

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1822 of 2023

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Ramrati Devi, Wife of Raj Kumar Prasad @ Raj Kumar Chauhan, Daughter of Badrai Chauhan, Resident of Village- Nawazibigha, P.O.- Hargawan, P.S.- Manpur Hargawan, District- Nalanda (Bihar), PIN Code- 803101.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Education, Government of Bihar, Patna.
2. The District Education Officer, Nalanda at Biharsharif.
3. The District Programme Officer, Nalanda at Biharsharif.
4. The District Magistrate, Nalanda.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Ajay Prasad, Advocate
For the Respondent/s	:	Mr. Prabhakar Jha, GP- 27
		Mr. Umesh Narayan Dubey, AC to GP-27

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 31-08-2023 Heard learned counsel for the petitioner and learned counsel for the State.

2. This writ application has been filed for the following reliefs:-

“(i) For quashing the order dated 13.08.2014 issued by respondent authority vide letter No. 5558.

(ii) For issuance of a direction to the respondent authority for grant of retiral benefits to the petitioner because husband of the petitioner has died on 04.08.2022 during pendency of service period which is due 8 years as well as also fixation of pension to the petitioner who is the wife of the petitioner.

(iii) For issuance of a direction to pay the salary due to the husband of the petitioner since 2014 to till he expired i.e. on 08.04.2022.

(iv) For grant of any other relief/reliefs to which the petitioner may be found entitled under the law.”



3. It is the case of the petitioner that her husband was given appointment as an Assistant Teacher in Madhya Vidyalaya, Malwa (Sarmara) in the district of Nalanda vide Memo No. 1184 dated 14.02.2012 (Annexure '2'). The grievance of the petitioner is that her husband has been dismissed from service without giving any opportunity of hearing and without making any inquiry with regard to the document submitted by him.

4. After having made a statement that her husband has been dismissed from service in paragraph '9' of the writ application, the petitioner further states in paragraph '11' that the retiral benefits of the husband of the petitioner has not been disbursed in favour of the petitioner who is a widow lady.

5. The order of dismissal of the husband of the petitioner is not on the record. It transpires that vide letter no. 4136 dated 14.06.2014, the husband of the petitioner was served with a show cause notice as to why for the reasons stated therein his service be not terminated. From the show cause notice as contained in Annexure '1' to the writ application, it further appears that the husband of the petitioner had obtained appointment by submitting the B.Ed. certificate obtained from Sogara College of Education, Biharsharif, Nalanda and his appointment was made subject to a condition that, in case, the said institution is found not a recognized institution and the certificate issued by the said



institution is not found to be a recognized certificate or in case of submission of a forged certificate, his appointment shall be canceled.

6. A supplementary affidavit has been filed on behalf of the petitioner in which a copy of the order dated 19.12.2022 passed in CWJC No. 17345 of 2016 in the case of one Shailendra Kumar has been brought on record. In the said case, it was submitted on behalf of the petitioner that the qualification obtained by the petitioner from the B.Ed. College, Songra was recognized and it has been de-recognized by the Principal Secretary only vide order dated 23.05.2015. In the given facts of the said case, the learned co-ordinate Bench of this Court took a view that the 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.

7. A counter affidavit has been filed on behalf of the State wherein a plea has been taken that the husband of the petitioner obtained B.Ed. Degree from Sogra College of Education, Biharsharif, Nalanda and on the basis of the said B.Ed. Degree, he got appointment as Assistant Teacher under Bihar Special Primary Teacher Appointment Rule, 2010. The degree obtained from the said College had been subject matter of consideration in this Court in CWJC No. 4560 of 2007 wherein



vide order dated 24.10.2011, a learned Writ Court allowed the writ application to the extent that the degree issued by the said College would be valid only for the Session 1985-86. This order was challenged in LPA No. 1241 of 2014 and the Hon'ble Division Bench of this Court had been pleased to set aside the order of the learned Writ Court. Ultimately, the challenge was made in the Hon'ble Supreme Court in SLP (C) No. 23619 of 2015 which also failed.

8. It is, thus, submitted that the said institution had not been included in the list of the recognized institution, thus, the B.Ed. Degree awarded by the said institution has been declared an invalid degree for obtaining the appointment.

9. Having heard learned counsel for the parties and on perusal of the records, this Court finds at first instance that this writ application has been filed nine years after the date of issuance of the show cause noticed as contained in Annexure '1' to the writ application. In fact, it is this show cause notice which is under challenge in this writ application.

10. In the body of the writ application, a statement has been made that the husband of the petitioner has been dismissed but no detail of the dismissal order has been mentioned and the said order has neither been enclosed nor challenged by the petitioner.



11. The counter affidavit has also proceeded on the basis of an assumption that the service of the husband of the petitioner was terminated or he had been dismissed. Only the reasons have been explained and the reason is that the degree obtained by the husband of the petitioner was that of a College which was not recognized.

12. With the supplementary affidavit, the petitioner has brought on record a copy of the order of the learned co-ordinate Bench which is based on the submission advanced on behalf of the petitioner in the said case that the B.Ed. Degree of the College on the basis of which the said petitioner had obtained appointment was recognized degree which had been canceled only at a later stage by the Principal Secretary whereas the facts appearing from the records of this case are that the said degree was never recognized and the College was not in the list of recognized College.

13. This Court called upon learned counsel for the petitioner to demonstrate that the degree of the said College was valid at any stage and for any period, the same has not been shown to this Court.

14. For all the aforesaid reasons, this Court is of the considered opinion that this writ application as framed cannot proceed at this belated stage after nine years from the date of



issuance of Annexure '1'.

15. The writ application is disposed of but with liberty to the petitioner that, in case, she is advised to challenge the order of dismissal/termination, if any, the same may be done in accordance with law.

16. At this stage, this Court is also of the considered opinion that, in case, the husband of the petitioner was not dismissed from service pursuant to Annexure '1' to the writ application, the same may be an issue for consideration by the respondents and the consequence of not passing an order of dismissal or termination of the husband of the petitioner would be required to be examined. That would be a change of facts and will require a separate consideration. The issue to that extent is left open.

17. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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