

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6884 of 2020

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1. Md. Aftab Alam Son of Md. Irfan Resident of Village Ramjanpur, P.O.- Dhabouli, P.S. Muffasil, District- Begusarai.
 2. Md. Abrar Alam, Son of Md. Kalim Uddin, Resident of Village- Marar South, P.O.- Marar, P.S. Morkahi, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Director, Primary Education, Department of Education, Government of Bihar, Patna.
3. The National Council for Teacher Education, through its Chairman Hans Bhawan, Bahadur Shah Zafar Marg, New Delhi.
4. The Under Secretary (Regulation), National Council for Teacher Education, Hans Bhawan, Bahadur Shah Zafar Marg, New Delhi.
5. The National Council for Teacher Education, Eastern Region Through Its Regional Director, 15 Neelkanth Nagar, Nayapalli Bhubneshwar, Odisha.
6. The Northern Regional Committee, through its Regional Director, G- 7, Sector 10, Dwarka Landmark- Near Metro Station, Sector 10, Dwarka, Delhil.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Prince Kumar Mishra
For the Respondent/s	:	Mr. Sunil Kumar Mishra, Adv.
For the NCTE	:	Mr. Madhukar Mishra, AC to SC-16

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 24-02-2022 Heard learned counsel for the petitioners and learned counsel appearing for the respondents.

Let the issues involved in the present writ petition stands finally adjudicated by this Court in Judgment reported in 2020 (4) BLJ 570 (Sanjay Kumar Yadav & Ors. Vrs. State of Bihar, through the Principal Secretary & Ors.) and other



connected writ petitions decided on 21st January, 2020.

In the Judgment, this Court notices the question which is as under:-

“3. The only question arises as to whether the course of Diploma in Elementary Education through National Institute of Open Schooling (hereafter referred to as ‘the NIOS’) provided to teachers working in Government Schools/Government Aided Schools and Private Unaided Schools duly recognized by National Council of Teacher Education in pursuance of the directions by the Human Resources Department, Union Government under Section 29 of the National Council for Teacher Education Act, 1993 in view to meet the exigencies to train about 14 lacs untrained teachers in different schools to allow those candidates to fulfill all eligibility criteria of two years teachers training course which has been made compulsory for appointment on the post of teachers in elementary and primary schools under the Right to Education Act can be treated to be at par with the B.Ed. and Diploma in elementary education for fresh appointment on the post of teachers in different Government Schools/Government Aided Schools/Private Unaided Schools.”



After considering the decision of the NCTE, this Court ultimately reached to the following conclusions:-

“14. From bare perusal of the decisions, it is apparent that the NCTE recognized one time the course in D.El.Ed. Conducted by NIOS. The relaxation of some period was only granted to the inservice teachers who had not obtained the required degree training course such as B.Ed./D.El.Ed. Which is made minimum requisite qualification for appointment on the post of teachers in elementary and primary schools thus, it cannot be said that the teachers who had obtained D.El.Ed. through NIOS and any other institute duly recognized by the NCTE is not at par with the two years period D.El.Ed course as prescribes under Section 23 (2) of the NCTE Act and Rule 5 of the Bihar Panchayat Primary Teacher Rules. From perusal of the letter as contained in Annexure-10 issued by the Under Secretary (Regulation), NCTE, it appears that the NCTE has simply informed the Additional Chief Secretary, Education Department, Government of Bihar by way of clarification that as per the NRC, NCTE order dated 22.09.2017 the D.El.Ed. (ODL) programme of NIOS is only for those un-trained in-service teacher in Govt./Govt.



aided/private unaided schools appointed on or before 10.08.2017 but it is nowhere mentioned that the said course cannot be treated at par with the two years training course and on the basis of such directions, two years degree course whereas the same course was duly recognized by the NCTE in pursuance of the direction issued by the Government of India, MHRD under Section 29 of the NCTE Act.

15. Thus, I find that on such misrepresentation and misreading of the clarification issued by the NCTE, the Director, Primary Education has illegally issued direction that the persons who had obtained D.El.Ed. Course duly run for 18 months by NIOS are not eligible for appointment on the post of teachers in primary schools and thus, the letter as contained in Annexure-11 is illegal, unsustainable and violative of Article 14 of the Constitution. Accordingly, Annexure-11 is set aside.

16. The writ petitions are allowed. The respondents are directed to allow the petitioners to apply within one month and consider the case of the petitioners for appointment on the post of primary teachers.”

In the present writ petition the petitioners have claimed as under:-

“1. (i) For issuance of a writ in the nature of Certiorari quashing the Letter No. 7/Misc.-25/2019/1188 dated 11/09/2019 issued under the signature of Director,



Primary Education, Bihar, whereby and whereunder it has been stated that certificate of teachers/candidates working in Government/Government dated/Private unaided Schools who have completed D.El.Ed training through National Institute of Open Schooling (NIOS) during the service, will not be eligible for consideration for selection of primary teachers Government of Bihar in view of the letter No. NCTE-Reg. 1011/166/2017-US (Regulation)-HQ/81645 dated 06.09.2019.

(ii) For issuance of writ in the nature of Certiorari quashing the Letter No. NCTE-Reg. 1011/166/2017-US (Regulation)-HQ/81645 dated 06.09.2019 whereby and whereunder upon clarification upon clarification being sought by the Additional Chief Secretary, Department of Education, Bihar, the National Council for Teacher Education has stated that duration of D.El.Ed. Training course is of 18 month.

(iii) To hold and declare that the D.El.Ed training course conducted by NIOS notified by Ministry of human resource and development and recognized by National Council for Teacher Education is a valid D.El.Ed (OLD) course as per NCTE (Recognition norms and Procedure) Regulations, 2014 (hereinafter referred as “NCTE regulation”) and its order dated 22.09.2017 is a course of 2 years and the petitioners are eligible for appointment on the post of primary teacher and upper primary teacher for Class I to V and Class VI to VIII in terms of the Guidelines of the NCTE



issued in its notification dated 23/08/2010 and 29/07/2011 and they possess the requisite qualification to be appointed on the post of Primary Teachers in terms of Memo No. 7/Misc.51/2019-1098 dated 22/08/2019.

(iv) For issuance of writ in the nature of mandamus directing and commanding upon the respondent Education Department, Government of Bihar accept the application form submitted by the Petitioners/similarly situated candidates who are in service teachers and have completed two years D.El.Ed. Training course conducted by NIOS under the instruction of MHRD duly recognized by NCTC which is going to commence from 18/09/2019 to 17/10/2019.

(v) To any other relief or relief which the petitioner may be found entitled to in the facts and circumstances of the case.

(vi) Cost of this litigation.”

In view of the above, this Court is satisfied that the issue raised stands already covered and decided by the aforesaid judgment. The case of the petitioners would thus be governed by the directions as noted above.

Accordingly, the writ petition stands allowed.

(Sanjeev Prakash Sharma, J)

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