

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4514 of 2017

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Parasnath Dhar Dwivedi, S/o Late Krishna Dhar Dwivedi, resident of Village: Dahanauti, P.O. & P.S. - Vijaipur, District – Gopalganj, presently working as an Assistant Teacher in Upgraded Middle School Anchal Premises Vijaipur, P.O. & P.S. - Vijaipur, District - Gopalganj. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
 2. Director, Primary Education, Government of Bihar, New Secretariat, Patna.
 3. Regional Deputy Director of Education, Saran Division, Chhapra.
 4. The District Education Officer, Gopalganj.
 5. The District Programme Officer (Establishment), Gopalganj. Respondent/s
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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar, Advocate

For the Respondent/s : Mr. Subhash Chandra Mishra- SC16

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 01-05-2018

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

2. Counsel for the petitioner placing reliance of the judgment of the Division Bench in L.P.A No. 11 of 2014 dated 27.01.2016 has submitted that the respondents cannot deny the benefit of obtaining the degree of Sahitaya Alankar from Hindi Vidyapeeth, Deoghar, in view of the fact that the petitioner has obtained higher degree of M.A. The Division Bench of this Court in L.P.A No. 11 of 2014 has discussed the issue of obtaining higher degree after obtaining Sahitya Alankar from Hindi Vidyapeeth, Deoghar. The relevant part of the judgment of the Division Bench reads as follows:-



“Here, there is no dispute that writ petitioner/appellant has a post graduate degree from a recognized University. No one can nor has anyone disputed its validity. The writ petitioner/appellant has a doctorate degree from a recognized University of Bihar. Then to say that he cannot be granted graduate trained scale of pay would be a mockery. If we were to hold that his graduation was irrelevant or illegal or not equivalent to graduation, then we would have to hold that his post graduation and doctorate are also invalid. Those degrees have been earned by the writ petitioner/appellant on his own merit. It is no one’s case and no one is contending that they are invalid too. If the writ petitioner/appellant had achieved higher qualification in the shape of MA and Ph D from recognized Universities, they cannot be either wished away or ignored. We would only like to add that whatever may be the position earlier, it is not in dispute that at a particular point of time, Sahitya Alankar from Hindi Vidyapeeth, Deoghar was granted equivalence with graduation for the purposes of joining as teacher. It is now only by virtue of the Rules of the year 2011, effectively, the equivalence has been taken away. Preceding these Rules, it was only for the first time on 27.08.2008 that the State Government issued circular by which equivalence/validity has been withdrawn. This itself presupposes that at least up to 2008, the State was recognizing Sahitya Alankar as equivalent to graduation. Any person, who had earned this citation, cannot be denied benefit but of course any person, who got it thereafter, cannot claim



equivalence.

Thus, on the reasons aforesaid and on the facts aforesaid this appeal has to be allowed. The judgment and order of the learned Single Judge as well as the order of the District Programme Officer is set aside and the writ petition is allowed with a mandamus for writ petitioner/appellant to be granted graduate trained scale of pay from the due date.”

3. In view of the discussion of the Division Bench in L.P.A. No. 11 of 2014, the case of the petitioner deserves to be allowed, as the petitioner has also obtained the degree of M.A. after obtaining the degree of Sahitya Alankar from Hindi Vidyapeeth, Deoghar. The respondents are hereby directed to consider the case of the petitioner afresh in the light of the decision of the Division Bench in L.P.A No. 11 of 2014 dated 27.01.2016.

4. In view of the above, the order as contained in Memo No.57 dated 25.01.2017 cannot sustain and it is, accordingly, set aside.

5. The writ application is allowed and disposed of in the manner indicated hereinabove.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.05.2018
Transmission Date	

