

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15808 of 2015

Indar Mohan Choudhary, S/o Sri Nand Kishore Choudhary, resident of Village- Karian, P.S. Rosera, District- Samastipur, at present Headmaster, Shayam Sundar Sanskrit Prathmik Sah Madhya Vidyalaya Karian Tola Teliarai in the District of Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Principal Secretary, Human Resources Development Department, Bihar, Patna.
3. Special Director (Secondary Education), Bihar, Patna.
4. The Bihar Sanskrit Shiksha Board, Patna through its Secretary.
5. The Chairman, Bihar Sanskrit Shiksha Board, Patna
6. The Secretary, Bihar Sanskrit Shiksha Board, Patna
7. The District Education Officer, Samastipur.
8. The Additional Secretary to Govt, Secondary, Prathmik and Adult Education Department, Govt. of Bihar, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Tara Nath Jha, Adv.
For the Respondent/s : Mr.R.N. Dubey- AAG12

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 18-08-2020

The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.

Heard the learned counsel for the petitioner and learned counsel for the respondents.

Petitioner has prayed for following reliefs:-

“ For issuance of a writ in the nature



of certiorari to struck down/quash the provision as prescribed under Sub-Rule-5 of rule-5 of the notification issued under its memo no. 793 dated 18.06.94 under the signature of respondent no.8 by declaring it ultravires of the Constitution of India as it is in violation the spirit and mandates as provided under Article 14, 16, 21 and 300 A of the Constitution of India along with condition, 1 of the office order dated 20.04.1990 (Annexure-2) and further for issuance of an appropriate writ/order/direction directing the respondents to grant the recognition to the school of the petitioner namely Shyam Sunder Sanskrit Prathmik Sah Madhya Vidyalaya Karian Tola Telia Rahi in the District -Samastipur with financial and further for issuance of a writ in the nature of mandamus



directing the respondents to grant the approval to the service of the petitioner and other teaching and non teaching staff of the said school and to make the payment of dues and current salary to the petitioner and its teaching and non-teaching staff of the said school in accordance with law.”

It has been submitted on behalf of the petitioner that at present he is working as Headmaster of Shyam Sunder Sanskrit Prathmik Sah Madhya Vidyalaya Karian Tola Telia Rahi in the District - Samastipur, and was appointed as Assistant Teacher by the Managing Committee of the School on 06.03.1980 and other Assistant Teachers and staffs were also appointed in the school.

Petitioner is aggrieved by rules framed vide notification issued under memo no. 793 dated 18.06.1994 by Department of Education Government of Bihar, which postulates under Rule- 5 sub rule 5, that recognition to the non-government sanskrit school shall be granted without any financial liability of the State Government.

Rules 1993 were framed under power conferred by



Section 22 of the Bihar Sanskrit Shikha Board Act, 1982 in which procedure, terms and conditions for recognition of non-government Sanskrit Schools have been laid down under Rule 5 sub-rule 5 which postulates that recognition of the school is to be made without any financial liability.

The non-government Sanskrit schools are granted recognition by Bihar Sanskrit Shiksha Board, Patna in terms of Rules 1993 with a condition that all financial burden will be borne by the concerned school and after recognition there shall be no financial liability of the State Government.

Earlier vide office order dated 20.04.1990 issued by the Education Department, Government of Bihar in exercise of power conferred under sections 6 (2k) and 11 (4) of Bihar Sanskrit Shikha Board Act, 1981 and on the basis of order made by the Education Department, State Government communicated through its letter no. 86 dated 17.02.1990 and 116 dated 22.2.1990 by which the schools as notified including the school of petitioner were recognized without any financial liability of the State Government.

Nothing has been brought to the notice of this Court that Rule 5 sub-rule 5 violates any constitutional provision or law and under which provision this Court can direct



the State Government to bear financial liabilities of the non-governmental schools which were recognized with condition that State Government will not bear any financial burden arising out of said recognition.

There is no merit in this writ petition challenging the constitutional validity of Rule 5, sub-rule 5 of Bihar Non-Government Sanskrit School Recognition and Conditions Rule 1993 and is accordingly dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

