

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10323 of 2013

North Bihar Para Medical And Allied Health Educational Institute Through
Its Director Having Its Head Office At Patahi Chowk, N.H. - 102, Riva
Road, Muzaffarpur

... .. Petitioner/s

Versus

1. The Union Of India Through Secretary, Ministry Of Health, Govt. Of India, New Delhi
2. The Secretary, Ministry Of Health. Govt. Of India, New Delhi
3. The Indian Nursing Council Through Its Secretary, Combined Council Building, Kotla Road, Temple Lane, New Delhi - 2 Null Null
4. The Secretary, Indian Nursing Council, Combined Council Building, Kotla Road, Temple Lane, New Delhi - 2 Null Null
5. The State Of Bihar Through Secretary, Department Of Health Services, Govt. Of Bihar, Patna
6. The Secretary, Department Of Health Services, Govt. Of Bihar, Patna

... .. Respondent/s

Civil Writ Jurisdiction Case No. 10500 of 2016

1. Manjri Kumari Wife of Navin Kumar Resident of Village+P.O-Khabra, P.S- Sadar, District Muzaffarpur, Bihar.
2. Pushpa Kumari Wife of Ajit Kumar Shahi Resident of Village +P.O +P.S.- Baruraj, District Muzaffarpur Bihar.
3. Archana Kumari Wife of Saroj Kumar Resident of Village- Siuri Gopinathpur, P.O.- Bahilbara Gobind, P.S.- Saraia, District Muzaffarpur, Bihar.
4. Ranjana Kumari Wife of Arun Kumar Thakur Resident of Village- Narayanpur, Patahi, P.S.- Sadar , District Muzaffarpur Bihar.

... .. Petitioner/s

Versus

1. The Union of India through Secretary, Ministry of Health , Govt. of Bihar, New Delhi.
2. The Secretary, Ministry of Health , Government of India, New Delhi.
3. The Indian Nursing Council through its Secretary, Combined Council Building Kotla Road, Temple Lane, New Delhi-2
4. The Secretary, Indian Nursing Council, Combined Council Building , Kotla Road , Temple Lane, New Delhi-2
5. The Secretary, Ministry of Labour Government of India, New Delhi.
6. The State of Bihar through Secretary, Department of Health Services, Government of Bihar, Patna.
7. The Secretary, Department of Health Services, Government of Bihar, Patna.

... .. Respondent/s

Appearance :



(In Civil Writ Jurisdiction Case No. 10323 of 2013)

For the Petitioner/s : Mr. Lalan Kumar

For the Respondent/s : Mr. KUMARI AMRITA

(In Civil Writ Jurisdiction Case No. 10500 of 2016)

For the Petitioner/s : Mr. Lalan Kumar

For the Respondent/s : Mr. MANOJ KR. AMBASTHA- GP14

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 06-09-2017

Short question which needs to be answered in the present writ applications is whether any qualification obtained under the *aegis* of *Bharat Sewak Samaj* can be said to be a recognized and valid qualification under the Indian Nursing Council Act, 1947 (hereinafter referred to as the Act). Answer is direct, which is in negative as is evident from the provisions of the Act, which I shall refer to after taking note of the relief, which the petitioners have sought in the present writ applications.

2. These writ applications have been filed by North Bihar Para Medical and Allied Health Educational Institute, Muzaffarpur and Manjri Kumar and others. It has been asserted that the Institute was established in the year 2010 and has been given recognition as well as affiliation by *Bharat Sewak Samaj* to run following courses leading to grant of diploma and other certificates, of specified duration:-



- “I. First Aid and Practical Nursing.
- II. Diploma in Medical Laboratory Technician
- III. Diploma in X/Ray Technician.
- IV. Diploma in Operation Theatre Technician.
- V. Diploma in Nursing Assistant.
- VI. Diploma in Homeopathic.
- VII. Diploma Certificate in Electro Homeopathic.
- VIII. Diploma in Bio Chemic and Flower Medicine.
- IX. Diploma in Hospital Management.
- X. Diploma in Multi purpose Health Worker.
- XI. Diploma in physical and occupational Thereapy
- XII. Diploma in acupuncture and naturopathy.
- XIII. Diploma in Ayurved Nursing and Pharmacy.
- XIV. Diploma in physiotherapy and Ayurved.”

3. *Bharat Sevak Samaj*, according to the petitioners, has granted affiliation to the Institute for the period 2010 to 31.05.2013.

4. The petitioners' Institute seek quashing of the decision of the Indian Nursing Council (hereinafter referred to as the Council) communicated through letter, dated 03.01.2012, wherein, it has been mentioned that *Bharat Sevak Samaj* certificate Courses, which are approved by the Ministry of Labour, Government of India are not recognized



by the Council. There is also resolution of the Council that the candidates trained under the said programme of the Government of India, being conducted by *Bharat Sevak Samaj* will not be registered in the State Nursing Council and hence will not be employed in Hospital.

5. It is the case of the petitioners that the courses, which are run under the Rules framed by the Indian Nursing Council are also of the same duration and nature as in case of the petitioners, which are affiliated and recognized by *Bharat Sevak Samaj*.

6. Mr. Lalan Kumar, learned counsel appearing on behalf of the petitioners has vehemently argued that since *Bharat Sevak Samaj* is a National Development Agency, promoted by the Government of India, the certificates/degrees granted by *Bharat Sevak Samaj*, should be accepted for the purpose of registration under the Indian Nursing Council Act.

7. The Indian Nursing Council Act, 1947 has been enacted to constitute an Indian Nursing Council in order to establish a uniform standard of training for nurses, midwives



and health visitors. Section 10 of the Act states that the qualifications included in Part I of the Schedule shall be recognized qualifications and the qualifications included in Part II of the Schedule shall be recognized higher qualifications. Sub-Section (2) of Section 10 of the Act states that any authority within the States, which, being recognized by the State Government, in consultation with the State Council, if any; for the purpose of granting any qualification, grants a qualification in general nursing, midwifery, auxiliary nursing midwifery, health visiting or public health nursing, not included in the Schedule may apply to the Council to have such qualification recognized and the Council may declare that such qualification shall be a recognized qualification for the purposes of the Act, only when granted after specified date.

8. Names of the petitioners' institution do not figure in Part I of the Act nor in Part II. It is not the case of the petitioners that any authority under Section 10(2) of the Act ever applied to the Council to have the qualification awarded by *Bharat Sevak Samaj* declared to be a recognized



qualification.

9. The relief, which has been sought for by the petitioners in the present writ applications cannot be granted, in view of clear and unambiguous provisions under Section 10 of the Act.

10. These applications have no merit and both the applications are, accordingly, dismissed.

arun/-

(Chakradhari Sharan Singh, J)

AFR/NAFR	NAFR
CAV DATE	29.06.2017
UPLOADING DATE	06.09.2017
TRANSMISSION DATE	06.09.2017

