

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.757 of 2018
In
Civil Writ Jurisdiction Case No.234 of 2017

1. Harendra Ojha son of Late Raj Nandan Ojha, R/O village P.O. - Dhatigana Tola, Kishunpur, P.S. - Thave, Distt. - Gopalganj.
2. Barister Choudhary, son of Nawab Choudhary, R/O village - Mishrali tola Mul Toli, P.S. - Mirganj, Koyladew, Distt. - Gopalganj.
3. Md. Kabul Ahmmed, Md. Kabul, son of Late Abdul Teni Mian, R/O village - Sareya, P.S. P.O. - Gopalganj, Distt. - Gopalganj.
4. Hasib Ansari, son of Late Mohbub Ansari, R/O village - Kaithwali, P.O. P.S. - Gopalganj, Distt. - Gopalganj.
5. Baijnath Manjhi, son of Late Raghunandan Manjhi, R/O village - Haziyaपुर, P.S. P.O. - Gopalganj, Distt. - Gopalganj.
6. Beni Tiwari, son of Late Nabab Tiwari, R/O village - Sawanaha, P.O. - Bathua Bazar, P.S. - Phulwariya, Distt. - Gopalganj.
7. Sri Kishun Prasad, son of Surya Sah, R/O village P.O. - Mirzapur, P.S. - Barauli, Distt. - Gopalganj.
8. Md. Salim, son of Late Suleman Mian, R/o village - Haziyaपुर, P.S. P.O. - Gopalganj, Distt. - Gopalganj.
9. Dharmanath Sah, son of Late Sukdeo Sah, R/O village - Kawhi, P.S. - Jagarnath, Distt. - Gopalganj.
10. Nasir Hussain, Son of Late Jalaludalin, resident of village - Kahla, P.O. - Kohla, P.S. - Barauli, Distt. - Gopalganj.
11. Mahanth Choudhary, son of late Daroga Choudhary, R/O village - Haziyaपुर, P.S. P.O. - Gopalganj, Distt. - Gopalganj.
12. Manoj Prasad, Son of Bhagwan Ji Sah, R/O village - Haziyaपुर, P.S. P.O. - Gopalganj, Distt. - Gopalganj.
13. Nathuni Choudhary, son of Late Jati Choudhary, R/O village - Paithan Pathi, P.O. - Vishnu Sugar mills, P.S. - Thave, Distt. - Gopalganj.

... .. Appellant/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Personnel and Administrative Department, Govt. of Bihar at Patna.
3. The Commissioner, Saran Division, Saran at Chapra.
4. The District Magistrate, cum Collector, Gopalganj.
5. The Deputy Collector, Establishment, Gopalganj.
6. The Civil Surgeon, Gopalganj.
7. The District Employment Officer, District Employment Exchange, Gopalganj.



8. Shyamjeet Prasad, Son of Late Mangal Prasad, resident of Village Balua Tola, P.O. Maniyara, District- Gopalganj.
9. Ratan Kumar Parit, Son of Bado Parit, resident of Village- Sareya Ward NO. 13, P.O. and P.S. and Distt.- Gopalganj.
10. Harendra Singh, Son of Manth Singh, resident of Village- Sundar Parit, P.O. and P.S. and Distt.- Gopalganj.
11. Surendra Prasad, Son of Mangal Prasad, resident of village - Sareya Bherihari tola Ward No. 11, P.O. and P.S. and Distt. - Gopalganj.
12. Suresh Ram, Son of Ramadhar Ram, resident of village - Mathiya Handi, P.S. - Kuchaikote, Distt. - Gopalganj.
13. Satendra nath Tiwari, Son of Late Kashinath Tiwari, resident of village and P.O. - Repura, P.S. - Mirganj, Distt. - Gopalganj.
14. Chhathu Singh, Son of Late Vishwanath Singh, resident of village - Parsauni Khash, P.O. - Manboth Parsauni, Distt. - Gopalganj.
15. Shivnath Ram, Son of Nathuni Ram, resident of village - Kathgharwa, P.S. - Bishambharpur, Distt. - Gopalganj.
16. Umesh Tiwari, Son of Gopal Tiwari, resident of village - Sareya Ward No. 1, P.O. and P.S. and Distt. - Gopalganj.
17. Ramlal Ram, Son of Late Guljar Ram, resident of village - Haziyaapur, P.S. and Distt. - Gopalganj.
18. Tejbahadur Shahi, Son of Jagarnath Shahi, resident of village - Bathani, P.S. - Kuchaikote, Distt. - Gopalganj.
19. Kanti Devi, Son of Gopal Lal Shrivastava, resident of village - Chhapiya, P.O. and P.S. and Distt. - Gopalganj.
20. Bashdeo Pd. Yadav, Son of Late Sitaram Pd. Yadav, P.O. - Phulwariya, P.S. - Manjha, Distt. - Gopalganj.
21. Kashinath Yadav, Son of Chandrama Yadav, resident of village - Sareya Ward No. 1, P.O. and P.S. and Distt. - Gopalganj.
22. Baleshwar Bhagat, Son of Ram Bhagat, resident of village - Itra, P.O. - Giridih, Distt. - Lohardaga.
23. Gopal Kumar Mishra, Son of Om Prakash Mishra, resident of village - Marachhi, P.O. - Semariya, Distt. - Siwan.
24. Babu Ram, Son of Muneshwar Ram, resident of village and P.O. - Bishunpura, Distt. - Gopalganj.
25. Sunil Kumar, Son of Bindhyachal Pd. resident of village - Shyampur, P.O. - Rampur Daved, Distt. - Gopalganj.
26. Ashok Ram, Son of Budhan Ram, resident of village and P.O. - Khawayepur, Distt. - Gopalganj.
27. Bilashar Paswan, Son of Mohit Paswan, resident of village - Govindpur, P.O. - Roshra, Distt. - Siwan.
28. Nila Devi, D/o Ramjee Tiwari, resident of village - Kawlachak, P.O. - Yadopur, Distt. - Gopalganj.
29. Ramdhyan Manjhi, Son of Bibhishan Manjhi, resident of village - Balwa,



