

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1275 of 2017

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1. Chitranjan Kumar, Son of Sri Sachidanand Sing, Resident of Village Musi, P.S.- Tekari, District- Gaya, Presently posted as Peon in Ymanuna Singh, Kedar Sanskrit Primary-Cum-Middle School Mussi, Tekari, Gaya.
 2. Bhagwan Sharma, Son of Late Shyam Nandan Sharma, Resident of Village- Gangari, P.S.- Kinjar, District- Arwal, Presently posted as Peon in Surendra Kumar Sunil Sanskrit Primary-cum-Middle School Ganeyari, P.S.- Kinjar, District- Arwal.
 3. Chhabi Kant Dubey, Son of Late Shashikant Dubey, presently posted as Peon in Maa Sanskrit Shiv Ratan Sanskrit Primary-Cum-Middle School Pahari Bigha, Vasantpur, P.S.- Shakurabad, District- Jehanabad.
 4. Santosh Kumar, Son of Sri Baleshwar Singh, Resident of Village- Mananpur, P.S.- Ghoshi, District- Jehanabad, Presently Posted as Peon in Vashudev Sanskrit Primary-Cum-Middle School, Parashuram Nagar, Chainpura, Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development, Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department Govt. Bihar, Patna.
3. The Special Director Secondary Education Bihar, Patna.
4. The Chairman Bihar Sanskrit Education Board, Patna.
5. The Secretary, Bihar Sanskrit Education Board, Patna.
6. The District Education Officer, Gaya.
7. The District Education Officer, Jehanabad.
8. The District Education Officer, Arwal.
9. The District Programme Officer, (Establishment) Gaya.
10. The District Programme Officer (Establishment), Jehanabad.
11. The District Programme, Officer, (Establishment), Arwal.

.. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar, Advocate
For the Respondent/s : Smt. Shilpa Singh, GA-12
Mr. Ranjan Kumar, AC to GA-12
For the Sanskrit Board : Mr. S.S. Sundram, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 27-03-2018

Heard learned counsel for the petitioners and State.

2. The grievance of the petitioners in the present writ



application is exclusion of the post of Peon in the Middle School vide resolution dated 08.09.2015.

3. Learned counsel for the petitioners submits that in terms of Annexure-6, the State Government resolved to provide financial assistance to the School. Referring to Clause- 3 of the Resolution dated 08.09.2015, learned counsel submits that six posts of teachers including the Headmaster have been sanctioned in School and in addition thereto in recognized Sanskrit School two posts of non-teaching employees is sanctioned. He submits that in view of the resolution of the State Government dated 08.09.2015 and the previous Rule of 1976 one post of Class-IV employee is admissible in a Middle School. Referring to the resolution contained in Annexure-6, he submits that the school in question was recognized in terms of Rule 1976, which admits one post of Peon in a school, as such the respondents may be directed to consider the case of one Peon in the school in question.

4. Learned counsel appearing on behalf of the State Mrs. Shilpa Singh submits that in terms of the order contained in Annexure-R2/A i.e. the decision passed in C.W.J.C. No. 2787 of 2017 dated 13.10.2017, the respondents are making enquiry, as a Co-ordinate Bench of this Court considering the alleged arbitrariness in



the matter of grant of recommendation and financial aid to 69 school directed enquiry and as such the State Government and its officials in the Education Department are carrying enquiry in terms of the direction of this Court in C.W.J.C. No. 2787 of 2017 dated 13.10.2017. She submits that once the enquiry is complete, the respondents will take final decision with regard to the 69 schools, the subject matter in terms of the enquiry vide order dated 13.10.2017. She submits that the school of the petitioner is also within the category of 69 schools and as such until the enquiry is complete, the Education Department, Government of Bihar is not in a position to address the grievance raised in the present writ application.

5. Mr. S.S. Sundram, learned counsel appearing on behalf of Sanskrit Shiksha Board submits that in terms of 1981 Act, Sanskrit Shiksha Board was constituted and after constitution of Sanskrit Shiksha Board they are taking care of the schools imparting Sanskrit instruction up to Madhyama. He submits that in the present case, the grievance of the petitioners with regard to grant of approval is not concerned with the Sanskrit Shiksha Board, and the State Government is competent to take decision in this regard.

6. Mr. Binod Kumar, learned counsel for the petitioners has drawn the attention of this Court to Annexure-15, the decision of



the Division Bench in L.P.A. No. 366 of 2009 where the Division Bench held out that 1993 Rules have no retrospective application and the recognition of the school prior to coming into force 1993 Rules will be governed by the then existing Rules and 1993 Rules will not apply while deciding the requirement of infrastructure and other conditions for grant of recognition and as such he submits that the respondents are not justified in making enquiry and keeping the matter of approval of service of peon in abeyance, as under 1976 Rules, one post of peon was admissible in a school referring to Annexure-14 he submits that the school in question was granted initial recognition from 01.04.1976 and it was extended from time to time and as such the school is pre-1993 recognized school and as such the respondents have to admit one post of peon for the purpose of grant of approval.

7. The only issue warranting adjudication in the present writ application is whether the respondents are obliged to approve the services of peon in Pre-1993 recognized school if the Rule provides for admissibility of post of peon. Obviously, the respondents have admitted the post of one peon in 1976 as well as 2015 Rules and as such they are required to grant approval to the services of such peon in terms of the staffing pattern indicated in the



1976 Rules, even reiterated in 2016 Rules. In view of the above, the respondents cannot deny the approval of the services of peon, provided the appointment on the post of peon was made in accordance with Articles 14 and 16 of the Constitution by following due selection process i.e. after advertisement and regular selection process for such appointment.

8. If the appointment on the post of peon was made by the school in question without following the procedure consistent with Articles 14 and 16 of the Constitution, the respondents may not grant approval. The observation in the present writ application is subject to the condition that the school in question was granted recognition on 01.04.1976, which continued up to 1993. If the recognition temporarily granted on 01.04.1976 was discontinued, the petitioners cannot claim the benefit of Pre-1993 rules for the purpose of grant of approval.

9. In the totality of the facts situation, the Court directs the respondents to conclude the enquiry undertaken by the respondents pursuant to the direction of this Court in C.W.J.C. No. 2787 of 2017 dated 13.10.2017 expeditiously preferably within a period of three months from today and on completion of enquiry, the respondents are free to take action as directed by the Court in



C.W.J.C. No. 2787 of 2017 and thereafter necessary decision with regard to approval of the service of the petitioners may be taken by the respondents. The entire exercise in this regard must be completed by the respondents within a period of six months from today.

10. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.04.2018
Transmission Date	

