

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1557 of 2015

In
Civil Writ Jurisdiction Case No.15313 of 2008

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1. Satyendra Kumar Mishra son of Late Jaleshwar Mishra, resident of village Akhtiyarpur Patedha, P.S.- Sarai, Dist.- Vaishali
 2. Madhuri Kumari, wife of Sanjay Kumar and daughter of Sri Ram Sakal Singh, resident of Muhalla Sikandarpur in front of Old Radha Temple, PS- Muzaffarpur, Dist.- Muzaffarpur

... .. Appellant/s

Versus

1. Bihar School Examination Board, Patna through its Secretary
2. The Chairman, Bihar School Examination Board, Patna
3. The Secretary, Bihar School Examination Board, Patna
4. Firangi Rai Primary Teachers Training College, Bairia Chowk, Muzaffarpur through its Principal
5. The Principal, Firangi Rai Primary Teachers Training College, Bairia Chowk, Muzaffarpur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Mrityunjay Kumar, Adv.
For the Respondent/s	:	Mr. Piyush Lall, Adv.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-02-2018

Seeking exception to an order dated 20th of July, 2015, passed by the learned Writ Court in C.W.J.C. No.15313 of 2008, this appeal has been filed under Clause 10 of the Letters Patent.

The said writ petition was disposed of in terms of an order already passed under the identical situation on 9.2.2012 in C.W.J.C. No.16350 of 2011 wherein this Court found that once the



petitioner acquired the qualification from an Institute which was un-recognized for the session in question, no mandamus can be issued for declaring the result of the petitioner and in cancelling the result on such consideration the departmental authorities have not committed any error.

A co-ordinate Bench of this Court has considered the issue in L.P.A. No.1278 of 2011 and various other cases and by a detailed order dated 2.11.2017 it has been held that once the candidate has acquired the qualification from an institute which was un-recognized for the session in question indulgence into the matter with regard to the cancellation of the result cannot be interfered with.

In the order passed by the Co-ordinate Bench on 2.11.2017 in L.P.A. No.1278 of 2011, the issue has been discussed from para-12 onwards up to para 16 in the following manner:

12. We have heard counsel for the parties and considered the rival submissions of the parties. Since the only issue involved in this case is whether the writ court was justified in issuing direction for issuance of certificate in favour of the petitioners who appeared from a institution which was never recognised was justified or not?

13. It is now well settled that constitutional Court while exercising jurisdiction under Article 226 of the Constitution are expected to exercise discretion in accordance with law as courts are required to do justice according to law. For issuance of mandamus or direction including the direction for



issuance of certificate, it is condition precedent that the petitioners must establish lawful right for issuance of certificate.

14. From the pleading of the parties and materials available on record, it is not in dispute that the petitioners have appeared from an institution which was never recognised and if the institution is not recognised the examination conducted by the Examination Board will not confer lawful right in favour of the writ petitioner as the Court can issue direction for the performance of statutory duty or lawful duty in furtherance of statutory or legal right. Undisputedly, there is no statutory right in favour of the petitioners nor any legal right or right in equity accrued in favour of the writ petitioners as they appeared on their own volition and peril from an institution which was never recognised and as such the writ court was not justified in issuing direction for issuance of original certificate of passing of training in their favour. The original certificate of training presupposes recognised training certificate and as such recognised training certificate presupposes training from a recognised institution.

15. In the present case we find that none of the writ petitioners have undergone teachers training in a recognized institution and as such, they have not acquired statutory right, legal right or any right in equity. In the aforesaid circumstances, the writ court was not justified in issuing direction for issuance of certificate as it would amount to giving seal of validity and recognition to an unrecognized teachers training institution.

16. In the facts and circumstances of the case, we find that the writ court has committed error of jurisdiction in issuing direction for issuance of certificate of training to the writ petitioners who have not undergone training in recognized teacher training college. Accordingly, we set aside the orders dated 13.8.2007 and 27.6.2014 passed by the writ court in CWJC No. 5444 of 2007 CWJC No. 15468 of 2009 respectively."



and we find no error in the order passed by the learned Writ Court warranting re-consideration.

The appeal, therefore, stands dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

K.C.Jha/-

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