

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14138 of 2014

-
1. Md. Alauddin Azmi and Ors S/o Late Azeemuddin resident of Mohalla - Gagandiwan, P.O. - Biharsharif, P.S. - Laheri, District - Nalanda.
 2. Md. Idris Azad S/o Mohammad Khidmat resident of Mohalla - Aziz Ghat, Biharsharif, District - Nalanda.
 3. Md. Shaukat Ali S/o Mohammad Nasim Ahmad Resident of Mohalla - Aziz Ghat, P.S. - Bihar, P.O. - Biharsharif, District - Nalanda.
 4. Balmiki Prasad Singh S/o Late Ram Chandra Prasad Singh resident of village Mehar Par, P.O. - Rana Bigha, P.S. - Laheri, District - Nalanda.
 5. Md. Nazim Raza S/o Md. Ishaque Ahmad Resident of Mohalla - Mahalpar, P.O. - Biharsharif, P.S. - Bihar, District - Nalanda.
 6. Shafaet Ahmad Khan Suri S/o Hakim Abdul Ghaffar Khan Resident of Mohalla - New Mirdad, Millat Manzil, P.O. Biharsharif, P.S. - Bihar, District - Nalanda.
 7. S.M. Shahid S/o Late S.M. Ishaque Resident of Mohalla - Kagzi, P.O. Biharsharif, P.S. - Bihar, District - Nalanda.
 8. Md. Shamim Zafar S/o Md. Jafar Sadique Resident of village and P.O. - Mohuni, P.S. - Barbiga, Via - Barbiga, District - Nalanda at present Mohalla - New Mirdad, P.O. - Biharsharif, District - Nalanda.
 9. Azra Khatoon D/o Habib Ahmad Resident of Chandni Chowk Burha Nagar Islampur, P.O. - Islampur, P.S. - Islampur, District - Nalanda.
 10. Arfa Khatoon D/o S. Nasim Ahmad Resident of Mohalla Bari Pahari, P.S. - Laheri, P.S. - Sohsarai, District Nalanda.
 11. Mohammad Shamimuddin Shams S/o Late MD. Ishanuddin resident of Mohalla Banauliya Biharsharif, P.O. - Biharsharif, P.S. - Bihar, District - Nalanda.
- Petitioner/s

Versus

1. The State of Bihar
2. The Secretary cum Commissioner, Human Resources Development Department, Govt. of Bihar, New Secretariat
3. The Director, Human Resources Development Department, Govt. of Bihar, New Secretariat, Patna.
4. The Joint Secretary, Department of Education, Bihar, Patna.
5. The District Education Officer, Biharsharif, Nalanda.
6. The District Programme Officer Establishment, Nalanda at Biharsharif, District - Nalanda.
7. The Prakhanda Siksha Padadhikari, Rajgir, Nalanda.
8. Mithilesh Kumar Sinha, Son of Late Vishnu Charan, Resident of at and P.O.- Hisua, P.S.- Hisua, District- Nawada.
9. Syed Mairaj Ahmad, Son of Syed Nasim Ahmad, Resident of Mohalla- Burhan Nagar, P.O. and P.S.- Islampur, District- Nalanda.
10. Rajendra Prasad, Son of Late Sita Mahto, At and PO- Dharhra, Silao, District- Nalanda.
11. Chandra Bhanu Kumar, Son of Late Sita Mahto, At and PO Dharhra, Silao, District- Nalanda.
12. Arun Kumar, Son of Late Ram Bilas Singh Yadav, Resident of Village- Alipur, P.O.- Bisai Bigha, P.S.- Parwalpur, District- Nalanda.
13. Surendra Kumar, Son of Yogendra Prasad, Resident of Mohalla- Bari Pahari, P.O.- Sohsarai, District- Nalanda.



14. Md. Haroon Rasheed, Son of Md Zehoor Hassan, Resident of Mohall- Kaghzi, P.S. and P.O.- Bihar Sharif, District- Nalanda.
15. Arvind Kumar Yadav, Son of Mahavir Yadav, Resident of Village- Mathurapur, P.O.- Bhaganbigha, P.S.- Noorsarai, District- Nalanda.
16. Md Asif Ali Ansari, Son of Md. Saddique Ansari, Resident of Mohalla- Baignabaad, P.O.- Bihar Sharif, District- Nalanda.
17. Anil Kumar, Son of Late Saryug Prasad Singh, Resident of Village- Bhagan Bigha, P.S.- Rahui, District- Nalanda.
18. Surendra Narayan Sinha, Son of Late Ram Lakhan Das, Resident of Village P.O.- Bele, P.S.- Islampur, District- Nalanda.
19. Md Parvez Ahmad, Son of Md Abdul Rahim, Resident of Mohalla- Sherpur, P.S. and P.O.- Bihar Sharif, District- Nalanda.
20. Sudhanshu Kumar, Son of Sri Ram Balak Kumar, Resident of Mohalla- Udantpuri Gardhpar, P.S.- Bihar Sharif, District- Nalanda.
21. Md Azam, Son of Md Kalim Uddin, Resident of Mohalla- Sahokhar, P.S.- Sohsarai, District- Nalanda.
22. Md. Farooque Azam, Son of Md Umar, Resident of Mohalla- Chhajju Khari Kuan, P.S.- Bihar Sharif, District- Nalanda.
23. The Soghra College of Education, Bihar Sharif Nalanda represented through the Secretary.
24. Syed Saifuddin Sajjadanasin, The Secretary of Soghra College of Education, Bihar Sharif Nalanda. Resident of Mohalla- Khanquah, P.S.- Laheri, P.O.- Bihar Sharif, District- Nalanda.
25. Mr. Sagir Ahamad, The Principal of Soghra College of Education, Bihar Sharif Nalanda.
26. The Magadh University, Bodh Gaya, Dist- Gaya through the Registrar.
27. The Vice Chancellor, Magadh University, Bodh Gaya, Dist- Gaya.
28. The Registrar, Magdh University, Bodh Gaya, Dist- Gaya.
29. Jainendra Kumar S/o Ram Suhaban Singh R/o Village-Ward No.6, Maksudpur, P.S. Shahjahanpur Distt. Patna, Working as Assistant teacher Middle School, Maksudpur, Patna. Respondent/s

