

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.201 of 2016

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1. Narendra Prasad Singh son of Late Bhola Singh, resident of village- Motiour, P.O. Motiour, P.S. Mahiuddin Nagar, District Samastipur, at present working and posted as Assistant Teacher Upgraded Middle School Siarikaran, Block - Baharia District - Siwan
2. Ashok Kumar, son of Sushil Kumar Rai, resident of village Jallalpur, P.O. Jallalpur, P.S. Patori, District- Samastipur, at present working and posted as Assistant Teacher Upgraded Middle School Nagri (Basaw), Block Basantpur, District- Siwan

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Bihar, Patna
2. Joint Secretary, Education Department, Bihar, Patna
3. Director, Primary Education, Bihar, Patna
4. District Education Officer, Siwan, District- Siwan
5. District Programme Officer (Establishment), Siwan, District- Siwan
6. Block Education Officer, Barharia, District- Siwan
7. Block Education Officer, Basantpur, District Siwan
8. Bihar School Examination Board, Patna through its Secretary

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Banwari Sharma
Mr. Md. Shahnawaz Ali

For the Respondent State: Mr. Rakesh Ranjan, AC to GP 22

For the Bihar School
Examination Board : Mr. Gyan Shankar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 04-08-2016

The two petitioners before the Court are aggrieved by the decision of the respondent State authorities by virtue of which their appointment as an Assistant Teacher has been cancelled on the ground that on due verification, it has been found that petitioners are the products of a teachers training institution namely, Lord Budha Mission Teachers Training College, Kartaha at Vaishali, which was a non-recognized

institution by the State of Bihar for the sessions in question.

2. The two petitioners were appointed as Assistant Teachers along with large number of other teachers, numbering 34,540. The Court would not like to take note of the details of the litigations and the manner in which all these persons came to be appointed. But the Court can safely observe that despite the exercise done at the instance of the Hon`ble Apex Court and scrutiny with regard to the eligibility etc. of such selected candidates, controversies persisted.

3. No doubt, the Hon`ble Apex Court initially had observed that such teachers, who had been appointed, are not required to be disturbed and they will continue to work but later on, claims of other persons and such grievances were allowed to be considered by the authorities or the High Court.

4. The earlier observation of the Hon`ble Apex Court has been quoted by a learned single Judge in the two writ applications, whose orders are Annexures 2 and 3 to I.A. No. 2321 of 2016.

5. However, the matter did not stand still at that because when many instances of ineligible candidates having been appointed came to the notice of the Apex Court, leeway was granted to the authorities to verify their actual status with regard to eligibility.

6. In addition to that, Annexures 1 and 2 are the orders of appointment of the petitioners along with other persons. Their names figure therein. Annexure-1 and Annexure-2 are dated 11.02.2012 and 07.02.2012 respectively. **Clause vii** of the two appointment letters is of significance

and, therefore, the same is reproduced herein below:

“प्रमाण-पत्रों के जॉच के दौरान संस्था को अमान्य पाये जाने अथवा संस्था द्वारा निर्गत प्रमाण-पत्र की मान्यता नहीं होने अथवा प्रमाण-पत्र फर्जी/गलत पाये जाने पर नियुक्ति रद्द कर दिया जायेगा एवं विधि सम्मत कार्रवाई की जायेगी । साथ ही ऐसे अभ्यर्थियों के वेतनादि का भुगतान शैक्षणिक संस्थओं के मान्यता एवं प्रमाण-पत्रों के सत्यापन के उपरांत ही किया जायेगा ।”

7. A reading of the said clause noted above surely indicates that appointment of such persons including the petitioners was contingent to the bona fide of their educational qualification and training which was subject to verification.

8. It is in this process of verification, the authorities stumbled on the facts that Lord Budha Teachers Training College did not have recognition for imparting such training. A show-cause was issued upon the petitioners, which led them to approach the High Court by filing a writ application earlier. It emerges from the order passed by the Joint Secretary, Department of Education, Government of Bihar that a direction was issued upon him to decide. This decision or adjudication has been brought on record as Annexure-A to the counter affidavit, filed on behalf of respondent No.5.

9. Annexure-A traces the history of the controversy and the status of the institution in question which was settled right up till the Hon`ble Apex Court earlier. It emerges that the institution in question, of which these petitioners are the products, did not have any valid recognition

from the State of Bihar. Therefore, the degrees obtained from such institution even though their examination could have been held at the instance of a judicial order passed earlier, is of no value and avail.

10. Annexure-A, therefore, was a show-cause issued and after the finding given by the Joint Secretary, the consequential order of dismissal came to be passed in terms of Annexure-B dated 30th December, 2015, issued under the signatures of the District Programme Officer (Establishment) and the District Education Officer, Siwan, jointly.

11. Petitioners want quashing of these orders.

12. Besides the above material, a recent order passed by the Hon`ble Apex Court has also been brought on record in the counter affidavit, filed on behalf of the Bihar School Examination Board. The order in question is Annexure-B and it relates to Civil Appeal No. 7132 of 2013. This order clearly indicates that any person or student who has studied in an unrecognized college, had no right of declaration of his result or that even if such a result has been issued by the Bihar School Examination Board on the orders of the High Court, such results are non est in the eye of law.

13. The facts are not a matter of controversy. The order and the opinion of the Hon`ble Apex Court is no longer a matter of debate. Since the institution in question is unrecognized, therefore, the results as well as the certificates for training issued from such institution cannot help the petitioners to continue on the post of Assistant Teacher even though they were beneficiaries of a deliberation and exercise done by the Hon`ble Supreme Court, which led to their appointment.

14. The decisions, therefore, are not arbitrary nor do they suffer from any kind of irrationality. The reasoning given therein are, therefore, legal, valid and cogent and do not require any interference at all at the level of the High Court. Whatever opinion may have been expressed by a learned Single Judge in some other writ applications are of no avail as the learned Single Judge was not assisted fully and fairly in the matter, which led to passing of such orders. Such orders cannot form a binding precedent in the case of the present petitioners in any manner in view of subsequent developments and orders of the Apex Court.

15. Writ application is, therefore, dismissed.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

AFR/NAFR	AFR
CAV DATE	
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