

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20433 of 2019

1. Radha Daughter of Binay Kumar Sharma Resident of Village- Kalyanpur Basti, Police Station- Mahiuddinnagar, District- Samastipur. Asstt. Teacher Upgrade Middle School Kalyanpur Basti, Police Station- Mohiuddin Nagar, District- Samastipur.
2. Sunita Kumari Daughter of Parmeshwar Roy Resident of Village- Ramaiya, Police Station- Mahiuddinnagar, District- Samastipur. Asstt. Teacher Upgrade Middle School Ramaiya, Police Station- Mohiuddin Nagar, District- Samastipur.
3. Prem Kumar Roy Son of Siya Ram Roy Resident of Village- Towra, Police Station- Mahiuddinnagar, District- Samastipur. Asstt. Teacher Upgrade Middle School Chattu Tola Towra, Police Station- Mohiuddin Nagar, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Govt. of Bihar, New Secretariat, Bailey Road, Patna.
3. The Joint Secretary, Education Department, Govt. of Bihar, New Secretariat, Bailey Road, Patna.
4. Sri Pramod Kumar Sah Son of not known to the petitioners, District Programme Officer (Establishment), Samastipur, Distt. Samastipur.
5. Sri Sanjay Kumar Choudhary, District Programme Officer (Establishment), Samastipur (as he then was).
6. The District Education Officer, Samastipur, District- Samastipur.
7. The Block Education Officer, Mohiuddin Nagar, District- Samastipur.
8. The Secretary, Bihar School Examination Board, Sinha Library Road, Patna-17.
9. The Panchayat Secretary, Gram Panchayat Raj, Kalyanpur Basti, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Md. Anisur Rahman
For the Respondent/s	:	Mr.Priyadarshi Matri Sharan (AC to AAG 15)
For the B.S.E.B.	:	Mr.Sunil Kumar Mandal

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH



ORAL JUDGMENT**Date : 04-02-2021**

Admittedly, the petitioners were having teachers training qualification after having pursued their course in National Urdu Prathmik Shikshak Siksha Mahavidyalaya, Madhubani during the sessions 1979-81(A), 1987-89(C), 1988-90(S), 1989-91(A), 1990-92(A), 1991-93(A) and 1992-94(A). They were appointed as Panchayat Teachers in different schools of Mohiuddin Nagar Block Panchayat School. Subsequent to their appointment, the District Programme Officer, Samastipur came out with a letter issued on 15.10.2011, declaring the said National Urdu Prathmik Shikshak Siksha Mahavidyalaya, Madhubani as unrecognized training institute. In the light of said letter of the District Programme Officer, Samastipur, the Block Education Officer, Mohiuddin Nagar terminated the services of these petitioners and other teachers on the ground that their qualification was not recognized.

2. The petitioners approached this Court by filing writ applications giving rise to C.W.J.C. No. 311 of 2012 (Petitioner No. 1) and C.W.J.C. No. 22704 of 2011 (Petitioner Nos. 2 & 3). A coordinate Bench of this Court allowed C.W.J.C. No. 311 of 2012 (*Radha v. The State of Bihar and Others*) by an order dated 05.04.2012 upon noticing an order dated 18.03.2009 passed in



C.W.J.C. No. 2322 of 2009 (*Ajay Kumar and Others v. The State of Bihar and Others*) wherein it was specifically held that the institution enjoyed the recognition from the Session 1986-88 till the National Council for Teachers' Education (NCTE) Act came into force in 1995. This Court had accordingly held in case of *Radha* (supra) that termination of service of the petitioner no. 1 was on *non-est* ground and suffered from non-application of mind. C.W.J.C. No. 311 of 2012 allowed upon recording specific finding that a coordinate Bench of this Court, noticing the fact that the question of recognition of the institution for relevant sessions had fallen for consideration before this Court and the institution enjoyed recognition from Session 1986-88 till National Council for Teachers' Education (N.C.T.E.) Act came into force in 1995, held in the order dated 05.04.2012 passed in C.W.J.C. No. 311 of 2012 (*Radha*) (supra) that termination of service of the petitioner no. 1 by the impugned order dated 01.12.2011 was on *non-est* ground and suffered from non-application of mind. The decision of learned Single Judge dated 18.03.2009 in case of *Ajay Kumar and Others v. The State of Bihar and Others* (supra) was assailed under the letter patent appellate jurisdiction of this Court. Accordingly, the impugned order dated 01.12.2011 was quashed with a direction to reinstate petitioner no. 1 in service with



