

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2417 of 2016

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Rajesh Kumar, Son of Sri Mahesh Prasad, resident of village - Rafiganj, P.S.
Rafiganj, District – Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar, through its Law Secretary.
2. The Convener, Co-ordination Committee -cum- District & Sessions Judge, Patna.
3. The District & Sessions Judge, Darbhanga.
4. The Registrar, Civil Courts, Darbhanga.
5. The Registrar General, Patna High Court of Judicature at Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No 13

For the Respondent/s : Mr. Amit Bhushan, AC to SC-17

For High Court/Civil Court : Mr. Piyush Lal, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 20-08-2018

Heard Mr. Manish Kumar, learned counsel appearing for the petitioner, Mr. Amit Bhushan, learned Assisting Counsel to Standing Counsel No.17 for the State and Mr. Piyush Lal, learned counsel appearing for the High Court and the Civil Court, Darbhanga.

The petitioner is aggrieved by the order bearing Memo No.2406 dated 29.07.2013 of the District and Sessions Judge, Darbhanga, whereby the appointment of the petitioner to the post of Clerk in the establishment of the Civil Court, Darbhanga on the basis of selection has been terminated, inter alia, on grounds that he holds the qualification of 'Sahityalankar' from Hindi Vidyapeeth Deoghar. A copy of the order is impugned at Annexure 1 to the writ



petition.

A counter affidavit was initially filed on behalf of the District Judge and Registrar, Civil Court, Darbhanga enclosing a decision of the High Court as communicated through the then Registrar (Administration) informing the District and Sessions Judge that the certificate of 'Sahityalankar' issued by the Hindi Vidyapeeth, Deoghar is not accepted as recognized qualification for appointment against Class-III post in Civil Court and which communication dated 02.07.2013 was circulated amongst the District and Session Judge across the State by the convener of the Co-ordination Committee for their information and perhaps it is following which circulation that the order impugned has been passed.

It is contesting this stand that Mr. Manish Kumar, learned counsel appearing for the petitioner has filed a supplementary affidavit placing on record, a decision of the State Government as contained in notification dated 24.08.2017, whereby the appointments/promotion resting on such qualification made as until 08.04.2016, has been saved. It was thus the submission of Mr. Manish Kumar that since undisputedly the petitioner was appointed much prior thereto and since the State Government has saved such appointment resting on such qualification as until 08.04.2016, the



order impugned cannot be upheld.

Since the decision of the High Court as reflecting from the letter of the Registrar (Administration) relied upon by the District Judge, Darbhanga for passing the impugned order did not clarify the status as to from which date such de-recognition has taken place that the High Court was arraigned as a party respondent to the case and learned counsel representing the Court(s) was allowed time to explain the situation. A counter affidavit is filed on behalf of the High Court by Mr. Piyush Lal who in reference to the statement made at paragraph 12 of the counter affidavit submits that this very issue fell for consideration before the statutory body of the High Court i.e. the Standing Committee which considered the matter on 25.6.2013 and resolved not to accept the certificate of 'Sahityalankar' awarded by the Hindi Vidyapeeth, Deoghar as a recognized qualification for appointment against Class III post in the Civil Courts of the State.

Mr. Lal responding to the clarification issued by the State Government in its notification dated 24.08.2017 enclosed at Annexure 12 to the supplementary affidavit submitted that even if the State Government has chosen to relax its stipulations for appointments made under the State, they are free to do so but their opinion does not bind the Court. He submits that the appointments



made in the High Court as well as in the Civil Court would be guided on the guidelines and resolutions adopted by the Standing Committee and since the Standing Committee has refused to accept the certificate of 'Sahityalankar' as a valid qualification certifying a Graduation degree from a recognized University, the order impugned need not be disturbed.

Learned counsel has also placed reliance on a Division Bench pronouncement of this Court in **LPA No.679 of 2016 (Nand Kishore Prasad vs. The Patna High Court)** which was heard analogous with **LPA No. 866 of 2016 (Shashi Kala Kumari vs. Chandula Kumari)** to submit that vide judgment and order passed on 27.10.2016, the issue has been settled by the Division Bench and even the issue of retrospectivity as canvassed by Mr. Manish Kumar, learned counsel appearing for the petitioner has also been answered by the Division Bench to reject the claim. He thus submits that in view of the resolution of the Standing Committee and the judgment of the Division Bench in the case of **Nand Kishore Prasad** (supra) there is no infirmity in the order impugned.

I have heard learned counsel for the parties and I have perused the records.

Though understandably reliance was placed by Mr. Manish Kumar to the clarification notification of the General



Administration Department dated 24.8.2017 to question the order impugned since the said notification saved all appointments made on the basis of the degree obtained from Hindi Vidyapeeth, Deoghar as until 8.4.2016 but the submissions of Mr. Lal in reference to the resolution of the Standing Committee as well as the judgment of the Division Bench rendered in the case of **Nand Kishore Prasad** (supra) which is point specific on the validity of graduate qualification obtained from Hindi Vidyapeeth, Deoghar for appointment in High Court and Civil Court, neither any indulgence can be granted to the issue raised nor any infirmity can be found in the termination order.

The writ petition is dismissed.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
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