

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 9004 of 2015

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Smt. Shoshita Kumari W/o Abhay Kumar, r/o Village - Bagahi, P.S. - Ghorasahan,
District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Director, Primary Education, Patna.
3. The District Programme Officer (Establishment), East Champaran.
4. The Block Education Officer, Chauradano, East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 17-08-2017

Heard learned counsel for the petitioner and the State.

2. The petitioner has moved the Court for the following

reliefs:

(a) Issuance of appropriate writ in the nature of MANDAMUS or any other appropriate writ(s), order(s) and or Direction(s) for commanding and directing the Respondents authorities not to remove the petitioner from the post of “ Panchayat teacher as she has been validly appointed in the year 2010 since then she is working on the post of teacher satisfactorily.

(b) Issuance of appropriate writ for quashing the order dated 5.12.14 vide latter no. 639, issued by the Block Education Officer, chauradano, pursuant of letter no. 960 dated 22.7.14 issued by the Director, Primary education, Bihar, Patna as well as memo no. 2876 dated 6.8.14 issued by the District Programme office, East Champaran under which the petitioner has been directed to submit show cause as she has hold degree from invalid institution Nav Bharat



Shiksha Parishad (NSP).

C. That for issuance of an appropriate writ directing the respondents to accept the degree of the petitioner as genuine and valid as in much as when the selection of panchayat teacher was made by the respondents in the year 2010 said institution was not figured under list of black listed or list of invalid institution which was published at the time of appointment, moreover the Principal Secretary get verified the degree provided from NSP, thereafter several applicants as well as the petitioner was appointed as panchayat teacher in the year 2010.

D. For grant of any other consequential or other relief/reliefs to which the petitioner is found entitled. ”

3. The petitioner has approached the Court against the show cause notice issued to him with regard to her appointment as Panchayat Teacher. Thereafter, during the pendency of the writ petition, the petitioner has also been dismissed by order dated 24.03.2015, which fact has been brought on record by the petitioner in the supplementary affidavit filed in the present case. However, the same has not been challenged.

4. Learned counsel for the petitioner submitted that though she has a certificate issued by *Nababharat Shiksha Parishad, Orissa* (hereinafter referred to as ‘NSP’), on the basis of which she has been appointed, now the authorities are raising a plea that the said institution was not recognized and accordingly she has been removed, which is not proper. Learned counsel referred to a decision of a



Division Bench of this Court dated 08.07.2015 in L.P.A. No. 1347 of 2014 in the case of **Ritesh Kumar vs. The State of Bihar & Ors.**, by which removal on such ground has been interfered with subject to further verification by the Competent Authority.

5. Learned counsel for the State submitted that the NSP is not recognized by the State of Bihar for such employment. He has also drawn the attention of the Court to order dated 06.12.2012 passed by a Division Bench of this Court in L.P.A. No. 921 of 2012 in the case of **Rashmi Prabha vs. The State of Bihar & Ors.**, in which it has been held that the writ petition was rightly dismissed as there was nothing to prove or establish that NSP is recognized by the State of Bihar for appointment to the post of Panchayat Teacher. Learned counsel submitted that pursuant to such direction, the matter was considered by the Government and by order contained in Memo No. 617 dated 17.05.2013, the then Principal Secretary of the Education Department, Government of Bihar has clearly held that persons holding a degree/certificate from NSP were not recognized for the purposes of employment. It was thus submitted that such fact both about the order dated 06.12.2012 as well as the decision of the Principal Secretary of the Department dated 17.05.2013 has not been noticed by the Division Bench in the order dated 08.07.2015 and thus, the said order is clearly *per incurium*.



6. Having considered the rival contentions, the Court does not find any merit in the present writ application. Learned counsel for the State has rightly contended that till date, any certificate/degree from the NSP is not recognized for employment as a Panchayat Teacher in the State of Bihar which has been held on 06.12.2012 by a Division Bench, of which this Court was also a member, and further, pursuant to which the Principal Secretary of the Department of Education, Government of Bihar has also passed an order holding ineligible any person possessing such certificate. The same not having been noticed in the order dated 08.07.2015, cannot be said to be a binding precedent for this Court. Thus, the Court, relying on the decision passed in L.P.A. No. 921 of 2012 dated 06.12.2012, finds no merit in the present writ application and accordingly, the same stands dismissed.

(Ahsanuddin Amanullah, J)

P. Kumar

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