immediate effect. An interim order dated 23.12.2011 passed in C.W.J.C. No. 22704 of 2011 (*Sunita Kumari and Anr. v. The State of Bihar and Others*) by another coordinate Bench of this Court has been brought on record whereby the orders terminating services of petitioners no. 2 and 3 were stayed. It is the petitioners' case that in the wake of the interim order dated 23.12.2011 passed in C.W.J.C. No. 22704 of 2011 petitioners no. 2 and 3 were reinstated in service. The petitioner no. 1 was also reinstated in service in the light of this Court's order dated 05.04.2012 passed in C.W.J.C. No. 311 of 2012 (*Radha*) (supra). It is noteworthy that evincibly the reason for termination from service was the understating of the State respondents that the institution in question did not have the requisite recognition.

3. A Division Bench of this Court while affirming the decision in case of *Ajay Kumar and Others v. The State of Bihar* (supra) by a decision dated 14.07.2010 rendered in L.P.A. No. 82 of 2010 (*The State of Bihar and others v. Ajay Kumar and Others*) has categorically held as under:-

“From the submissions advanced on behalf of the appellants, that is, State of Bihar and its authorities, it appears that the institution in question had recognition but for some reasons the institution could not reach the required level or was not found fit for further recognition and hence, after the sessions 1991-1993 the authorities



refused either to conduct the examination of students or to publish their results. It is clear from annexure-D to the counter affidavit of State and its officials filed in the writ proceeding that after the session 1991-1993 writ petitions filed before this court for holding of examination or for publication of results of the students of this institution were also not allowed. A perusal of order under appeal shows that all the relevant facts and the documents have been properly considered and on the basis of said consideration without interfering with the general directions contained in annexure-I to the writ petition, the writ court held that the respondents in the writ petition should not have debarred the writ petitioners or similarly situated applicants from participating in the counselling only because the institution in question was subsequently derecognized. The writ court has made it clear that the authorities will consider not only the case of petitioners but all similarly situated applicants who passed from the concerned institution prior to the session 1991-1993.”

4. A Special Leave Petition preferred against the Division Bench decision of this Court was dismissed by the Supreme Court on 25.07.2011 passed in S.L.P (C) No. 10322 of 2011 (Annexure 6 to the writ application).

5. The petitioners in the present writ application are aggrieved by a subsequent letter dated 30.01.2019, issued under the signature of the District Programme Officer,



Samastipur, which has the effect of stopping payment of salary to these petitioners from the month of December 2018 apparently on the ground that their services were earlier terminated. They are seeking quashing of the said letter dated 30.01.2019 with a direction to the respondents to pay them the arrears of salary from the month of December, 2018 till date and continue payment of regular salary. A counter affidavit has been filed on behalf of the State of Bihar wherein it has been stated that payment of salary to these petitioners are up to date and the relief as claimed for salary, has become infructuous. It has been stated in paragraph 4 of the counter affidavit that the impugned letter 30.01.2019 issued “in accordance with law as the Institution from (where, *sic*) these petitioners got teachers training certificate is an invalid institution, as per record.

6. Once the dispute in respect of recognition of the institution came to be finally decided by a Division Bench of this Court as has in case in (***Ajay Kumar***) (supra), in the Court’s opinion, any attempt to ignore the said conclusion by the respondents amounts to contempt of this Court. The respondents could not have raised the issue of recognition



of the institution for the sessions in question in the light of conclusive finding of a Division Bench of this Court.

7. In such view of the matter, the impugned order dated 30.01.2019 is hereby quashed. The respondents are directed to ensure that no issue relating to recognition of the institution in question, to the extent, same relates to the academic session, as noted in Division Bench decision in case of *Ajay Kumar* (supra) is raised by the respondents in future.

8. This writ application is accordingly, allowed.

9. Since the petitioners have been forced to approach this Court repeatedly in relation to the same question of recognized status of the institution in question, the Court has considered it appropriate to impose a cost of Rs. 6,000/- payable to these three petitioners (Rs. 2,000/- each).

(Chakradhari Sharan Singh, J)

AKASH/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.02.2021
Transmission Date	N/A

