

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16198 of 2012

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1. Baidyanath Sharma S/O Sri Mahanand Sharma, Resident Of Village-Benaika Pali, P.S- Kadirganj, District- Patna, At Presently Posted As In Charge Headmaster In Mahanda Samadar Middle School, Lalji Tola, Patna.
 2. Mithlesh Sharma S/O Late Prasidhya Singh Resident Of Village-Vishambharpur, P.S- Bikram, District- Patna, At Presently Posted As In Charge Ehadmaster, Kanya Madhya Vidyalaya, Punaichak, Patna.
 3. Kamleshwar Prasad Singh S/O Late Harinandan Singh Resident Of Village-Vishambharpur, P.S- Bikram, District- Patna, At Presently Posted As In Charge Headmaster, Middle School, Sheikhpora, Patna.
 4. Anil Kumar Dwivedi S/O Late Vidyanand Dwivedi Resident Of Village-Gangachak, P.S- Bikram, District- Patna, At Presently Posted As In Charge Headmaster, Boys Middle School, Adalatganj, Patna.
 5. Arbind Kumar Singh S/O Late Nathuni Prasad Singh Resident Of Village-Bhaiswan, P.S- Masaurhi, District- Patna At Presently Posted As In Charge, Headmaster, Sri Ramadhar Singh Sarvodaya Middle School, Punaichak, Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Human Resources Development Department, Government Of Bihar, Patna.
3. The Director Primary Education, Education Department, Government Of Bihar, Patna.
4. The District Education Officer, Patna.
5. The District Program Officer, Establishment, Patna.
6. Arvind Kumar son of Not known petitioner, R/O Harijan Middle School, Badh, District Patna.
7. Sahjanand Sinha son of not now petitioner, R/O Middle School Salempur, Dumra, Patna Sadar, District Patna, for both Respondent No. 6 and 7 through District Programme Officer (Establishment), Patna, District Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dinu Kumar, Adv.
For the Respondent/s : Mr.Manish Kumar Sinha, AC to GA 9.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 30-04-2019

The present writ petition has been filed for directing the



respondents to include the name of the petitioners in the seniority list of teachers prepared for the purposes of promotion to the post of Headmaster from the due date of the vacancies, in accordance with the Bihar Government Primary School Teachers Promotion Rule, 1993. The petitioners have also prayed for quashing the seniority list dated 29.05.2010 qua the private respondents no.6 and 7.

2. The learned counsel for the petitioners has submitted that the only ground for depriving the petitioners from promotion is that they have enhanced their qualification and obtained higher qualification while working as teachers, without permission, hence, the respondents have precluded them from the zone of consideration by treating them as having not obtained the higher professional qualification. It is further submitted that the stand taken by the respondents is not correct inasmuch as the respondents themselves by memo dated 1.8.1991 issued by the office of the District Superintendent of Education, Bihar, Patna had granted permission to the petitioners to participate in M.A./M.Sc. examination, hence, the contention of the respondents that no permission was taken for the purposes of appearing in M.A./ M.Sc. examination is not correct, thus it is submitted that none of the contentions of the



respondents to the effect that the said enhanced qualification cannot be used for the purposes of considering the case of the petitioners for promotion is not correct. The learned counsel for the petitioners has also relied upon a judgment of a co-ordinate Bench of this Court dated 05.08.2010 passed in CWJC No.5983 of 2010 (Gayatri Kumari vs. The State of Bihar & Ors.) and other analogous cases, relevant paragraphs whereof are reproduced herein below:-

“ It appears that in the district of Nawada and other places, a controversy was started by State Officials whereby the Panchayat Teachers, who had obtained Intermediate qualifications showing themselves to be regular students, were not recognized by district authorities on the ground that being regular Teachers, they could not have attended regular classes. Petitioners have various explanations with regard to attending Intermediate classes in morning shift and otherwise. Notwithstanding that as their Intermediate certificates were not being recognized and the period of thirty months having expired, they all have been dismissed. It is this dismissal that is under challenge.

Having heard the parties and with their consent, the writ petitions are being disposed of at this stage itself as the facts are



not in dispute.

The first thing that the Court notices is that the Government required the Shiksha Mitra/ Panchayat Tacher to enhance their educational qualification. That was the object of the exercise. It is not disputed that the petitioners have enhanced their educational qualification accordingly. It is also not in dispute that the mark sheet and the passing certificate granted by the Bihar Intermediate Education Council are genuine and not forged or fraudulent. Once the Bihar Intermediate Education Council recognizes the academic standard of the petitioners and grants the certificate then, in my view, it does not lie upon the authorities not to recognize the same. The Bihar Intermediate Education Council is an autonomous statutory body and having granted the certificate, it is they who can cancel it and no other authority, at least in the State of Bihar, can ignore the same or take away its efficacy in any manner.

For the reasons aforesaid, the decision of the District Superintendent of Education, Nawada is treating the same to be invalid for the purposes of continuing in service cannot be sustained and, as such, the impugned order dated 15th October, 2009 of the District Superintendent of Education, Nawada is set aside. The inevitable



consequence thereof would be that the termination of the petitioner's service as Panchayat Teachers would consequently be held to be bad and ineffectual. Petitioners would be deemed to be continuing in service validly for all purposes. The writ petitions are, accordingly, allowed."

3. Per contra, the learned counsel for the respondents has only submitted that since the petitioners have obtained the enhanced qualification while working on the post of Assistant teachers, the said enhanced qualification of the petitioners have not been considered for the purposes of promotion.

4. Having regard to the facts and circumstances of the case and considering the fact that the petitioners have already been granted permission for appearing in the examination vide order dated 1.8.1991 as also considering that the present case is squarely covered by a judgment of a co-ordinate Bench of this Court passed in the case of Gayatri Kumari & Ors (supra), the present writ petition is allowed and the respondents are directed to consider the case of the petitioners for grant of promotion from the date, the private respondents no. 6 and 7 have been granted promotion as also considering the date of obtaining the M.A./ M. Sc. qualification.

5. Accordingly, it is directed that the consequences



shall follow.

6. The writ petition stands allowed.

7. The exercise required to be carried out as a result of allowing of the present writ petition should be completed within a period of six months from the date of receipt/ production of a copy of the present order.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

