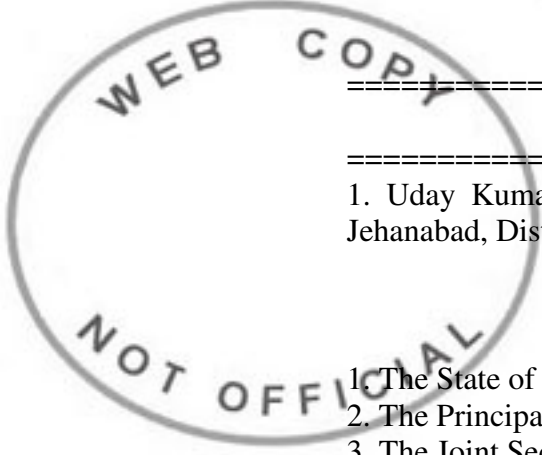
=====

Civil Writ Jurisdiction Case No. 680 of 2016

=====

1. Kamendra Prasad son of Late Shivnandan Prasad, village Golhabigha, P.o. Gatti, P.S. Kako, District- Jehanabad

.... Petitioner/s



Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna
3. The Joint Secretary, Education Department, Government of Bihar, Patna
4. The Director, Primary Education, Government of Bihar, Patna
5. The Director, Research and Training, Government of Bihar, Patna
6. The Secretary, Bihar School Examination Board, Patna.
7. The District Education Officer, Jehanabad
8. The District Programme Officer, Establishment, Jehanabad

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 683 of 2016

=====

1. Yogendra Sharma son of Manogi Sharma, Village Serthua, P.S. Ghosi, District-
Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna
3. The Joint Secretary, Education Department, Government of Bihar, Patna
4. The Director, Primary Education, Government of Bihar, Patna
5. The Director, Research and Training, Government of Bihar, Patna
6. The Secretary, Bihar School Examination Board, Patna.
7. The District Education Officer, Jehanabad
8. The District Programme Officer, Establishment, Jehanabad

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 1297 of 2016

=====

1. Nityanand Kumar Son of Shiv Shankar Thakur, Villae - Serthua, P.O. - Ginji,
P.S. - Ghoshi, Block Hulasganj, District - Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Joint Secretary, Education Department, Government of Bihar, patna.
4. The Director, Primary Education, Government of Bihar, Patna.
5. The Director, Research and Training, Government of Bihar, Patna.
6. The Secretary, Bihar School Examination Board, Patna.
7. The District Education Officer, Jehanabad.
8. The District Programme Officer, Establishment Jehanabad.

.... Respondent/s

=====

Appearance :
(In CWJC No.19022 of 2015)

For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.
 For the Respondent/s : Mr. P.K. Verma- AAG5
 (In CWJC No.8978 of 2016)
 For the Petitioner/s : Mr. Umesh Kumar Mishra, Adv.
 For the Respondent/s : Mr. Partha Sarthi, G.A.11
 (In CWJC No.396 of 2016)
 For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.
 For the Respondent/s : Mr. Harish Kumar, G.P.32
 (In CWJC No.455 of 2016)
 For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.
 For the Respondent/s : Mr. Ajit Pratap Singh, S.C.15
 (In CWJC No.471 of 2016)
 For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.
 For the Respondent/s : Mr. Abbas Haidar, S.C.16
 (In CWJC No.490 of 2016)
 For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.
 For the Respondent/s : Mr. Purnendu Singh, G.P.27
 (In CWJC No.497 of 2016)
 For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.
 For the Respondent/s : Mr. Gautam Bose, AAG 8
 (In CWJC No.504 of 2016)
 For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.
 For the Respondent/s : Mr. Sadanand Paswan- GP29
 (In CWJC No.520 of 2016)
 For the Petitioner/s : Mr. Ashok Kumar Mishra
 For the Respondent/s : Mr. Mani Kant Mishra, G.P.25
 (In CWJC No.523 of 2016)
 For the Petitioner/s : Mr. Ashok Kumar Mishra
 For the Respondent/s : Mr. A.N. Deo- SC26
 (In CWJC No.535 of 2016)
 For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.
 For the Respondent/s : Mr. Kinkar Kumar, S.C.27
 (In CWJC No.600 of 2016)
 For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.
 For the Respondent/s : Mr. N. Hoda Khan, S.C.18
 (In CWJC No.676 of 2016)
 For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.
 For the Respondent/s : Mr. Sunil Kumar Mandal- SC24
 (In CWJC No.680 of 2016)
 For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.
 For the Respondent/s : Mr. J.P. Karn- AAG4
 (In CWJC No.683 of 2016)
 For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.
 For the Respondent/s : Mr. Raju Giri- GP30
 (In CWJC No.1297 of 2016)
 For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.
 For the Respondent/s : Mr. R.S. Nath- AAG3

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 19-07-2016

Heard Mr. Tej Bahadur Singh, learned Senior Counsel for the petitioner who appears along with Mr. Ashok Kumar Mishra in the batch of the writ petitions except C.W.J.C.No.8978 of 2016 in which the petitioner is represented by Mr. Umesh Kumar Mishra. The State is represented by learned State counsels.

The parties have been heard and with consent this batch of writ petitions is being disposed of at the admission stage itself.

There is no dispute on facts amongst the parties and all these petitioners are holding the post of Assistant Teachers in different schools having obtained Teachers Training Certificate from Siddharth Primary Teachers Training College, Jehanabad. Their services have been dispensed with on grounds that the said institution is not a recognized institution for imparting primary teachers training course.

