

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1275 of 2015

In

Civil Writ Jurisdiction Case No.18785 of 2013

=====

Punita Kumari wife of Ram Narayan Shastri daughter of Anirudh Prasad
resident of Village Hasanpur, Bengali Math, P.O. Narsinghpur, P.S. Sakra,
District Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Commissioner cum Secretary, Human Resources Development
Department, Government of Bihar, Patna-1
3. The Deputy Director, Primary Education Government of Bihar Patna.
4. The District Magistrate, Muzaffarpur.
5. The Member, District Teacher Employment Appellate Authority,
Muzaffarpur.
6. The District Superintendent of Education, Muzaffarpur.
7. The Block Development Officer, Sakra, District Muzaffarpur.
8. The Mukhiya , Gram panchayat Raj, Sakra Wajid, P.S and Anchal Sakra,
District Muzaffarpur.
9. The Panchayat Secretary, Gram panchayat Raj, Sakra Wajid, P.S. and
Anchal Sakra, District Muzaffarpur.
10. The Head Master, Government Primary School, Nagin Musahari, P.S. and
Anchal Sakra, District Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Anish Kumar

For the Respondent/s : Mr. Vishwambhar Prasad, AC to AAG 5

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 29-08-2017

Heard counsel for the appellant and counsel for the State.

Since the appointment of the appellant was obtained on the
basis of a fake degree called Sahitya Bissarad obtained from Hindi
Sahitya Sammelan, Allahabad, which is not an educational



institution but a degree selling institution. This position has been even certified by Hon'ble Apex Court in the case of ***Rajasthan Pradesh Vaidya Samiti v. Union of India, reported in (2010) 12 SCC 609***, in paragraph 51, which is quoted herein below :

“51. At the cost of repetition, it may be pertinent to mention here that in view of the above, we have reached to the following inescapable conclusions :

(I) Hindi Sahitya Sammelan is neither a university/ deemed university nor an educational board.

(II) It is a society registered under the Societies Registration Act, 1860.

(III) It is not an educational institution imparting education in any subject inasmuch as ayurveda or any other branch of medical field.

(IV) No school/ college imparting education in any subject is affiliated to it. Nor Hindi Sahitya Sammelan is affiliated to any university/ board.

(V) Hindi Sahitya Sammelan has got no recognition from the statutory authority after 1967. No attempt had ever been made by the Society to get recognition as required under Section 14 of the 1970 Act and further did not seek modification of Entry 105 in Schedule II to the 1970 Act.

(VI) Hindi Sahitya Sammelan only conducts examinations without verifying as to whether the candidate has some elementary/ basic education or has attended classes in ayurveda in any recognized college.

(VII) After commencement of the 1970 Act, a person not possessing the qualifications prescribed in Schedules II, III and IV to the 1970 Act is not entitled to practise.

(VIII) Mere inclusion of the name of a person in the State Register maintained under the State Act is not enough for making him eligible to practise.

(IX) The right to practise under Article 19 (1) (g) of the Constitution is not absolute and thus subject to



reasonable restrictions as provided under Article 19 (6) of the Constitution.

(X) Restriction on practise without possessing the requisite qualifications prescribed in Schedules II, III and IV to the 1970 Act is not violative of Article 14 or ultra vires to any of the provisions of the State Act.”

Therefore, the learned Single Judge has committed no error by dismissing the writ application refusing to interfere with the termination of the appellant on the post of Panchayat Teacher.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

sk

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	30.08.2017
Transmission Date	NA

