

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22477 of 2014

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Saryu Tiwary, Son of Late Kedar Tiwary Resident of Village- Jhalkhoria, P.S.-
Kudra, District- Kaimur at Bhabua.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resource Development Department, Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The Regional Deputy Director of Education, Patna Division, Patna.
4. The District Programme Officer, Rohtas at Sasaram.
5. The District Programme Officer, Kaimur at Bhabua.
6. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Kislay
For the Respondent/s : Mr. Harish Kumar, GP 8

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 03-10-2018

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

This matter was earlier heard at length and in
order to provide one more opportunity to the learned counsel
for the petitioner, it was listed today.

Today, the learned counsel representing the
petitioner has made two fold submissions. Firstly, he submits
that Rules of Executive Business provides for relaxation of



statutory rules and he placed reliance on Circular of Appointment Department bearing Memo No. III/RI-1019/61A-10270, dated 25th July, 1962 to contend that the circular applies in the case of exceptional hardship. In the present case, notwithstanding the fact that the Degree of the petitioner is not valid but in terms of the provision for relaxation the Court should issue direction to the respondents to grant relaxation and consider the Degree of Sahitya Alankar as a valid degree. For ready reference, letter dated 25th July, 1962 is quoted below:-

“Copy of appointment Department’s Circular Memo No. III/RI-1019/1A-10270, dated 25th July, 1962 to all Departments of Government/ All Heads of Departments.

Subject.- Relaxation of statutory rules in certain cases of exceptional hardship.

The undersigned is directed to invite a reference to order contained in Appointment Department Memo No. III/RI-2031/59-14813, dated the 20th November, 1959 (copy enclosed) wherein it has been laid down that before any order of relaxation of any statutory rule is passed, the department concerned should consult the Appointment Department and Finance Department and also take the approval of the Council of Ministers. Doubts have been expressed as to whether the above order should be made applicable in all cases of relaxation of rules.



It is, therefore, clarified that the provision made under the proviso to Article 309 of the Constitution published with Appointment Department Notification No. III/R-12010/55A-11505, dated the 28th November, 1956 (enclosed) is intended to apply only to such rules relating to service condition in which there are no express provisions for relaxation. Where there is a provision for relaxation in the relevant rule itself the procedure envisaged in the Memo No. III/RI-203/59/14813, dated the 20th November, 1959 of this Department will not apply. Also for relaxation of the rules enumerated in the annexed schedule the procedure outlined in the above mentioned memo will not apply.”

As per submission of learned counsel for the petitioner, the letter has to be construed as introducing relaxation to the effect of infusing validity to an invalid degree.

The Court is unable to accept the contention of the petitioner that in terms of the circular for relaxation the petitioner deserves consideration for grant of promotion by treating the invalid degree as valid. In view of the above, the first contention of the petitioner does not merit any consideration and is rejected.

The second limb of argument of the petitioner with reference to the notice issued by the Secretary, University



Grants Commission, dated 19th July, 2016 as to equivalence of degrees is concerned. The submission is thoroughly misconceived. The letter of Secretary, University Grants Commission dated 19.07.2016 is quoted below for ready reference:-

“No. F.9-3/2016(CPP-II)

19th July 2016

“PUBLIC NOTICE ON EQUIVALENCY OF DEGREES

The University Grants Commission specifies degrees as defined under section 22 of the UGC Act, 1956. Such degrees can be awarded only by a University established or incorporated by or under a Central Act, a provincial Act or a State Act or by an Institution Deemed to be University established under Section 3 of the UGC Act, 1956.

Equivalence of degrees, diplomas, certificates etc. are not determined by the UGC. In the case of higher education, equivalence is decided by the University concerned and in cases of employment, promotion etc. equivalence is decided by the employing organization.

The UGC Act, and Rules and Regulations made thereunder are available on UGC website www.ugc.ac.in.

Sd/-

(Jaspal S.Sandhu)

Secretary

The aforesaid notice is absolutely inapplicable in the present case. Degree of Sahitya Alankar from Hindi Vidyapeeth, Deoghar cannot in any view be considered as valid degree after the judgment of this Court and as such the Court cannot issue any direction in favour of the petitioner for



grant of promotion to the petitioner on the strength of the aforesaid degree.

In the totality of the circumstances, the Court does not find any merit in the writ application. It is accordingly dismissed.

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
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