- P.O. - Maniyara, Distt. - Gopalganj.
30. Santosh Dubey, Son of Navnath Dubey, resident of village - Pakhrira, P.O. - Bilashpur, Distt. - Siwan.
 31. Shrikant Mishra, Son of Chandrama Mishra, resident of village - Manikpur, P.O. and P.S. and Distt. - Gopalganj.
 32. Shri Niwash Mishra, Son of Hardya Mishra, resident of village and P.O. - Basdila, P.S. and Distt. - Gopalganj.
 33. Ramesh Prasad Yadav, Son of Late Kulanjan Prasad, resident of village - Konhwa, P.O. - Pasarama, Distt. - Gopalganj.
 34. Shivnath Raut, Son of Late Aglu Raut, R/o Village- Kararia, P.S. and P.O. Gopalganj, Distt.- Gopalganj.
 35. Nandi Manjhi, Son of Late Gharbharan Manjhi, R/o Village- Parauni, Khash, P.O.- Manboth, Parsauni, P.S.- Unchakagaon, Distt.- Gopalganj.
 36. Ramesh Kumar Singh, Son of Late Bachcha Singh, R/o Village- Birwath, P.O. Jagarnath, P.S.- Unchkagaon, Distt.- Gopalganj.
 37. Surendra Chaudhary, Son of Late Ganesh Choudhary, R/o Village- Arar More, P.S. and P.O.- Gopalganj, Distt.- Gopalganj.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rajendra Narayan, Sr. Advocate Mr. Jitendra Kumar Shrivastwa
For the Respondent/s	:	Mr. Sanjay Kumar 'Ghosarvey'

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

4 22-04-2019

I.A. No.1 of 2019

Having heard learned Counsel for the parties, we are satisfied that the delay has been sufficiently explained. The delay condonation application is allowed. The appeal shall be treated to be within time.

L.P.A. No.757 of 2018

Heard Shri Rajendra Narain, learned Senior Counsel



for the appellants and learned counsel for the State.

The dispute relates to claim of the appellants for appointment as Teachers which has been negated on the ground that they do not possess the educational qualification as the certificates produced by them were fake.

The writ petition was dismissed on 10th July, 2017 by the following judgment:

“Heard Mr. K.N. Chaubey, learned counsel for the petitioners and Mr. Apurva Kumar, A.C. to G.A.4 for the State.

The petitioners are aggrieved by the order dated 6.3.2012 of the District Magistrate as well as order bearing Memo No.1785 dated 7.10.2016 impugned at Annexures-8 and 15 to the writ petition whereby the claim of the petitioners for appointment has been rejected inter alia on grounds that their educational qualification certificates were found to be fake. A specific statement is made to such effect at paragraphs 6 to 8 and 13 of the counter affidavit filed in the present proceedings.

A rejoinder has been filed on behalf of the petitioners and there is nothing to contest the stand taken by the respondents to reject the claim advanced by the petitioners. The petitioners have not even bothered to enclose their educational qualification certificate which they had deposited before the Committee to rebut the stand taken by the Committee to reject their claim.

Although Mr. Chaubey learned Senior counsel endeavoured to impress upon this Court that the selection of the private respondents also suffers gross infirmity but again in absence of documents supporting such contest this Court could not direct for any roving enquiry to examine the issue once it has already deliberated by the Committee led by the District Magistrate, the report of which is impugned in the present writ petition.

In absence of any material on record to contest the opinion expressed by the Committee to reject the claim of these petitioners as noted in the order which terms the educational qualification certificates submitted by these petitioners, as fake, no case for indulgence is made out. The writ petition is dismissed.”



