

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4082 of 2013

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1. Umesh Mahto, son of Sukhdeo Mahto, resident of Village + P.O. Mathurapur, P.S. Ujiarpur, District Samastipur
 2. Jitendra Kumar, son of Vishwanath Sahani, resident of Village + P.O.+ P.S. Baliagaon, District Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education Government of Bihar, Patna
4. The District Education Officer, Muzaffarpur
5. The District Project Officer, Muzaffarpur
6. The District Magistrate, Muzaffarpur
7. The Secretary, Bihar Staff Selection Commission, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra,
Mr. Varun Kumar, Advocaters.
For the Respondent/s : Mr. Sanjay Kumar, AC to AAG 6

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-02-2016

Heard learned counsel for the petitioners and learned counsel for the State.

2. In the present writ petition, petitioners are seeking relief for giving direction to the respondents to issue appointment letters who have been recommended as Assistant Teachers and have been allotted to Muzaffarpur District as per direction of the State Government in the light of Bihar Special Prarambhik Teacher Appointment Rule, 2010.

3. The short facts of the case is that petitioners applied to the post of Assistant Teachers against advertisement no.210



of 2010. A panel was prepared by the Bihar Staff Selection Commission on which several objections were filed and finally in October, 2010 final panel was prepared which was produced before Hon'ble Supreme Court, same was approved and final panel of candidates was prepared and the same was approved by the Government for appointment as per the seniority and roster. In the panel the name of petitioner no.1, Umesh Mahto, was standing at sl.no.938 and name of petitioner no.2, Jitendra Kumar, was standing at sl.no.89544 and both were allotted to Muzaffarpur District.

4. Question arose about the final placement but objection was raised that petitioners are not holding a proper B.Ed. degree from a recognized institution as the claim of the petitioners are based upon their B.Ed. degree from Dr. Ambedkar Hindi Sanskrit Vidyapeeth, Jokiya, Begusarai is a recognized institution. As per the claim of the petitioners validity of selection of petitioners should not be interfered with when panel has been vetted by Hon'ble Supreme Court. Only course left for the State Government is to appoint the petitioners. This proposition cannot be approved as legality and validity of B. Ed. degree issued by the Dr. Ambedkar Hindi Sanskrit Vidyapeeth, Jokiya, Begusarai was not an issue before Hon'ble Supreme

Court to consider. Petitioners can only be accommodated if the institution is found either recognized by State Government before NCTE Act, 1995 came into operation and after 1995, NCTE has recognized institution for imparting B.Ed. degree.

5. Learned counsel for the petitioners submits that this institution does not fall in the list of unrecognized institution issued by the State Government. As such it cannot be treated that degree provided by Dr. Ambedkar Hindi Sanskrit Vidyapeeth, Jokiya, Begusarai is not a valid and recognized degree for the purposes of appointment of teachers.

6. In contra, learned counsel for the State submits that the said institution has never been recognized by the State Government and rightly petitioners have not been allotted any school. This stand has been taken in the counter affidavit filed by the Director where specific stand has been taken that Dr. Ambedkar Hindi Sanskrit Vidyapeeth, Jokiya, Begusarai has not been recognized by the State Government and as such it does not carry any weight for the purposes of appointment of assistant teachers.

7. Here the situation is very piquant as the State Government has not brought any material to show that the said institution has been notified as an unrecognized institution.

Mere statement of the Director cannot be a basis to hold that institution is not a recognized institution.

8. In such view of the matter, to resolve the dispute the matter is referred to the Principal Secretary, Education Department, Government of Bihar, Patna where the petitioners will file a detailed representation annexing the order of this Court. The Principal Secretary after giving chance to produce the document and after examining the record will pass a reasoned order with regard to validity of certificate issued by the Dr. Ambedkar Hindi Sanskrit Vidyapeeth, Jokiya, Begusarai. The Principal Secretary will pass a reasoned order after hearing the parties within a period of six months from the date of filing of the representation. The Principal Secretary will also examined whether any person is still in service on the basis of the certificate issued by that institution.

9. With the aforesaid observation/direction this writ petition is disposed of.

(Shivaji Pandey, J)

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