All the petitioners were initially appointed as Panchayat teachers and have subsequently been appointed as Assistant Teachers in the year 2013. By separate orders all dated 24.11.2015 impugned in the respective writ petitions except C.W.J.C. No. 8978 of 2016, the services of these petitioners have been dispensed with on grounds that the certificate obtained by them was not from the recognized institute. In a similar manner the service of the petitioner in C.W.J.C.No.8978 of 2016 has been dispensed with on 10.3.2016. The petitioners being aggrieved by the termination order are before this Court.

As I have said there is no dispute on facts. While it is the



contention of learned State counsel that having obtained certificate from a non-recognized institution there would be no infirmity in the order of termination, Mr. Singh learned Senior Counsel and Mr. Mishra learned counsel appearing for the petitioners in these writ petitions draw their strength from an order passed by the Supreme Court in a matter arising from S.L.P.No.26824 of 2012 whereby the Supreme Court taking note of the dispute issued restraint orders in so far as the 34540 teachers who had been appointed on their post on the basis of the certificate obtained from the institute in question. Learned counsel for the petitioners have also relied upon a bench decision of this Court passed in the case of **Neelam Kumari Vs. State of Bihar** arising from **C.W.J.C.No.998 of 2016** to submit that a coordinate bench of this Court taking note of the identical circumstances has been pleased to dispose of the matter with a direction to the respondents to satisfy themselves on the factual position and whether the case of the said petitioner figured within the list of 34540 Elementary teachers who stand protected under the orders of the Apex Court.

On the other hand, learned State counsel have contested the position to submit that the order of termination is in consideration of the admitted facts. Counsel for the State do also inform that the Bench decision in the case of **Neelam Kumari**(supra) is subject matter of a Letters Patent Appeal bearing LPA No. 1424 of 2016 which is

pending consideration but in my opinion in absence of any interim order of stay passed by the Division Bench, the present batch of writ petitions can well be disposed of on its own merits.

Here, I deem it necessary to reproduce the extract of two of the order(s) passed by the Supreme Court in S.L.P.No.26824 of 2012 which bears relevance for consideration of the matter in contest and reads as follows.

Order dated 13.10.2011:-“.....

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.

.....”

Order dated 18.7.2013:-“.....

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.

.....”

A plain reading of the two orders passed by the Supreme Court would make it clear that the appointment of 34540 teachers was held protected from any disturbance only in the event where the documents produced by the teacher concerned, withstood the lawful requirement.

Since the orders impugned in the writ petitions are more or less identical and each of the writ petitioners have been unsuited on grounds of having obtained training certificate from Siddharth Primary Teachers Training College, Jehanabad which according to the respondents is an unrecognized institution, I would refer to one of such orders as impugned in C.W.J.C.No.19022 of 2015 at Annexure-16 bearing Memo No. 3111 dated 24.11.2015 and which simply states that since the State Government has resolved not to accept the training certificates issued by the Siddharth Primary Teachers Training College, Jehanabad hence the explanation of the petitioner is rejected.

On the other hand, the petitioner in C.W.J.C.No.19022 of

2015 while enclosing a copy of the counter affidavit filed on behalf of the State in C.W.J.C.No.16535 of 2013 at Annexure-18 has referred to a statement made in paragraph 6 of the said counter affidavit and which I deem it necessary to reproduce for ready reference.

“

6. That so far validity of the teachers training institution from where the petitioners have claimed to have obtained teachers training qualification i.e. S.P.G. Mission (Men), Primary Teacher Education College, Ranchi is concerned, the same had previously been examined by the Joint Secretary, Education Department and it was after a detailed consideration that it had been held that S.P.G. Mission (Men), Primary Teachers Education College, Ranchi had the recognition for the Session 78-80 to 91-93. Further with regard to Sidharth Primary Teachers Training College, Jehanabad, it is respectfully submitted that as per communication of Bihar School Examination Board result of the said institution for the session 1986-88, 87-89,88-90 were declared valid.

.....”

In my opinion in the circumstances reflecting, the reasons assigned in the orders impugned in these batch of writ petitions do not satisfy the exercise that was required to be carried out in the light of the directives issued by the Supreme Court. The writ petitioners herein are entitled for a consideration of their respective cases in the light of the circumstances discussed hereinabove as well as in the backdrop of the Supreme Court directives referred to above and in case the training certificates produced by these petitioners are found to be valid and in case these petitioners fall within the figure of 34540 elementary teachers then these petitioners obviously could not have

been disturbed from their respective post and the termination order would be rendered illegal and in the teeth of the Supreme Court judgment.

The respondents are thus directed to consider the case of these petitioners afresh, in the backdrop of the orders passed by the Supreme Court and the stand of the petitioners on their respective certificates as well as taking note of the admission of the Assistant Director, Primary Education as found at paragraph 6 of the counter affidavit filed in C.W.J.C.No.16535 of 2013 and pass appropriate orders in accordance with law.

It goes without saying that in case the claim of these petitioners are upheld, then the consequences has to follow by way of reinstatement. However, in case the petitioners are not found entitled to the relief prayed, then there respective cases are to be disposed of by speaking order to be passed after opportunity of hearing to the respective petitioners. In any case a positive order to such effect be passed within three months from the date of receipt/production of a copy of this order.

The writ petitions are accordingly disposed of.

(Jyoti Saran, J)

Bibhash/-

AFR	
CAV DATE	
Uploading Date	01-08-2016
Transmission Date	