

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1745 of 2016

In
Civil Writ Jurisdiction Case No.201 of 2016

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1. Narendra Prasad Singh, son of Late Bhola Singh, resident of Village- Matiour, P.O.-Matiour, P.S.-Mohiuddin Nagar, District-Samastipur at present working and posted as Assistant Teacher Upgraded Middle School Siarikaran Block Braharia, District Siwan.
 2. Ashok Kumar, son of Sushil Kumar Rai, resident of Village- Jallapur, P.O.- Jallapur, P.S.-Patori, District- Samastipur at present working and posted as Assistant Teacher Upgraded Middle School Nagri (Basaw), Block Basantpur, District- Siwan.

... .. Appellants

Versus

1. The State of Bihar through Principal Secretary, Education Department, Bihar, Patna.
2. Joint Secretary, Education Department, Bihar, Patna.
3. Director, Primary Education, Bihar, Patna.
4. District Education Officer, Siwan, District- Siwan.
5. District Programme Officer (Establishment), Siwan, District- Siwan.
6. Block Education Officer, Barharia, District- Siwan.
7. Block Education Officer, Basantpur, District Siwan.
8. Bihar School Examination Board, Patna through its Secretary.

... .. Respondents

Appearance :

For the Appellants	:	Mr. Gyanendra Prasad Shukla, Advocate Mr. Sanjeev Kumar, Advocate Mr. Md. Shahnawaz Ali, Advocate
For the Respondents-State:		Mr. Uday Prasad, AC to GP-22

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

and

HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 19-11-2019



Heard learned counsel for the appellants and learned counsel for the State.

2. This appeal is directed against the judgment and order dated 04.08.2016 passed by the learned single Judge in CWJC No.201 of 2016 whereby the writ petition challenging the order dated 12.09.2015 passed by the District Programme Officer, (Establishment), Siwan whereby the services of the appellants were terminated in pursuance of Letter No.412 dated 24.06.2015 issued by the Joint Secretary, Education Department, Bihar, Patna has been dismissed.

3. Learned counsel appearing for the appellants submitted that the judgment passed by the learned single Judge is patently illegal and manifestly perverse. He has failed to appreciate that the appellants were appointed as per the direction of the Supreme Court and, therefore, they could not have been removed from the service. He has also failed to appreciate that the appellants were imparted proper training and they appeared in examination conducted by the Bihar School Examination Board (for short 'the Board'), Patna.

4. On the contrary, learned counsel appearing for the respondent-State submitted that the order under challenge passed by the learned single Judge does not suffer from any



illegality or perversity. It is not in dispute that the appellants obtained their appointment as Assistant Teachers on the basis of their training certificate from Lord Budha Mission Teachers Training College, Kartaha at Vaishali (for short 'Institute'). The said Institution is admittedly an unrecognized Institution. The Supreme Court had also occasion to examine the legality of the certificate issued by the said Institution and it had held that the Institute is unrecognized. He contended that in that view of the matter, the learned single Judge has rightly dismissed the writ petition.

5. We have heard the parties and carefully perused the record.

6. Though, the appellants had made several prayers in the writ petition, the main issue involved in it was the validity of teachers training course of the appellants from the Institute in question.

7. It would appear from the record that in CWJC No.6132 of 1999 and CWJC No.6612 of 1991, the issue of the Institute in question was under consideration. This Court had passed order to permit the students of the concerned Institute to appear at the examination at their own risk and also for publication of their result. However, it was with the caution to



the concerned students that the same could abide by the decision taken on the point of recognition. Further, in the matter of publication of the result pertaining to 1985-87 and 1986-88 sessions of Teachers Training course with effect to the Institute in question in CWJC No.9738 of 2009, this Court had allowed the prayer of the petitioners directing thereby the Board to publish the results of the 1985-87 and 1986-88 session. Since the Institute in question had never been granted recognition, the administration of the Board did not take any step in order to get the result of the said college in question is processed and published. Therefore, after exhausting the remedy of intra-court appeal, the Board moved before the Supreme Court and filed SLP (C)No. 8918 of 2012, which was allowed, vide order dated 23.08.2013 passed in Civil Appeal No.7132 of 2013.

8. In its order, the Supreme Court observed: *“This appeal is directed against the judgment and order passed by the High Court of Judicature at Patna in LPA No.429 of 2010, dated 21.06.2011. By the impugned judgment and order, the High Court has directed the Bihar School Examination Board-appellant herein to declare the results of the students studied in an unrecognized college”*.

9. The Supreme Court further observed, *“It is not*



in dispute nor it can be disputed by the respondent-herein that they have studied in an unrecognized college. If that is so, in our opinion, the High Court was not justified in directing the Bihar School Examination Board to declare the results of the students who have studied in an unrecognized college. In view of the aforesaid, the impugned judgment and order passed by the High Court cannot be sustained and the same requires to be set aside”.

10. Taking into account the aforesaid order dated 23.08.2013 passed by the Supreme Court, the Education Department, Government of Bihar, vide its order dated 24.06.2015, issued under the signature of Joint Secretary, Education Department resolved to disqualify the candidature of the students of all sessions attaining certificate of training from the Institute for being selected as a teacher.

11. Apparently, the certificates obtained through the said unrecognized Institute was not valid for the purpose of employment as teachers and it was accordingly relying upon the aforesaid decisions of the Joint Secretary dated 24.06.2013, the appointment of the petitioners had been cancelled by the District Programme Officer, vide Letter No.3191 dated 12.11.2015.

12. Considering the aforesaid facts, the learned



single Judge dismissed the writ petition, vide judgment under challenge dated 04.08.2016. The operative part of the said order reads as under:-

“12. Besides the above material, a recent order passed by the Hon’ble Apex Court has also been brought on record in the counter affidavit, filed on behalf of the Bihar School Examination Board. The order in question is Annexure-B and it relates to Civil Appeal No.7132 of 2013. This order clearly indicates that any person or student who has studied in an unrecognized college, had no right of declaration of his result or that even if such a result has been issued by the Bihar School Examination Board on the orders of the High Court, such results are non est in the eye of law.

13. The facts are not a matter of controversy. The order and the opinion of the Hon’ble Apex Court is no longer a matter of debate. Since the institution in question is unrecognized, therefore, the results as well as the certificates for training issued from such institution cannot help the petitioners to continue on the post of Assistant Teacher even though they were beneficiaries of a deliberation and exercise done by the Hon’ble Supreme Court, which led to their appointment.



14. The decisions, therefore, are not arbitrary nor do they suffer from any kind of irrationality. The reasoning given therein are, therefore, legal, valid and cogent and do not require any interference at all at the level of the High Court. Whatever opinion may have been expressed by a learned Single Judge in some other writ applications are of no avail as the learned Single Judge was not assisted fully and fairly in the matter, which led to passing of such orders. Such orders cannot form a binding precedent in the case of the present petitioners in any manner in view of subsequent developments and orders of the Apex Court.”

13. On the facts and in the circumstances of the case, we are of the opinion that since there is no dispute that the Institute in question is unrecognized and the Supreme Court itself has indicated in Civil Appeal No.7132 of 2013 that any person or student who has studied in an unrecognized college, had no right of declaration of his result or that even if such a result has been issued by the Board on the orders of the High Court, such results are non est in the eye of law, no illegality can be found with the judgment dated 04.08.2016 passed by the learned single Judge dismissing the writ petition filed by the appellants.



14. The appeal, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

(Anil Kumar Sinha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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