

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20888 of 2014

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Neelam Kumari W/o Nawal Kishore, Resident of Village- Milki, P.O. Achua,
P.S. Paliganj, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna
3. The Principal Secretary, Department of Education, Government of Bihar, Patna
4. The Director, Secondary Education, Govt. of Bihar, Patna
5. The Deputy Director, Secondary Education, Govt. of Bihar, Patna
6. Bimla Singh W/o Pramod Singh, Assistant Teacher, Project Girls High School, Paliganj, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Singh, Adv.
For the Respondent/s	:	Mr. Sheo Shankar Prasad, SC-8
		Mr. Anil Kumar, AC to SC-8
For Respondent no.6	:	Mr. Ram Sagar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

10 16-08-2022 The petitioner bay way of this writ petition assails the order passed by the Director, Secondary Education, Bihar dated 12.06.2014, whereby the Director affirmed its earlier order dated 05.07.2010.

Learned counsel for the petitioner submits that vide order dated 24.06.2008 the services of the petitioner was recognized w.e.f. 21.03.1983. The said order was later on withdrawn and instead of the petitioner, the respondent no.6 Smt. Bimla Singh was considered for regularization of service



with effect from 13.11.1984 in the subject of Hindi and the impugned order dated 05.07.2010, was passed considering the respondent no.6 to be a trained Assistant Teacher while the petitioner was untrained. The order dated 05.07.2010 was challenged before this Court by the petitioner in C.W.J.C. No.5074 of 2011, which came to be decided on 07.10.2013 and after considering the arguments raised by learned counsel for the petitioner and also after hearing the respondent no.6 and the counsel for the State, it was directed to the respondent no.3 to pass speaking order dealing all aspects of the matter with respect to the genuineness of the training certificates and upon considering the report of the university preferably within a period of three months.

It is on the basis of the directions that the impugned order passed dated 12.06.2014 has been passed holding the earlier order dated 05.07.2010 to be legal and justified. Learned counsel for the petitioner submits that the Director has failed to perform his duty as he has failed to examine the case as directed by this Court in its earlier judgment (supra).

Learned counsel submits that the respondent no.6 had obtained the training certificates fraudulently and further he also submits that even if the respondent is treated as trained and her



qualification of Siksha Shastri is found to be in order, the same cannot be considered as sufficient to treat her to be trained in subject of Hindi and therefore the petitioner who was appointed prior to the respondent ought to have been regularized on the post of teacher Hindi. The order dated 05.07.2010 therefore deserves to be quashed and the subsequent order dated 24.06.2008 deserves to be restored.

Learned counsel in support of his submissions has taken this court to the circular issued by the Department dated 11.04.1983 wherein the qualification of Siksha Shastri obtained from Sampurnanand Sanskrit University was to be considered as equivalent for teaching Sanskrit only. Thus, he submits that the Siksha Shastri training is not sufficient for the purpose of teaching Hindi as a subject.

Learned counsel submits that Siksha Shastri course was for a period of two years. Whereas the petitioner took leave to prosecute the study from 21.11.1984 to 21.12.1985 and during this period she has attended the school and signed the attendance register between period March, 1985 to March, 1986. Thus, it cannot be said that the respondent no.6 had done a regular course of two years with the university. It is further contended that the post of Siksha Shastri was a regular post and



the respondent no.6 was required to pursue studies for two years continuously.

Learned counsel further submitted that the petitioner had passed the Siksha Shastri course 22.09.86, whereas she was appointed on 30.11.1984 and therefore there is a doubt with regard to petitioner's having obtained the said training and appears to be a fraudulent document.

Learned counsel for the respondent no.6 on the other hand submitted that the petitioner had taken up all the arguments in its earlier writ petition filed before this court (supra). This Court vide its judgment dated 07.10.2013 considered the arguments pointed out by the respondent no.6 observed that the certificate has been granted by the university which is recognized by the State Government. The allegation of the petitioner with regard to obtaining training certificate fraudulently is therefore absolutely incorrect. She completed her training in March, 1985. After her training was completed she joined the school. The respondent did not consider her for appointment on the regular post in spite of the fact that she was a trained candidate. She has then submitted a representation and after the order dated 05.07.2010 was passed in favour of the petitioner. Where after, the State having conducted enquiry



found the claim of the respondent over and above the petitioner and accordingly issued orders in favour of the respondent no.6, which cannot be said to be in any manner illegal and unjustified. Learned counsel has taken this court to the counter affidavit filed on behalf of the respondent no.6 to show that the State Government had laid down a criteria that those teachers, who are trained would be given preference over those who are untrained. As the petitioner was untrained, while the respondent no.6 was a trained, she was given preference over the petitioner treating her to be a teacher with effect from 1984. Learned counsel also taken this Court to the documents issued by the Sanskrit University after the matter was remanded to the Director for taking a final decision in its earlier round of litigation. The University has after having looked into the entire record found the documents issued to the petitioner were genuine and it was stated that the respondent no.6 had completed the Siksha Shastri course regularly. Thus, the contention of the petitioner that respondent no.6 having a fraudulent training certificate was found to be incorrect and the Director accordingly passed the order in favour of the respondent no.6.

Learned counsel also pointed out that the Division



Bench of this Court in C.W.J.C. No.4004 of 1991 in Narendra Rai and Anr. Vs. the State of Bihar and others held the qualification of Siksha Shastri as equivalent to B.Ed. and it shall be treated for all purposes and not only for teaching Sanskrit. After the verdict, the State Government issued a notification dated 03.10.1992 holding Siksha Shastri course as equivalent to B.Ed. Therefore, the petitioner's contentions are falsified.

I have considered the submissions and noticed the aforesaid arguments raised by the respective counsel.

By the impugned judgment dated 07.10.2013 this Court had noticed all the arguments which have been taken today by learned counsel for the petitioner. However, instead of deciding the matter at that stage, it left it for the Director to take a decision on all aspects after giving due opportunity to the concerned persons. It seems that the Director has got the certificates of the respondent no.6 verified by the concerned university and after due verification, it found the certificates to be in order and the contention of the petitioner was found to be false. Since the State Government vide its notification dated 03.10.1992 had already declared Siksha Shastri as equivalent to B.Ed for all purposes, this court has no further doubt to hold that the respondent no.6 possessed the necessary qualification. She



was a trained teacher and therefore had consequential rights of regularization and continuation of service with effect from her initial appointment i.e. from November, 1992. The order dated 05.07.2010 was therefore rightly upheld by the Director vide its order dated 12.06.2014.

Keeping in view the factual aspects which have been enquired into by the State Government, this Court agrees with the State Authorities and even if the respondent had joined school and was teaching it would not make a difference as two years teaching course includes training part as well as the period of examination after training was over. The respondent could have joined back the school and imparted teaching also. The university has therefore rightly issued the certificates in favour of the respondent no.6. Since University is a statutory body, this court would not go behind the said training certificate to declare it as a fraudulent or wrongful in any manner.

In view thereof, the contentions of the petitioner are found to be without force and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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