

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1424 of 2016

In

Civil Writ Jurisdiction Case No.998 of 2016

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1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna
 2. The Principal Secretary, Department Education, Government of Bihar, Patna

... .. Appellant/s

Versus

Neelam Kumari daughter of Sarwi Singh resident of village - Pahal Bigha,
P.O. Kako, District - Jehanabad

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Arvind Ujjwal SC-4 Mr. Upendra Pratap Sinha AC to SC-4
For the Respondent/s	:	Mr. P. K. Shahi Sr. Advocate Mr. Ashok Kumar Mishra Advocate Mr. Varun Kumar Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 01-05-2018

Heard learned counsel representing the appellant-State
and learned senior counsel appearing on behalf of the private
respondent.

The impugned order is dated 01.03.2016, which is being
assailed in the intra court appeal.



Learned counsel for the State seems to be correct in his stand and submission that the Learned Single Judge seems to have committed patent error in allowing the writ application by relying on an earlier observation of the Hon'ble Apex Court, which seems to have been quoted from paragraph 9 at page 5 of the impugned order, missing out a vital fact that the Hon'ble Apex Court in its order, dated 13.10.2011 had this to say with regard to the previous observation, based on which the writ court allowed the writ application.

“The second issue which has been raised by Mr. Kailash Vasdev is with regard to the examination of the certificates and other documents that may be produced by the candidate concerned at the time of counselling and appointment. In the event, during scrutiny it is found that any of the documents do not conform to the requirements, the concerned authorities will be at liberty to take appropriate steps regarding the said candidate.”

In other words, scrutiny of the documents in terms of eligibility of a candidate at the time of counselling and appointment was permitted by the Hon'ble Apex Court itself and the embargo imposed earlier no longer held the field.



In the present case, in the scrutiny, since it was found by the authorities that the institution in question, i.e., Siddhartha Primary Teachers' Training College, Jehanabad, was not given recognition by the State of Bihar, therefore, merely because results of the examination, held, were ordered to be declared or the canceled results were ordered to be restored by virtue of intervention of a Learned Single Judge of the High Court that automatically does not confer recognition on the institution.

Since the subsequent order of the Hon'ble Apex Court was very much part of the record of the Writ Court, therefore, a vital error has been committed by the Hon'ble Single Judge in allowing the writ application on the previous embargo imposed by the Hon'ble Apex Court.

A case, therefore, is made out on behalf of the State to set aside the order dated 01.03.2016 and allow the appeal.

However, the Court is the willing to remand the matter back for consideration of the Learned Single Judge on the question of validity or recognition of the institution vis-a-vis the results, which were declared, because this aspect of the matter was not dealt with keeping in view the line taken by the Learned Single Judge on the question of not permitting the authorities to reopen



the issue of appointed assistant teachers and formed the lot of 34540 list, which was initially approved by the Apex Court.

It is left open to the State as well as the private respondent to urge any other point, which may be available except the question that the authorities were not permitted to reopen such appointments for the reasons that the subsequent order and modification has been made by the Apex Court itself.

Appeal stands allowed. Writ stands remanded.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
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