A Letters Patent Appeal was filed against the said judgment that was disposed of on 16th of January, 2018 by the following order:

“The main thrust of argument before us in this L.P.A. is that before passing the impugned order neither the certificates produced by the petitioner, filed as Annexure-10 series, nor the judgment rendered by the same Bench in the case of certain other employees, namely, C.W.J.C. No.1822 of 2016 (Shambhu Prasad Baitha and others vrs. The State of Bihar and others) on 13.12.2017 has been taken note of wherein after considering the same report of the Enquiry Committee, benefit has been granted to the petitioners therein.

If that be the position, the petitioners should first bring all these facts to the notice of the learned Writ Court by filing a review petition and it would be for the learned court to review the order, if permissible, on the grounds as canvassed before us.

With the aforesaid, this appeal stands disposed of.”

A review petition filed before the learned Single Judge was dismissed on 2nd May, 2018 by the following order:

“Heard the parties.

The issue raised, contested before this Court and disposed of vide judgment/order under review, has again been raised. This Court has already noticed the reasons assigned by the Collector, Gopalganj for rejecting the claim of the review petitioners for regularization as it transpires from the order dated 7.10.2016 impugned at Annexure 15 to the writ petition wherein the claim of these petitioners has been rejected, inter alia, on grounds that the certificates of educational qualification were not correct and since even in the writ proceedings the review petitioners failed to satisfy the Court on the genuineness of the certificates that this Court refused to exercise discretion to issue any writ.

The matter returns under the orders of the Division Bench in the intra court appeal filed by the petitioners but even the arguments of Mr. Y.V. Giri, learned senior counsel appearing for the review petitioners, do not persuade this Court



towards any error apparent on the face of record or in the expression of this Court requiring review.
The review petition is dismissed.”

The appellants have now come up in the second round of litigation contending that the learned Single Judge even while dismissing the review application has not considered the documents which were the certificates filed as Annexure-10 Series to the Writ Petition and has failed to record any finding thereon coupled with the fact that the impact of the judgment of C.W.J.C. No. 1822 of 2016 decided on 13.12.2017 (Shambhu Prasad Baitha Vs. The State of Bihar) has also not been dealt with. A copy of the judgment in C.W.J.C. No. 1822 of 2016 (Shambhu Prasad Baitha Vs. The State of Bihar & Ors.) dated 13.12.2017 has been placed before us by the learned Senior Counsel and what we find therein is that the said Appeal related to the dispute about the certificate of working experience of the petitioners therein who had been no-suited and, therefore, the learned Single Judge after holding that it was not a mandatory requirement, remitted the matter back to the District Magistrate for consideration of their claims.

A perusal of the entire judgment would indicate that the said case was not a case relating to fake certificates which is the allegation against the petitioners in the present case. In our opinion, the said decision therefore is of no relevance so far as



the present controversy is concerned and, therefore, the learned Single Judge has not committed any error in ignoring the same.

The primary argument of the learned Senior Counsel is that Annexure -10 Series to the writ petition giving rise to this appeal are transfer certificates indicating the educational qualifications of the appellants and, therefore, the same ought to have been considered. The respondent-State while refuting the said contention had taken a stand that since the original registers recording the educational qualification of the appellants had been eaten away by termites and crickets, therefore, there was no document available to certify the same. It is the argument of the learned counsel for the appellants that if such is the stand then the certificates produced by the appellants cannot be said to be fake unless they are compared with the original.

From the documents which have been filed as Annexure-10 Series, we find that at least in the case of the appellant Harendra Ojha, the appellant Barister Choudhary whose certificates are on record, there is an endorsement that they are fake and it is also stated that the names were sought to be tallied from the attendance register which was available and the names and attendance of these persons were not recorded. Learned counsel submits that this was not the case in relation to



the other appellants, namely, Md. Salim and Barister Choudhary and, therefore, it cannot be said that all the certificates were fake.

We find from the order of the Committee headed by the District Magistrate that it takes into consideration the entire material that has arrived at the conclusion that the appellants did not deserve to be considered for appointment and if it is done, then there are thousands of other such candidates who would fall in line seeking the same relief. Even otherwise, if only these 13 persons are allowed, then too also out of 52 persons more will be coming behind with their claims. Merely because others may have a plausible case may not be a ground to deny the relief to the appellants, but we find from the affidavit of the state filed in the writ petition that paragraph-8 of the counter affidavit categorically states about the certificates being fake. The rejoinder affidavit only raises an argument without denying the said fact and in the absence of any such specific denial even otherwise we find that the claim of the appellant does not require to be considered keeping in view the findings recorded in the order of the respondent authorities.

For all the aforesaid reasons, we find no reason to interfere with the judgment of the learned Single Judge. The



appeal lacks merit and is accordingly rejected.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Saif/-

U			
---	--	--	--