with

Civil Writ Jurisdiction Case No. 21954 of 2014

1. Md Imamuddin S/o Md. Mohiuddin Shams Resident of Mohalla - Ashanagar, P.S. and P.S. Sohsarai, District- Nalanda.
2. Biresh Kumar S/o Jugeshwar Mahto Resident of Mohalla - Ashanagar Talavpar, P.S. and P.S. Sohsarai, District- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary cum Commissioner, Human Resources Development Department, Govt. of Bihar, New Secreta
3. The Director, Human Resources Development Department, Govt. of Bihar, New Secretariat, Patna.
4. The Joint Secretary, Department of Education, Bihar , Patna
5. The District Education Officer, Bihar Sharif Nalanda.
6. The District Programme Officer, Establishment Nalanda at Bihar Sharif, District- Nalanda.
7. The Prakhand Siksha Padadhikari, Rajgir, Nalanda.



8. The Soghra College of Education, Bihar Sharif, Nalanda represented through the Secretary
9. Syed Saifuddin Sajjadanasin, the Secretary of Soghra College of Education, Bihar Sharif Nalanda
10. Mr. Sagir Ahamad, the Principal of Soghar College of Education, Bihar Sharif Nalanda
11. The Magadh University, Bodh Gaya, Dist- Gaya Through the Registrar
12. The Vice-Chancellor, Magadh University, Bodh Gaya, Dist -Gaya
13. The Registrar, Magdh University, Bodh Gaya, Dist - Gaya.

... .. Respondent/s

=====

Appearance :

(In Civil Writ Jurisdiction Case No. 14138 of 2014)

For the Petitioner/s : Mr.Raj Kishore Prasad Singh

For the Respondent/s : Mr.Gal- Shyam Kishore Sharma

(In Civil Writ Jurisdiction Case No. 21954 of 2014)

For the Petitioner/s : Mr.Raj Kishore Prasad Singh

For the Respondent/s : Mr.Sc26- Amar Nath Deo

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 20-02-2019

This matter was heard at length on different occasions.

Considering the issue involved in the present application, the Court is of the considered view that the State is State and is expected to follow the uniform policy in its decision making process. The State is not expected to treat its citizens differently.

The Apex Court has occasion to laid down law in this regard. Reference may be made to the judgment of the Apex Court in the case of **R.D. Shetty vs. IAAI & Ors reported in AIR 1979 Supreme Court 1628** where the Apex Court has held out that State is State even in the matter of commercial activities and cannot adopt two different yardsticks even in the matter of distribution of larges and bounty. It can not adopt two different yardsticks and extend favour to the blue eyed people. If the degree of the teachers training from Sogra college is not valid degree, the same shall not be



considered as valid degree for appointment of any candidate and if some of the degree holders of Sogra college were appointed on the basis of same degree, the State is not expected to adopt different yardsticks.

The aforesaid action of the State in treating differently the degree holders of Sogra College is violative of Article 14 and 16 of the Constitution. It also runs contrary to the professed litigation policy i.e. 2011. It may not be out of place to mention here that **Justice Frankfurter of U.S. Supreme Court** has the occasion to lay down the principle in the famous case of law **literalli vs. Saton 359 us 535** which was followed by Indian Courts settled principles of administrative law, if a public functionary professes a policy it has to follow it religiously and any departure from such policy is only at the pain of invalidation. The litigation policy 2011 is declaration of State action in similar matter. Para-4© of the litigation policy 2011 is quoted below to appreciate the object of litigation policy;

“A good number of cases are from the category of similar cases. Each Government Department will aim to consider and settle the claim of the representationist/applicant employee/citizen, if the claim is found covered by any decision of the Court. Many service matters of this nature can be disposed of at the level of the Department itself without compelling litigant to become to the court. In this manner, the Government Department would be acting as efficient litigants.”



Considering the litigation policy 2011 4(c) and also the judgment of the full bench reported in **2018 (2) PLJR 929** the decision of the apex court in **R.D. Shetty (Supra)** the Court is constrained to direct the State to either allow the teachers with teachers training from Sogra College as validly appointed or to remove all such teachers if the State does not recognize such training degree as valid degree after following the principle of natural justice within a maximum period of six months from today.

Having regard to the nature of issue involved in the present proceeding the all applications for intervention stand allowed and disposed of in the light of the order passed hereinabove.

The I.A. No. **08 of 2019** is permitted to be withdrawn to enable the counsel for the applicant to file substantive application for contempt for violation of the order passed by this court.

With the aforesaid, the present application stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

U			
---	--	--	--

