

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1309 of 2017
IN
Civil Writ Jurisdiction Case No. 3932 of 2016

- =====
1. The State Of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
 2. The Director, Primary Education, Govt. of Bihar, Patna.
 3. The District Programme Officer, Siwan.
 4. The District Education Officer, Siwan.
 5. The Block Development Officer, Lakrini Ganj, Siwan.
 6. The Block Education Officer, Lakrinvi Ganj, Siwan.
 7. The Block Development Officer, Hussainganj, Siwan.
 8. The Block Education Officer, Hussainganj, Siwan.
 9. The Block Development Officer, Ziradei, Siwan.
 10. The Block Education Officer, Ziradei, Siwan.
 11. The Bihar School Examination Board, through its Secretary.

.... Respondents Appellants
Versus

1. Naveen Prasad Singh son of Gurusharan Singh resident of Village : Rustampur, P.O. Hayaghat, Block Hayaghat, District : Darbhanga.
2. Hari Narain Yadav son of Shiv Nandan Yadav resident of Village : Parosiya, P.O. Mangal Gardh, P.S. Hasanpur, Sub Division Rosara, District : Samastipur.
3. Ram Dayal Jha Son of Late Krishnakant Jha resident of Village Milkee, P.O. Ladaura Dargah, P.S. Kalyanpur, District : Samastipur.

.... Petitioners.... Respondents

With

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Letters Patent Appeal No. 1310 of 2017
IN
Civil Writ Jurisdiction Case No. 4506 of 2016

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1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
 2. The Director, Primary Education, Bihar, Patna.
 3. The District Magistrate, Siwan.
 4. The District Education Officer, Siwan.
 5. The District Programme Officer (Estab.), Siwan.
 6. The Block Education Officer, Barhariya, Siwan.
 7. The Headmaster-cum-Drawing and Disbursing Officer, Government Upgraded Middle School, Paharpur, Block - Barhariya, Siwan.
 8. The Bihar School Examination Board, through its Secretary.

..... Respondents ...Appellants.

Versus



Yogendra Kumar Rai, son of Late Sakal Rai, resident of village – Bedupur, P.O. – Rampur, Binda Lal, Police Station: Ekma, District – Saran (Chapra).

.....Petitioner Respondents

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Appearance :

For the Appellants : Mr. Ram Shankar Prasad, Advocate
For the Respondents : Mr. Umesh Kumar Mishra, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 06-10-2018

These two Letters Patent Appeals have been preferred by State of Bihar, its authorities and the Bihar School Examination Board (hereinafter referred to as the “BSEB”) questioning the legality and validity of the common judgment and order dated 04.10.2016 passed by the learned writ court in CWJC No. 4506/2016 and CWJC No. 3932/2016. On the request of learned counsel representing the appellants, both the matters have been taken together for hearing in admission matters.

2. It appears that the original writ petitioners were appointed to the post of Assistant Teacher, taking into consideration their teachers training qualification. They are among the appointees whose cases were considered for appointment during pendency of the contempt application arising out of the Special Leave Petition (Civil) Nos. 22882 – 22888 of 2004. Three



years after their appointment, they were terminated from service on the grounds that the teachers training qualification obtained by them was not from an institution recognized by the State Government. These original writ petitioners had their teachers training certificates from the Non-Government Primary Teachers Training College, Balughat, Muzaffarpur. The order of termination of the original writ petitioners were passed purportedly in the light of the judgment and order of this court in CWJC No. 17899/2012 (Kanti Kumari Vs. State of Bihar).

3. On a challenge to the termination of their appointment, the learned writ court found that the foundation for the termination order was that the petitioners had obtained their teachers training qualification from an institution not recognized by the State Government but contrary to that the writ petitioners were able to demonstrate before the learned writ court a letter of the District Superintendent of Education-cum-District Programme Officer, Saran dated 10.11.2006 (Annexure-3 to the CWJC No. 4506/2016) showing that the college in question from where the petitioners had obtained their teachers training



certificate had the recognition of the State Government for the Session 1983-1985 to 1986-1988, whose examination was held on 20.09.1988. The learned writ court noticed that not only the letter of District Superintendent of Education certifies that the Non-Government Primary Teachers Training College, Balughat, Muzaffarpur had recognition and approval of the State for the Session 1983-1985 to 1986-1988, the position is also confirmed by the certificates issued by the BSEB in respect of the petitioners, copies of which were enclosed with the writ applications. The learned writ court found that the certificates of one of the petitioners in CWJC No. 4506/2016 is placed on record vide Annexure-9 to the supplementary affidavit at page 101, the certificate of the petitioners in second writ petition bearing CWJC No. 3932/2016 has been placed at page 17, 26 & 36 respectively of the second writ petition.

4. In the aforesaid view of the matter, the learned writ court while considering the submissions of the parties observed as under:

“ It can not be disputed that unless an institution has the recognition and approval of the State Government, the students from that



very institution would neither be permitted to appear in the examination held by the 'Board' nor would be granted certificate by the 'Board'. In the present case there is neither any objection by the Examination Board nor have they cancelled the certificate of passing the Teachers Training Examination.”

5. The learned writ court also found that the termination of the petitioners in the garb of the order passed by the learned writ court in the case of Kanti Kumari (supra) is wholly misconceived because the direction of this court in the case of Kanti Kumari (supra) was to examine the claim of 2317 applicants to the post which were left out after appointment of the candidates who were found eligible during pendency of the contempt application before the Hon'ble Supreme Court. The learned writ court in the case of the present writ petitioners found that the order passed by this court in Kanti Kumari (supra) in no manner gave opening to the respondents to reopen the appointment made pursuant to the Hon'ble Supreme Court direction nor there is anything on record to take away the right vested in the petitioners to continue on their posts.



6. While assailing the impugned judgment and order of the learned writ court, learned counsel representing the appellants before us has strenuously argued that the institution from where the original writ petitioners claimed to have obtained the Teachers Training Qualification was not recognized by the State Government, but at the same time, learned counsel could not controvert the existing factual position that the original writ petitioners have been granted their teachers training certificates by the BSEB and it is not the case of the appellants that the certificates brought by the petitioners on record are forged and fabricated certificates.

7. From the impugned judgment and order of the learned writ court also we find that the present appellants who were respondents in the writ petition were given ample opportunity to contest the position arising from Annexure-3 confirming the recognition of the institution. In the background of the certificate issued by the Board but the respondents- appellants could not controvert the said position. In this regard, the observations of the learned writ court are important to take note of as under:



“ This matter was taken up in July, 2016 and since thereafter has been heard on not less than nine occasions when opportunity was granted to the State to contest the position arising from Annexure-3 confirming the recognition of the institution for the Sessions 1983-85 to 1986-88 in the background of the certificate issued by the Examination Board which continues to hold the field. The matter is posted for judgment today and neither the Board counsel nor the State counsel have been able to counter the position existing at Annexure-3 as well as the fact that the certificate issued to the petitioners by the Bihar School Examination Board certifying their qualification of passing the Teachers Training Examination, has not been interfered with. ”

8. In the aforementioned circumstances where learned counsel for the appellants is unable to controvert the findings of the learned writ court, we do not find any reason to interfere with the impugned judgment and order.

9. These Letters Patent Appeals have no



merit, as such both are dismissed but without any cost.

(Mukesh R. Shah, CJ)

(Rajeev Ranjan Prasad, J)

Rajeev/-

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CAV DATE	
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