

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17345 of 2016

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Shailendra Kumar Son of Amir Prasad, Resident of village- Handia, Police Station- Nardiganj, District- Nawada, Assistant Teacher, Middle School, Pandpa, Nardiganj, District- Nawada.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, New Secretariat Bikas Bhawan,
3. The Director, Primary Education Department, Government of Bihar, Government of Bihar, New Secretariat
4. The District Education Officer, Nawada.
5. The District Programme Officer, Establishment, Nawada.
6. The Block Education Officer, Nardiganj.
7. The Head Master, Middle School, Panda, Nardiganj, District- Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Niranjana Kumar, Adv. with Mr. Bipin Kumar, Adv.
For the State	:	Mr. Subhash Chandra Mishra- SC16

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

4 19-12-2022

1. Heard the parties.

2. The petitioner assails the order dated 06.04.2016, whereby the respondents have proceeded to terminate his services from the post of Assistant Teacher on the premise that the B.Ed. qualification obtained by him from Songra College of Education, Bihar Sharif stands de-recognised in terms of order passed by the Principal Secretary Education Department, dated 23.05.2015.

3. Learned counsel for the petitioner submits that the



petitioner was appointed in terms of the Judgment passed by the Supreme Court, whereby it protected the services of 34,540 teachers, who had already been appointed under the Advertisement issued by the State Government in 2010.

4. Learned counsel submits that the petitioner was appointed vide order dated 15.02.2012 and he joined at the place at Pandpa Block Nardiganj in District Nawada. In the order it was specified that if, in future, the qualifications obtained by the petitioner are found to be from a college which is de-recognised or if the qualifications are found to be forged, the appointment shall be cancelled.

5. Learned counsel submits that the qualification obtained by the petitioner from the B.Ed College Songra was recognised and it has been de-recognised by the Principal Secretary only vide order dated 23.05.2015. Thus as on the day when the petitioner was appointed, the qualification stood recognised and he therefore could not have been terminated from service solely on the basis of an order passed on 23.05.2015, de-recognising the qualification of the College which will have to be treated only prospectively.

6. Learned counsel appearing for the State submits that the college was not imparting qualifications in terms of the



standard laid down by the N.C.T.E. and, therefore, the petitioner's qualification ought to be considered as de-recognised. The order dated 23.05.2015, passed by the Principal Secretary has to be made applicable even to the degree which have been obtained prior to 2015.

7. I have considered the submission, any qualifications obtained from a college, which was providing B.Ed. education can be de-recognized by the State Government for the purpose of employment in the State Government. Even if the college has had due sanction from the N.C.T.E then too the State Government has an independent power not to allow such qualification for the purpose of employment in its services. However, any such order passed by the Principal Secretary would have to be treated prospective and cannot take away a vested right created in favour of anyone, who has already been appointed in the State services. There the order dated 23.05.2015 cannot be applied retrospectively nor its language indicates such action.

8. In view of above, the services of the petitioner could not have been dispensed with after he had already appointed in February 2012, solely because in 2015 the Principal Secretary has passed an order de-recognizing the



qualification held by the petitioner for employment in State service.

09. The order passed by the District Education Officer Navada dated 06.04.2016 is quashed and set aside with all consequential benefits for reinstatement and continuity of service. The period not spent on duty shall be treated as notional and the pay fixation shall also be done notionally for the period which the actual salary paid from the date of filing of the petition that is 19.10.2016.

10. Keeping in view above, this writ petition is allowed.

11. The compliance shall be made within a period of three months.

12. There is no order as to costs.

(Sanjeev Prakash Sharma, J)

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