

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22597 of 2019

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Suresh Kumar Pandey, aged about 54 years, male, S/o Late Late Kailash Pandey, Resident of Village- Kushhar, P.o.- Kushhar, P.s.- Turkauliya, Distt.- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through its Secretary, 17-Back Harding Road, Patna.
2. The Chairman, Bihar Sanskrit Shiksha Board, 17-Back Harding Road, Patna.
3. The Secretary, Bihar Sanskrit Shiksha Board, 17-Back Harding Road, Patna.
4. The Managing Committee of Ayodhya Shiv Narayan Sanskrit High School, Bhitgharwa Math, East Champaran, through its Secretary.
5. Braj Bhushan Kumar Singh, aged not known to the petitioner, male, S/o Nand Kishore Singh, Resident of Village- Padumakar, P.s.- Patahi, Distt.- East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gajendra Jha, Adv.

For the Respondent/s : Mr. Satyam Shivam Sundaram, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 04-02-2020

The petitioner has challenged the order dated 18.10.2019 passed by the Secretary of the Bihar Sanskrit Shiksha Board, Patna (*in short the Board*), whereby the approval of the appointment of the petitioner as *Vedacharya*



in Ayodhya Shiv Narayan Sanskrit High School, Bhitgharwa Math, East Champaran has been cancelled.

2. One Braj Bhushan Kumar Singh (respondent No. 5), who was absolutely unconnected with the affairs of the school in question, approached this Court *vide* C.W.J.C. No. 8577 of 2018, alleging that the petitioner has obtained appointment on the post of Assistant Teacher in such school at a tender age of 15 years, but the complaint regarding this was not being considered by the Board.

3. A Bench of this Court *vide* order dated 15.01.2019, passed in aforementioned writ petition, directed the petitioner in that case/Braj Bhushan Kumar Singh (respondent No. 5) to file a fresh representation before the Secretary of the Bihar Sanskrit Shiksha Board, who, in turn, was directed to dispose off such representation by a reasoned and speaking order within a stipulated period of time.

4. Pursuant to aforesaid order, an enquiry was conducted in which the petitioner and respondent No. 5 were heard and the documents filed on behalf of the parties were



were also perused. The Secretary of the Board found that the petitioner was appointed as Assistant Teacher in the school on his completing only 15 years and 1 month of age, which was not possible as nobody could have, in that tender age, obtained the degree of *Vedacharya*. Even though, the Secretary of the Board took note of the fact that the petitioner has served successfully and efficiently as teacher in the aforesaid school for 37 years, a decision was taken to cancel his approval as a teacher in the school.

5. But it noted that when the petitioner was appointed, the school in question was being run by a Private Managing Committee and the school in question fell in the category of 429 such schools which was recognized by the Board.

6. Mr. Gajendra Jha, learned counsel for the petitioner has argued that in the first instance a, private person, nay, an interloper ought not to have been heard on such complaint, which *prima facie* appears to be motivated. Nonetheless, once a complaint was acted upon and a decision had been taken with respect to the service of the



petitioner, the fact that the petitioner has served for 37 years in the school as teacher without any complaint from any quarter should have been taken into account and a proper disciplinary proceeding or enquiry ought to have been initiated before cancelling the confirmation of the service of the petitioner. It has further been argued that at the time when the petitioner was appointed, there were no prevalent rules and such appointments were made only on the satisfaction regarding the possession of degree for being appointed. There is no false representation on the part of the petitioner. These aspects have been completely ignored by the Board while passing the order impugned cancelling the approval of petitioner's appointment.

7. Learned counsel for the petitioner has, therefore, submitted that if the maximum number of years that a person could serve as a teacher, which could be calculated from the minimum age in which a person could enter into service and his date of superannuation, the petitioner ought to have been given the aforesaid concession in view of his having rendered service for 37 years. The



Board ought to have taken into account that there were no regulation for not appointing a person as teacher having requisite qualification but below a particular age.

8. On the aforesaid grounds, the correctness of the decision of the Board has been questioned by the petitioner.

9. This Court, on perusal of the entire averments made in the writ petition and the submissions raised on behalf of the petitioner, finds that there is no dispute with respect to petitioner having entered the service at the age of 15 years, which is not legally permissible. Nonetheless, the other aspects which have been noted above ought to have gone into consideration of the Board before a final order was passed.

10. The petitioner also has a forum of appeal before the Special Secretary, Department of Education, Govt. of Bihar, Patna against the order passed by the Board. In the event of such an appeal being filed by the petitioner within a period of three weeks from today, detailing his grievances, the appellate authority shall look into the entire



aspect of the matter in a holistic manner and shall pass a reasoned order in accordance with law within a further period of six weeks. The aspects which have been highlighted hereinabove shall also be considered by the Special Secretary, Department of Education, Govt. of Bihar, Patna while disposing of the appeal of the petitioner.

11. Needless to state that any order by the Special Secretary, Department of Education, Govt. of Bihar, Patna shall be passed only after hearing the necessary parties.

12. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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